

E/0122/42/12

UNAUTHORISED BUSINESS RUNNING FROM FARTHINGS FARM, LIPE HILL LANE, COMEYTROWE, TAUNTON

OCCUPIER: MR DUNN

OWNER: MR DUNN
GEORGES FARM, GEORGES FARM LANE, TRULL
TAUNTON
TA3 7NY

PURPOSE OF REPORT

To consider whether it is expedient to serve an Enforcement Notice requiring the cessation of the process of a wood chipping business being operated together with storage and distribution of wood products connected with the business.

RECOMMENDATION

The Solicitor to the Council be authorised to serve an Enforcement Notice and take prosecution action should the notice not be complied with, to secure the cessation of the wood chipping business.

The Enforcement Notice shall require:-

- to secure the cessation of the wood chipping business and any machinery used in association with that function.

Time for compliance: 2 months from the date the notice comes into effect.

SITE DESCRIPTION

The site is off Lipe Hill Lane which is off Comeytrowe Lane heading towards West Buckland. The site comprises old farm buildings and a yard. The roadside boundary has a well established hedge and on the opposite side of the road is a property known as Grassy Rivets. To the east of the site is Farthings Farm and 1 Farthings.

BACKGROUND

The complaint was first brought to the Council's attention in July 2012. A site visit was carried out and contact was made with the owner to advise him that Planning permission was required for the use that was being carried out which was storage and distribution of wood products and the process of wood chipping. The owner advised that he would submit a Planning application for consideration. A month passed and a follow up letter was sent asking where the application was. Contact was then made to the Council by the owner's agent who asked to speak with a Planning Officer. The agent advised that a Planning application would be submitted but to date this has not been received. An application for a Certificate of Lawfulness was submitted in November 2012 claiming that the use had began more than 10 years ago and was therefore immune from enforcement action (see relevant planing history below)

DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL

The site is an old farmyard with agricultural buildings. The buildings and yard are being used to operate a wood chipping business together with the storage and distribution of products connected with the business. The main function of the business is the production of wood chips, flakes and fuel for biomass heating. This is considered not to be an agricultural function therefore a change of use has occurred on the site. The storage and distribution of the products is also considered not to be an agricultural function and therefore also requires Planning permission.

RELEVANT PLANNING HISTORY

A Certificate of Lawful Development was submitted for the continued use of a building for processing, storage and distribution at Farthings Farm, Comeytrowe under 42/12/0061LE and was refused on the 8 March 2013. The Legal Services Manager considered that on the balance of probabilities, the uses had not been continuous for a period of ten years.

RELEVANT PLANNING POLICES

National Planning Policy Framework

Enforcement (paragraph 207)

Somerset & Exmoor National Park Joint Structure Plan Review

STR6 - Development Outside Towns, Rural Centres and Villages
Policy 5 - Landscape Character,

Taunton Deane Borough Council Core Strategy

DM1 - General Requirements
DM2 - Development in the Countryside
CP8 - Environment

DETERMINING ISSUES AND CONSIDERATIONS

Policy DM2 of the Taunton Deane Core Strategy introduces a sequential approach for the conversion of existing buildings and sets out a list of alternative potentially acceptable uses, including community uses, class B business uses, other employment generating uses, holiday and tourism, affordable housing, farm and forestry dwellings, community housing, and in exceptional circumstances, conversion to other residential use. The use of the buildings for storage and distribution of wood products, and chipping is therefore a use that would fall within the list set out in DM2, subject to meeting the other criteria. The policy requires it to be demonstrated that the building would not be suitable for community uses, before utilising it for Class B business uses.

It would be reasonable to consider that the buildings would not be of a nature that would be well suited to such community uses. In addition, due to the remote location, along with there being facilities already available within Taunton and the closest villages and no further local needs identified, it is not considered that the buildings are required for this purpose. As such, the principle of the use of the buildings for storage of wood and chipping, which would fall within Class B business uses is considered an acceptable alternative use, in line with policy DM2.

However, the other criteria set out in Policy DM2 that are relevant to this case also need to be taken into account. The site is directly adjacent to a public road. It is acknowledged that this public road is a narrow, single track lane, but the policy simply requires that it is near a public road and makes no specification as to the nature of that road. Whilst it lies in a countryside location, the site is only approximately 1 km from the edge of Taunton and is therefore near the public services offered within the town. The existing buildings are general purpose modern buildings and there are therefore no architectural or historic qualities to be harmed. They are also already present within the landscape and are not understood to have been altered to carry out the current use. As such, the buildings are deemed to be compatible with the rural character of the area and will have no adverse impact on the landscape. It is acknowledged that the use of the site for wood storage and chipping is likely to include some outdoor storage of timber and chippings. Whilst there is often concern regarding outdoor storage and the consequent impact this has on the surrounding area, piles of timber and chipping's, by their nature are generally reasonably low in height and do not therefore appear prominent within the landscape.

In terms of highway safety grounds, it is noted that the current use for wood storage and chipping results in the movement of large goods vehicles to and from the site. However, it is important to note that the former use of the site as a farm would have necessitated regular movements of large goods vehicles for the delivery of feed stuff, fertiliser, livestock movements, milk tanker, etc. As such, the current use is not considered to result in significant detriment to highway safety.

In terms of the impact on the residential amenity of neighbouring properties, it is noted that the use of the buildings for the storage and distribution of wood products would result in traffic movements of large goods vehicles and large machinery. However, as stated above, this is also applicable to the agricultural use of the site and as such is not considered to result in such increased noise and disturbance that would result in detrimental harm to the living conditions of the occupiers of nearby properties. As such, it is not considered expedient to take enforcement action to cease the use of the storage and distribution of the wood products.

However, it is also important to consider the wood chipping activities also undertaken on the site. It is pertinent to note that Environmental Health have received various complaints from local residents regarding noise from activities at Farthings Farm, in particular the noise from wood chipping, which was investigated as a potential noise nuisance under the Environmental Protection Act 1990. Noise monitoring equipment was installed at a neighbouring property and recordings showed that the noise was intrusive. Whilst recordings included noise from machinery moving the wood/chipping's, loading lorries and chipping wood, the wood chipping was the loudest noise. The noise from all of the machinery was clearly audible indoors with the window ajar and could be heard at a lower level with the windows closed.

It is understood that discussions have taken place between Environmental Health and the operator of the site, who suggested enclosing the chipper. However, Environmental Health were of the opinion that it would be very unlikely that it would be possible to enclose machinery like a chipper or other mobile plant due to the space needed for the operations. The buildings on the site are basic modern general purpose buildings which offers minimal sound attenuation and any acoustic barrier that would be effective, would need to be extremely high and would need planning permission on its own.

The guidance used to assess noise when considering planning applications is British Standard 4142:1997 Method for rating industrial noise affecting mixed residential and industrial areas. This estimates the noise level from the commercial premises outside nearby residential properties and compares this to the background noise level (without the plant, etc operating). The greater the difference, the greater the likelihood of complaints and a difference of 10dB or more indicates that complaints are likely.

Environmental Health have undertaken noise readings at the site (although this was not done as part of a full noise assessment) and have considered the levels measured by noise monitoring equipment installed inside a nearby residential property. These showed noise levels from plant/machinery of 45-50dB and noise from the chipper over 60dB at neighbouring properties, whereas background levels were likely to be in the 30s. As such, if a noise assessment was carried out in line with British Standard 4142, Environmental Health would anticipate a difference of between 20 and 30dB, above background levels. If this related to a planning application, Environmental Health would therefore recommend that the applicant demonstrates that they are able to reduce the potential noise disturbance, or that the application should be refused.

It is therefore considered that the use of the wood chipper on the site results in significant noise and disturbance to the occupiers of the nearby residential properties that would result in consequent material detriment to their living conditions. On the basis that Environmental Health are not of the opinion that there are any remedial works that can be carried out to reduce the noise of the chipper and the relating disturbance to nearby dwellings, it is considered expedient to take enforcement action to cease the use of the wood chipper on site

In preparing this report the Enforcement Officer has considered fully the Implications and requirements of the Human Rights Act 1998

PLANNING OFFICER: Mrs K Walker
PLANNING ENFORCEMENT OFFICER: Mrs A Dunford

CONTACT OFFICER: Mrs A Dunford, Telephone 01823 356479