

Bath and North East Somerset Council			
MEETING: Development Control Committee	AGENDA		
MEETING DATE: 05 September 2013	ITEM NO:		
REPORT OF David Trigwell, Divisional Director of Planning and Transport Development.			
REPORT ORIGINATOR: Ms Lisa Bartlett, Development Manager (Tel. Extension No. 7281).			
DATE PREPARED: 22nd August 2013			
AN OPEN PUBLIC ITEM			
BACKGROUND PAPERS: Enforcement file 09/00168/UNAUTH			
TITLE: Enforcement Report: Rough Ground and Buildings, Queen Charlton Lane, Queen Charlton			
WARD : Queen Charlton			

1.0 PURPOSE OF REPORT

To seek Members' view on unauthorised development comprising the use of land as a Gypsy and Traveller site. Officers are seeking Authority from Members to issue an enforcement notice to remedy the breach of planning control.

2.0 LOCATION OF PLANNING CONTRAVENTION

Land adjacent to The Poplars, Redlynch Lane, Queen Charlton ("the Land"), as outlined in bold on the attached site location plan (Appendix 1).

3.0 OUTLINE OF PLANNING CONTRAVENTION

Without planning permission the use of land as a gypsy and traveller site, including the stationing of caravans, structures and vehicles.

4.0 BACKGROUND / HISTORY

The site has a long and complicated history stretching back to 1994 when the site was first occupied. An enforcement notice was served in 1994 requiring the cessation of the unauthorised use; and the removal of caravans, trailers, vehicles and materials associated with the use.

Appeals were lodged in respect of both the planning refusal and the enforcement notice. The notice was upheld, although temporary planning permission was granted for the stationing and occupation of two residential caravans, by one gypsy family. The temporary planning permission required, inter alia, the cessation of the use by no later than May 1998.

Permanent occupation of the Land ceased however between 1995 and 2000. At time of re-occupation in 2000, a further planning application was submitted (00/01523/FUL). The application was refused; and subsequently dismissed at appeal in 2003. Meanwhile, in August 2002, the Land was again vacated.

The Council was advised of re-occupation in early March 2009. A subsequently planning application, submitted on the 30th April, was deemed invalid due to inadequate details; and was returned to the applicants' agent on the 16th July 2009. The agents were advised, by letter dated 5th August 2009, that should they wish to proceed, then a further (complete) planning application would be required.

A valid application was then received on the 1st September 2009. This application was refused on 29th October 2009. An appeal was lodged against this refusal in April 2010. The planning appeal was dismissed on the 3rd February 2011, but was then challenged in the High Court. The case was heard on 20 March 2013 and the challenge was considered unsuccessful.

The most recent planning application was received on 28th June 2013 and has been included within the main agenda for the committee's determination.

Levels of occupation/activity on the Land have varied since March 2009. At a site visit on the 20th May 2009, an officer noted 6no touring caravans; 1no static caravan; 1no utility/portacabin; and various vehicles. The touring caravans however, moved away after a relatively short period. During a more recent site visit on the 4th June 2013 officers noted 4no touring caravans; 1 no static caravan; 1no utility/portacabin; 1 covered lean-to store; 3 garden type sheds; 1 corrugated stable building; and various vehicles. A similar level of activity was observed during the most recent site visit on the 6th August.

5.0 DEVELOPMENT PLAN

Of particular relevance to this matter is the Bath and North East Somerset Local Plan Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

D.2 – General design and public realm considerations

D.4 – Townscape considerations

BH.6 – Development within or affecting Conservation Areas

GB.1 – Control of development within the Green Belt

GB.2 – Visual amenities of the Green Belt

HG.16 – Gypsy and Traveller Sites

NE.1: Landscape character

T.24: General development control and access policy

Bath & North East Somerset Draft Core Strategy December 2010

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD).

NATIONAL POLICY:

National Planning Policy Framework (NPPF) - March 2012

Planning Policy for Traveller Sites (PPfTS) - 2012

Written Ministerial Statement by Local Government Minister Brandon Lewis originally given at House of Commons - July 2013

6.0 EXPEDIENCY OF ENFORCEMENT ACTION

It is necessary to consider whether the following issues:

- Whether the proposal represents inappropriate development in the Green Belt and the effect on openness
- The effect on the character and appearance of the rural landscape and of the Queen Charlton Conservation Area
- The sustainability of the location for use as a Gypsy and Travellers site;

- Whether the benefits of the proposal clearly outweigh any harm to the Green Belt and any other harm, such as to amount to very special circumstances

The use of the site as a gypsy and traveller site is considered to be inappropriate development in the Green Belt and does not fall within one of the categories of exempted development in the NPPF. Previous appeal decisions have concluded the same and have determined that the use of the land and the stationing of caravans and mobile homes have a significantly detrimental impact upon the openness of the Green Belt.

The site is well screened by hedgerows from views towards it from the north and the east. However, the site is readily seen from Redlynch Lane where the road passes the entrance to the site and there are further views towards it from the west along Redlynch Lane towards Queen Charlton. From this location, the upper parts of the caravans on the site can be clearly seen above the bunding which has been constructed on the site's western boundary. The site is also visible from the Queen Charlton conservation area, albeit primarily from private properties.

Previous appeal decisions have concluded that the site would have a materially harmful impact upon the rural landscape and a limited impact upon the setting of the Queen Charlton conservation area.

In light of the revocation of Circular 01/06 and the adoption of PPfTS, it is considered that the site can now be seen as car dependent, due to its isolated location in the open countryside, and is considered unsustainable for use as a gypsy site.

Against this harm is the unmet need for gypsy and traveller sites and the personal circumstances of the application and her family which weigh in favour of the application.

The need for gypsy and traveller sites is recognised and this is currently the subject of the 'Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD)' currently progressing.

No new details of the applicant's personal circumstances have been provided with the most recent application, but it is clear from previous appeal decisions that medical, social, housing and education needs which weigh in favour of the continued use of the site as a gypsy and traveller site.

It is considered that the benefits of this current proposal do not clearly outweigh the harm to the Green Belt by reason of inappropriateness and harm to openness, and the other harm identified above.

Enforcement action against the unauthorised use is therefore considered expedient.

7.0 HUMAN RIGHTS

7.1 It is considered that Article 1 of Protocol 1 (peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life, home and correspondence)

of the European Convention on Human Rights may apply in this case. However, those rights must be weighed against the public interest in preventing inappropriate development in the Green Belt and preserving the character and appearance of the surrounding area. Given that the unauthorised works are harmful and contrary to the Development Plan and given that there are no material considerations which outweigh the harm, it is considered that Enforcement Action would be a proportionate interference in the wider public interest.

8.0 RECOMMENDATIONS

That delegated authority be granted to the Development Manager, in consultation with the Planning and Environmental Law Manager, to take any necessary enforcement action on behalf of the Local Planning Authority in respect of the alleged planning contravention outlined above, by exercising the powers and duties of the Authority (as applicable) under Parts VII and VIII of the Town and Country Planning Act 1990 (including any amendments to or re-enactments of the Act or Regulations or Orders made under the Act) in respect of the above Property.

General Note

This specific delegated authority will, in addition to being the subject of subsequent report back to Members in the event of Enforcement Action either being taken, not being taken or subsequently proving unnecessary as appropriate, be subject to:

- (a) all action being taken on behalf of the Council and in the Council's name;*
- (b) all action being subject to statutory requirements and any aspects of the Council's strategy and programme;*
- (c) consultation with the appropriate professional or technical officer of the Council in respect of matters not within the competence of the Divisional Director of Planning and Transport Development, and*
- (d) maintenance of a proper record of action taken.*

Appendix 1

