

Report to the Council

Committee: Cabinet

Date: 24 April 2006

Portfolio Holder: Councillor R Glozier

Item: 8(c)

PLANNING ENFORCEMENT – BIRCHFIELD, EPPING LANE, STAPLEFORD TAWNEY

Recommending:

- (1) That, in accordance with the requirements of an enforcement notice, works to clear the site of rubbish, walls, fences, furniture, caravans, mobile homes, fill material and a bund adjacent to the northern site boundary be approved;
 - (2) That, in the event of the works being carried out, a legal charge be registered on the land in order to recover as much of these costs as possible;
 - (3) That consideration be given to the principle of acquisition of the freehold interest of the land and, if agreed, a further report be submitted to the Cabinet setting out the options, costs, future use and other implications.
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Background Report:

1. The lawful use of the site is for agriculture and prior to its use as a caravan site it was used for grazing animals. Material comprising bricks, concrete, brick rubble and topsoil, chert pebbles, sand and wood has been imported to the site and laid to a depth of 0.2m to 1.5m in thickness in order to facilitate its use as a caravan site. A bund that is now between 2 and 3m high built on a 10 wide base has been erected adjacent to the M25 along most of the northern site boundary.
2. An enforcement notice requiring the cessation of the use of the land as a travellers' caravan site, the removal of all associated works and the restoration of the land to its former condition was issued and a subsequent appeal considered at public inquiry was dismissed.
3. On 29 June 2005 the Council resolved to commence criminal and/or civil proceedings to secure compliance with the enforcement notice as varied. It also gave authority to commence Injunctive Proceedings in the High Court.
4. Application no. EPF/1313/05 for the use of agricultural land as a private traveller site providing 16 pitches was received on 3 August 2005 and subsequently refused. An appeal against that decision has been made and will be considered at a further public inquiry later this year.
5. The previous occupants of the site appear to have vacated it in January 2006 and the site is not presently occupied. The agent acting for the occupants in their appeal has advised they are now travelling but intend to return.

6. Most of the mobile homes and touring caravans have been removed from the land. The original vehicular access to the land has been obstructed. The mobile homes left appear abandoned, have been stripped of metal cladding and have their windows smashed. The fill material brought onto the land to raise the levels and, the bund adjacent to the northern site boundary and fencing, walls, hard surfacing and a timber stables remain.
7. Since the site has been vacated a new vehicular access off Epping Lane at the western end of the site has been formed. Some fencing and paving has been taken from the site.
8. On 16 February 2006, the High Court gave an injunction requiring compliance with the enforcement notice, which was served on 16 February 2006 and became effective the next day. The injunction was against 45 named persons and against persons unnamed. Non-compliance is an offence for which the Council could prosecute, and carries a penalty of an unlimited fine, seizure of assets or a custodial sentence.

Statement in support of recommended action:

9. Since the site has been vacated and become derelict, the acknowledged harm already caused by the unlawful use and associated works is being exacerbated. Moreover, the use of the additional vehicular access to the site off Epping Lane causes additional harm to the safe and free flow of traffic using Epping Lane.
10. To remedy the harm already caused and to prevent further exacerbation of that harm it is necessary to take steps to secure compliance with the enforcement notice and return the land to its original condition. That would create the conditions for the lawful use of the land to resume.
11. Given the harm that has been caused to this part of the Green Belt and the exacerbation of that harm that is now being caused together with the associated harm to the environment there is a case for the Council to take direct action to ensure compliance with the enforcement notice.
12. The Council has the legal power to enter the land and carry out the necessary works without prior notification under Section 178 of the Town and Country Planning Act 1990. There are, however, financial consequences for the Council in doing so in this case since it is very unlikely that its costs would be recovered.
13. It has been necessary to carry out a survey of the site, including a land contamination survey, to reveal in some detail the physical steps necessary to secure compliance with the enforcement notice and the quantity of material that will have to be removed from the site and how it should be disposed of.
14. A separate report will be made to the Cabinet on the need for a supplementary estimate to cover the cost of this survey and the cost of the works.
15. The Council is also asked to consider the principle of acquiring the freehold interest in the land. If agreed it is suggested that the Cabinet give further consideration to the options, costs, future use and other implications.