

11. PL/131

Site Address:
**Carisbrooke Farm,
 Kiln Road,
 North Weald,
 Essex,
 CM16 6AD**

Date:

Description of breach of planning control.

1. Siting of mobile home with residential use
2. Storing of touring caravan
3. Siting of caravan for residential use
4. Erection of a conservatory/porch on mobile home.
5. Erection of garden shed.

Description of site.

The site consists of 2.5 acres of land served by Kiln Road, a single track unclassified road and is in an isolated position south of the railway with only three or four dwellings in the vicinity. A number of small buildings occupy the site, some built for agricultural use, some built during the war as munitions stores and defence purposes. The whole of this secluded area falls within the parish of Theydon Mount.

Relevant History

The land was purchased in 1984 by Patricia Woolhead and her husband Henry who used it for the storage and sorting of metal whilst they were living in Roydon. The following is a summary of the relevant planning history:

12.4.88	Enforcement notice re storing & sorting metal.	Issued
25.8.88	EPF/629/88 Application for siting of mobile home	Refused.
25.8.88	EPF/926/88 Use of building as workshop	Refused.
28.2.89	Enforcement notice re mobile home for residential use.	Issued
3.1.90	Appeal in respect of enforcement notice for mobile home lodged and dismissed.	
9.1.91	EPF/1437/90 Retention of mobile home	Refused
5.11.91	EPF/592/91 Caravan site for gypsy caravan	Refused
28.10.92	Appeal in respect of EPF/592/91 dismissed.	

Between the above dates Henry and Patricia Woolhead were reported for breach of the enforcement notice issued on 28.2.89 and appeared at Epping Magistrates Court on 2nd August 1991 for the offences of 1. Not taking steps to remove the mobile home and 2) Using the home. Both were fined £400.00 on each count with £100.00 costs. A further summons was issued against both for hearing on the 6th December 1991. Patricia Woolhead elected trial at Crown Court and after several adjournments Henry Woolhead was sent for trial, both appearing on the 24th June 1992 for non-removal of the mobile home and using it as a dwelling. Henry was fined £300 and £300, Patricia £150 and £150 and both ordered to pay £100 costs. The matter was further reported to Plans Sub Committee B on the 3rd April 1995 where other ancillary

developments (Items 2 – 6 in description) were reported. (See copy of Agenda attached).

Enforcement action was to be taken with the following time scales:

Twelve months to relocate the mobile home, three months to remove the storing caravan and three months to remove the porch, decking and shed. Enforcement notices were not served on the recommendation of Legal Department following advice from the Treasury Solicitor. As a result it is only the mobile home and arguably the decking and porch, that is covered by an Enforcement Notice but officers believe that the other caravan is still in situ and will have become established along with the garden shed.

The delay arises from the fact that Mr. Woolhead, on 16th February 1996, made an application (No.31219/96) to the European Commission of Human Rights in Strasbourg and legal advice was that it would be unwise to proceed until their decision was known. The European Commission sat on the 21st May 1997 and, in the event declared Mr. Woolhead's application inadmissible.

This result was not reported. It appears that no copy of the decision of the Commission was either sent and not received or not sent to the Council at all. A copy of the European Commission's decision was obtained at the behest of the Council's enforcement officers on 21st August 2001.

Following the belated receipt of the decision of the Commission enforcement officers visited the premises on the 18th November 2003 but were unable to gain access. Enquiries of the Land Registry show the owner as still to be Patricia Ann Woolhead.

On the 5th February 2004 officers again visited the premises and met Mr. Henry Woolhead and his daughter Patricia.

On the 7th June 2004 I visited the premises by appointment and saw Mrs Woolhead. I informed her that this report is going to be submitted to Planning Sub Committee C during June 2004.

She confirmed that only her and her husband, both being in their sixties, occupy the site and wish to do so for their remaining years. Mrs Woolhead confirmed she has been very ill during the previous twelve months and is in receipt of medication and makes regular hospital visits. This is likely to be an ongoing situation.

Mrs Woolhead also confirmed they would be willing to remove one of the caravans and a shed.

Relevant Policies

Epping Forest District Council Adopted Local Plan.

I 4	Enforcement Policy
GB 2	General Green Belt restraint
GB 5	Within the Green Belt the Council will refuse planning permission for non permanent dwellings including mobile homes and caravans, except as replacements within the existing residential caravan sites.
H.11	In determining applications for gypsy caravan sites within the Green Belt the Council will have regard to (1) whether there are any special circumstances which would justify an exception to the Green Belt policies of restraint, and (2) the impact on the openness of the Green Belt and the character and appearance of the countryside.
DBE2	Detrimental effect on existing and surrounding properties
DBE4	Development in Green Belt,
DBE9	The Council will require that a change or intensification of use does

Not result in an excessive loss of amenity for neighbouring Properties, the factors which will be taken into account are Visual impact, overlooking, loss of daylight, noise smell or other Disturbance.

LL2,10,11
T17

Landscaping
The Council will grant planning permission for development only when the proposal is well related to road hierarchy, is readily accessible by existing or potential public transport facilities, and will not be detrimental to highway safety.

Essex and Southend on Sea Replacement Structure Plan

CS 2	Protecting the natural and built environment
CS 4	Sustainable new development.
C1/C2	Metropolitan Green Belt
NR 1	Landscape conservation
NR 12	Protecting water resources
H 3	Location of residential development
H 6	Accommodation for gypsies

Background

The site is subject of three enforcement notices which have come into effect. This prohibits the use of the land for (i) the purpose of storing and sorting metal and electrical components, (ii) secondly storing, maintaining, repairing and spraying motor vehicles or parts thereof and lastly (iii) keeping a mobile home on the site and using it for human habitation.

A discussion with Mr Woolhead has provided the following relevant background. Mr. Woolhead is of Romany origins and was raised to a life of travelling which impaired his formal education. On their marriage, his wife, not being of Romany extraction or used to travelling, occupied a caravan on the same site as his parents at Dobbs Weir, some eight or nine miles from their present home. Being forced to vacate the site at Dobbs Weir which only had permission for one caravan they took up residence in a tied bungalow whilst working for a scrap metal dealer. This came to an end in 1988 when his employment ceased and occupancy was taken up at Carisbrooke Farm. All children of the marriage no longer reside with their parents who have occupied the site continuously since August 1988. Mr. Woolhead states that he no longer travels, there not being the work around the country, both are getting older and his wife has suffered severe illness for which she needs a permanent residence. He claims to have paid his council tax on both caravans from the start of his residence at the site and fully integrated into the local village life. There have been no recent objections to this use of land by the Woolheads.

Issues and considerations

This matter has been brought back before the Committee, both to update members on the decision made by the European Court in 1997 and to agree any future actions steps to be taken to bring this matter to a conclusion.

Breaches of planning control are still outstanding some of which exist in spite of extant enforcement notice. These breaches are as follows: the siting and living in a mobile home, to which has been added a conservatory, porch and some decking; the stationing of a caravan for human habitation for Mr. Woolhead's daughter; the storage of a touring caravan and erection of garden shed.

The committee may consider that despite the continuing breaches, further action is not in the public interest, particularly as even if the mobile home can be removed, the caravan can remain for residential use and the shed will stay. The Woolheads have been living here for 16 years and the site is kept in a clean and tidy condition with no industrial activities taking place. Although contrary to Green Belt policies, the site is well screened. The Woolheads are getting older and the Council could agree to them remaining on site in their old age, in the same way as occupation of another caravan in the vicinity was tolerated for some years, though now long gone. Should no further action be taken, the enforcement notices remain in place such that the mobile home cannot become established.

Alternatively, enforcement action to secure compliance with the enforcement notices could be recommended.

Should the Committee recommend this latter course our legal officer's recommendation is that Counsel's advice be sought first. The enforcement notices are extant and capable of enforcement. However the delay between the decision in May 1997 and notification to the Council is unfortunate and furthermore to return to the court relying upon an appeal decision of 1992 and when there has been no action since that time, would be risky.

There is a strong possibility that an abuse of process argument will be put forward by the defence in the event of legal proceedings, which if such an argument is successful could result in the case being dismissed and costs against the Council.

The Woolhead's rights are now covered by the Human Rights Act and they should be invited to submit any personal circumstances to the Committee. Members must then balance these Human Rights against the legitimate aim of enforcing proper planning control in the public interest and only authorise further enforcement action if they are satisfied, based upon the evidence available to them, it is necessary and proportionate in the circumstances. It should also be considered whether the legitimate aim of enforcing proper planning control in the public interests can be achieved by other means that interfere to a lesser degree with the Woolhead's Human Rights.

Counsel's advice may well be that new enforcement notices should be served, allowing a fresh appeal, where the present circumstances of the case together with Human Rights matters can be reconsidered.

Conclusion

The committee is asked to determine whether:

- a) no further action be taken; or
- b) enforcement action be continued with Counsel's advice.

the site should not particularly affect the residents of one village or hamlet. Thus, it is considered no condition restricting hours of use would be necessary, though obviously there would be no use of the facility in the hours of darkness.

The choice of approach roads also means that the proposal is not considered likely to result in highway problems and the scheme is considered acceptable in this respect by Essex County Council. Particularly with there being two motorways adjacent, it is important to ensure that balls are not likely to be hit off the course into the path of vehicles. The course has been designed to minimize this possibility and after some slight modifications is acceptable to the Department of Transport. No nets or other high fences which would intrude into the open character of the Green Belt would be necessary. The need to provide a "zone of protection" for the M25 means that the power lines alongside it are not affected by the scheme. This "zone of protection" is partially used to provide a bridle path for the stables at Hobbs Cross Farm, though it should be made clear that this will be merely for the stables, not a public facility.

The land is grade 3b agricultural land which is not the best and most versatile land. The Ministry of Agriculture Fisheries and Food does not object to its loss from agriculture.

There are two other schemes for "pay and play" golf courses submitted to the Council for planning permission in this vicinity. The Parish Council has requested that these three proposals be considered together, although the other two schemes are not in the Theydon Garnon Parish. Officers are not yet in a position to bring reports on the other two applications to Sub-committee, but it is considered that as there is no significant harm arising from this proposal it would be unreasonable not to deal with this application now.

OBSERVATIONS:-

PARISH COUNCIL - Feels area can only sustain one golf course and therefore this application must be looked at in conjunction with other two schemes submitted to the Council.

THEYDON BOIS AND DISTRICT RURAL PRESERVATION SOCIETY - Submitted plans are not very lucid and in particular not clear where access is to be created; Society is generally uneasy at the concept development of this nature could well lead to urbanisation of the Hobbs Cross hamlet in longer term; would generate increased traffic over unclassified roads in addition to traffic from Open Farm; for these reasons Society opposes application.

29. PL/131

Site Address

THEYDON MOUNT

Carisbrook Farm
Kiln Road

Mr & Mrs H Woolhead

Description of breach of control:

1. Storing of a touring caravan. *3 MONTHS*
2. Siting caravan for residential use. *12 MONTHS*
3. Erection of a conservatory/porch on mobile home.
4. Construction of wooden decked patio to mobile home. *3 MONTHS*
5. Erection of garden shed.

Description of Site:

2 1/2 acre site within the Metropolitan Green Belt.

Relevant History:

- 12.4.88 - Enforcement Notice re storing and sorting metal
- 25.8.88 - Application for mobile home EPF/629/88 - Refused
- 25.8.88 - Use of a building as workshop EPF/926/88 - Refused
- 28.2.89 - Enforcement Notice re mobile home for residential use - Appeal dismissed 3.1.90.
- 9.5.91 - Retention of mobile home - EPF/1437/90 - Refused
- 5.11.91 - Caravan site for gypsy caravan - EPF/592/91 - Refused - Appeal dismissed 28.10.92.

An appeal to the High Court resulted in the appeal being heard again. This was further dismissed on 12.1.95 and a further appeal to the High Court is pending.

Relevant Policies:

Enforcement Policy I4.

Issues, considerations and reasons for action:

It is recommended that these matters be dealt with before they become "established". At a site where the mobile home is judged unacceptable all these "supporting" buildings, development or caravans for touring or children (two of whom are grown up) is considered unacceptable.

Suggested period for compliance:

12 months. *Tom Dohy - re-appeal these months.*

It is therefore RECOMMENDED that ENFORCEMENT NOTICES be issued.

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<u>Ref</u>	<u>Description</u>	<u>Site Address</u>
30. EPF/11795	Change of use of public house to dwelling	Green Man public house
MAGDALEN LAVER	<i>Refused</i>	Mr Anderson

The application was discussed by the Committee at their meeting on 23 February 1995 when it was decided that the matter be deferred for further negotiations with the applicant.

The Committee were concerned that should this application be granted and implemented, the extant planning permission for a free-standing 11-bedroom block (EPF/118/91 - GRANTED 24 January 1992) could still be exercised, thus creating an anomalous situation in that two distinct planning units would be created and it was considered that in planning terms this would not be acceptable in this location.

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