

Planning Committee – Monday 30 March 2009

Report of the Head of Legal and Democratic Services

Enforcement Item

1. **File/Complaint Number** E/0283/38/06
2. **Location of Site** Land at Sherford Bridge Farm, Sherford Road, Taunton
3. **Names of Owners** Mr Alan Parris, Mr Richard Parris and Mrs Sylvia Parris
4. **Nature of Contravention** Non-Compliance with the requirements of an Enforcement Notice dated 12 April 2007

Background

On 14 February 2007 the Planning Committee resolved that enforcement action be taken to secure the removal of an unauthorised workshop and concrete yard and secure cessation of a vehicle valeting business at the Site and institute legal proceedings should the enforcement action not be complied with.

An Enforcement Notice dated 12 April 2007 was issued on the owners with 2 requirements:- 1. for cessation of the use of the unauthorised building as an agricultural workshop and machinery repair/store shed, together with a commercial vehicle valeting business (which the owners have complied with) and 2. to **“dismantle the steel framed, profile sheeted building, remove all the dismantled materials from the land and restore the land to the condition it was in before the breach of planning control occurred”**.

The owners appealed against the Enforcement Notice and the Planning Inspector dismissed the Appeal on 28 January 2008. In the reasons for his decision to dismiss the Appeal the Inspector noted that the determinative issue concerned flood risk because the unauthorised development was within the functional floodplain of Sherford Stream.

During the Appeal the Planning Inspector’s concerns regarding flood risk were pertinent to when the unauthorised workshop building was in existence. At that time there was no reason to require the Planning Inspector to comment on what detrimental impact with regard to flooding the area of concrete hardstanding accommodating the unauthorised workshop building would have on the floodplain should the building be removed.

The Council has issued legal proceedings in the Taunton Magistrates’ Court for non-compliance with the Enforcement Notice. Since issuing the legal proceedings the owners have dismantled the unauthorised workshop building

however an area of concrete hardstanding (“the Remaining Concrete”) that accommodated the unauthorised workshop building still exists at the Site.

The Current Position

The owners consider that the requirement on the Enforcement Notice to remove the unauthorised workshop building and reinstate the land to its former state has been complied with. They argue there has been a concreted impermeable area in the same position as the Remaining Concrete for over 50 years. In addition, the owners comment they have made improvements to relieve flooding issues by removing a length of banking (approx 4 yrs ago) to make a gateway into the Site which has improved water flow.

The owners also argue if they had laid the Remaining Concrete without the building it would be permitted development under Schedule 2, Part 6, Class A, A.(b) [*Permitted development on agricultural units of 5 hectares or more*] subject to conditions A2(1)(c) and A2(2)(c) [*no waste materials*].

The matter has recently been discussed between officers in the Development Control department and the Legal Services department and they accept the Remaining Concrete could be constructed under permitted development rights. The area of the Remaining Concrete has been measured and it is 400.9 square metres. The prescribed area limit under Permitted Development rights is 465 square metres and so the Remaining Concrete does not exceed the permitted development limitation in respect of area. It is therefore not considered to be in the public interest to continue with the prosecution.

The Environment Agency may have powers to prosecute if it considers there are issues of flooding resulting from the existence of the Remaining Concrete.

RECOMMENDATION

It is therefore RECOMMENDED that the Solicitor to the Council be authorised to apply to the Magistrates to withdraw the legal proceedings against the owners because it is not in the public interest to continue with the prosecution.

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