

## **PLANNING COMMITTEE – 26 JANUARY 2005**

### **REPORT OF THE CHIEF SOLICITOR**

#### **ENFORCEMENT ACTION IN RESPECT OF MOBILE CRANE BUSINESS, CREECH PAPER MILLS, CREECH ST MICHAEL**

##### **BACKGROUND**

At the meeting held on the 16 June 2004, the Committee resolved to take enforcement action against the operation of a crane hire business at Creech Mills, Creech St Michael. An enforcement notice was served in September 2004 and is currently subject to an appeal.

However, as part of the submissions in respect of the appeal hearing, solicitors acting for the appellant have submitted detailed argument as to why there has not been a breach of planning control, namely that a crane hire business is not being conducted from the premises and the stationing of four cranes on the site at the rear of Creech Mills falls within the existing authorised use of the land.

I have considered the submission made in detail and also visited the site. It is clear that the crane hire business itself is not run from the premises; the site is used only for the siting of four cranes, with the hiring element of the business being carried out elsewhere.

The site itself comprises a mixture of small units carrying out B2 (industrial) and B8 (storage and distribution) uses with the yard area to the rear being used for a variety of mixed commercial /industrial uses, mainly in connection with the use of those units.

There is therefore an assortment of vehicles, commercial vehicles, skips and indeed some scrap stored on or using the yard area. The units and yard must therefore be considered to have a mixed B1/B8 use. The four cranes which are the subject of the enforcement action therefore comprise a very small element of the overall commercial/industrial use and would not appear to constitute a separate and distinct use which would require planning permission.

I therefore agree with the submission from the appellants that there is no business being conducted from the site and that although a crane hire business would usually be considered sui generis (ie a distinct and separate planning use), the stationing of four cranes on a yard area used for the stationing and storage of commercial and other vehicles does not constitute a change of use.

The reason given for taking enforcement action was that the movement of the cranes from site early in the morning was having a detrimental effect on the neighbouring properties and that there was increased use of the heavily used and sub standard access road. However, whilst there is no doubt that there is

disturbance to the local residents, other traffic from the industrial units cannot be controlled.

I have therefore concluded that in the light of the additional information and submissions received, there is no breach of planning control in respect of the stationing of cranes at Creech Paper Mills and that the main business is conducted elsewhere. I therefore do not believe there is evidence to continue to support the enforcement notice on appeal.

## **RECOMMENDATION**

It is therefore **RECOMMENDED** that the enforcement notice served in respect of the unauthorised use of land at Creech Mills, Creech St Michael be withdrawn.

### **Chief Solicitor**

Contact Officer:- Judith Jackson Telephone 01823 356409 or e-mail  
[j.jackson@tauntondeane.co.uk](mailto:j.jackson@tauntondeane.co.uk)