

# **Report to Area Plans Sub-Committee 'C'**



**Epping Forest  
District Council**

**Date of meeting: 13 April 2005.**

**Subject: Carisbrooke Farm, Kiln Road, North Weald – PL/131.**

**Officer contact for further information: Barry Land (01992 – 56 4110).**

**Democratic Services Officer: Gary Woodhall (01992 – 56 4470).**

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## **Recommendations:**

**To take no further action whilst Mr or Mrs Woolhead continue to occupy the site.**

## **Report:**

1. This matter was brought before Area Plans Sub Committee 'C' on 21 July 2004 who asked for legal advice before a decision is reached. A copy of the earlier report is attached at Appendix 1.
2. A full copy of Counsel's advice has been left in the Members Room for perusal together with a photograph of the mobile home and an aerial photograph of the site. Since the photographs were taken the hedges and trees have grown and the buildings are all but hidden, especially during the summer months.
3. In brief, Counsel concluded that because of the delay:
  - (a) a prosecution is unlikely to succeed or, if it were to be successful, would be unlikely to result in a large fine or the recovery of significant costs;
  - (b) injunction proceedings will be likely to be either unsuccessful or to result in a stay pending the submission of a planning application and/or appeal; but that further enforcement action could be envisaged if the case was considered afresh and to this end; and
  - (c) the Council should invite Mr and Mrs Woolhead to make a planning application and determine this before proceeding further.
4. In view of the delay in taking action, this matter has been ongoing since 1988 for the reasons explained in the earlier report, the prospect of a successful prosecution or injunction are poor. A full consideration of the planning merits of this development have not been considered recently, nor have the human rights of the Woolheads as of today, been taken into account. It is likely that any court would expect these matters to have been addressed before any action is to be taken.
5. Counsel has suggested that the Woolheads be invited to submit a planning application. This application would either enable the site to be regularised and allow for any conditions to be applied or result in a further refusal and appeal. Either way, the intention would be to take into account the applicant's human rights, age, health and future intentions. To meet these ends Counsel advised a visit to the site by a planning officer and an enforcement officer to advise on the application and suggest any alterations or landscaping, or perhaps the removal of items the Woolheads might undertake to improve the general layout and amenities of the area. It would also be an opportunity to gather background information to assist Members in their deliberations.

6. Should an application not be submitted or submitted and refused by the Council this effectively would draw a line in the sand and start a new chapter. The Council could then consider if it is expedient to enforce on the original enforcement notice to stop the unauthorised use.
7. There is however, another option that Members must consider. As the Woolheads have lived continuously since 1988 in their mobile home on the site (paying Council Tax since 1995), bearing in mind the Council's inactivity in pursuing any action against them during this period and the fact that the use has not been the cause of any complaints with the Woolhead family being considered part of the village, Members may take the view that no further action should be taken whilst Mr and Mrs Woolhead wish to remain living on this site. Mr and Mrs Woolhead have two grown up children in responsible occupations, living apart from them in their own houses. Taking no action would not result in the development becoming lawful since this is not possible with an extant enforcement notice in place.
8. The committee are reminded that there are a handful of traveller sites, particularly in Nazeing and Roydon, that the Council has decided to "tolerate" in the knowledge that the sites will not become lawful by default, are not intrusive and where there would be hardship if the families were forced to move out. Officers consider that Carisbrooke Farm could fall into this category.

**Conclusion:**

9. The options before committee are therefore:
  - (i) to seek prosecution for non-compliance with the enforcement notices, but with little prospect of success;
  - (ii) to invite the submission of a new planning application; or
  - (iii) to tolerate this development for the time being in all the circumstances of the case and in the knowledge that the development will not become lawful by default.
10. Officers advise that option (i) is not realistic for all the reasons set out in the report; and option (ii) would open the whole matter to renewed consideration, not just by the Council but also by appeal where the end result would not be in the Council's hands.
11. In this case, officers recommend option (iii).