

Subject: Land Adj Hoe Stream, West Of Smarts Heath Lane, Woking, Surrey

Description: Unauthorised boundary treatment comprising fencing, walled entrance with pillars and large gates and an area of hardstanding

Case Officer: RDE

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1. PURPOSE

To seek Committee approval for Enforcement Action and to authorise all actions necessary enforcement action to remedy the breaches of planning control including proceedings in the Magistrates Court.

2. RECOMMENDATION

Issue an Enforcement Notice in respect of the above land requiring the following within Two months of the notice taking effect

- I. Remove the brick walls, pillars and iron gates at the front entrance to the site; and
- II. Remove the close boarded fencing measuring approximately 1.8m high and extending for a length of approximately 24m fronting Smarts Heath Lane and Kemishford; and
- III. To remove the hardstanding located to the south of the yard area; and
- IV. To remove from the land all materials, rubble and debris including all associated paraphernalia arising from compliance with the above

3. Site Description:

The application site comprises of a field bordered by the Hoe Stream along the southern and eastern boundaries and Smart's Heath Lane on its western boundary. To the north of the site are various semi-detached and terraced properties, some of which are locally listed buildings. Kemishford Bridge to the south of the site is locally listed also.

The site itself is host to a stable block and an area of hardstanding, some of which has previously been granted planning permission. Planning permission ref: PLAN/2011/0447 dated 11.08.2011 granted planning permission for the use of the site for non-commercial equestrian purposes only.

The site is located within the designated Green Belt and Fluvial Flood Zones 2 and 3 and surface water flood zone 1 (1 in 1000 risk). The entirety of the site falls within the 'Kemishford Bridge to Railway, Hoe Valley' Site of Nature Conservation Importance (SNCI). The site abuts the boundary to Smart's Heath Site of Special Scientific Interest (SSSI) to the north.

Relevant Planning History:

- PLAN/2018/0303 - Certificate of Existing Lawful Development for paddock fencing, wall and gate at entrance and hard standing. – Refused - 10.07.2018 for the following reason:

‘The close-boarded fence, brick pillars, brick walls and gate would be contrary to A.1(a)(ii) of Part 2, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and would not benefit from planning permission by Article 3 of the Order. The expanded area of hardstanding is an engineering operation and would fall within the definition of development as set out in Section 55 of the Town and Country Planning Act 1990 (as amended) and would require planning permission.’

- COND/2011/0095 - Discharge of conditions 06 (surface water drainage system) and 07 (parking and turning layout) of PLAN/2011/0447 dated 11 August 2011. – Discharged 27.02.2012
- PLAN/2011/0447 - Retrospective planning application for the relocation of access, erection of post and rail fence along western boundary and formation of hard-standing. Proposed erection of 2 bay stable with tack room following the demolition of existing stable building and associated hard-standing. – Permitted 11.08.2011

5. **REPORT**

The site has been the subject of Enforcement visits and investigated for a number of breaches. As shown in the planning history the owner has submitted various Planning applications in order to regularise previous breaches.

This latest application for the retention of the existing boundary treatment and access bearing planning reference number PLAN/2020/0274 was refused on 12 June 2020. No appeal has been lodged against the Council's decision to refuse the application.

A letter/email was sent to the owner and agent on 22 June 2020 following the refusal of the application requesting an update on the status of the land and any appeal. On 23 June /2020 we were advised of a new agent taking over the case. On 13 August 2020 we requested further updates and any action regarding rectification or appeal. On 13 August 2020 the agent advised they would await a Notice and their client would appeal if appropriate. Following a site visit by an Enforcement Officer on 1 October 2020 the unauthorised development still remains in situ.

The Council must also have regard to its public sector equality duty (PSED) under S.149 of the Equalities Act 2010. This requires consideration to be given to the need to eliminate unlawful discrimination. It is not known whether the owner falls within one of the protected characteristics. Officers do not consider that the recommendation in this report would have a disproportionate impact on any potential characteristic.

It is considered expedient to serve an Enforcement Notice and therefore authority is sought to serve an Enforcement Notice.

6. **EXPEDIENCY OF TAKING ACTION**

It is considered expedient to take Enforcement Action for the following reasons:-

- (i) The unauthorised development is inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. Furthermore the development significantly harms the visual openness of the Green Belt by virtue of the increased spread of development across the site and the intrusive urbanising boundary treatment and access which enclose the land. No Very Special Circumstances (VSCs) were advanced in support of the retrospective application PLAN/2020/0274 and Officers remain to be convinced that VSCs would exist or carry sufficient weight to outweigh the significant harm to the Green Belt, which must be afforded substantial weight contrary to policies CS6 (Green Belt), CS21 (Design) and CS24 (Woking's landscape and townscape) of the Woking Core Strategy 2012 and Policy DM13 (Buildings within the adjoining Green Belt) of the Development Management policy DMD 2016 and the National Planning Policy Framework 2019.
- (ii) The highly incongruous walls, access gates, fencing and hardstanding utilise materials which are alien to the area and are of an excessive scale. The development erodes the rural character of the site and wider area which has a profoundly rural appearance with heathland, meadows and locally listed cottages in the locale contrary to Policies CS21 (Design) and CS24 (Woking's landscape and townscape) of the Woking Core Strategy 2012 and Policy DM13 (Buildings within the adjoining Green Belt) of the Development Management policy DMD 2016 and the National Planning Policy Framework 2019.
- (iii) In addition to the above, the site is located within an SNCI and abuts the Smart's Heath SSSI boundary. In the absence of any habitat or ecological assessments it has not been demonstrated that the development will not result in an adverse impact to the integrity of the SNCI or the SSSI contrary to Policies CS7 (Biodiversity and Nature Conservation) of the Woking Core Strategy 2012 and the National Planning Policy Framework 2019.
- (iv) The site access is located on a bend along Smarts Heath Lane which is subject to a 40mph speed limit. It has not been demonstrated through the submission of cogent information from the owner that sufficient visibility splays have been provided. It has not been demonstrated that the unauthorised development does not adversely affect highway safety contrary to Policy CS18 (Transport and accessibility) of the Woking Core Strategy 2012 and the National Planning Policy Framework 2019.
- (v) Furthermore, the hardstanding and built development would have affected flood flows across the site and have likely resulted in a loss of floodplain storage and would increase surface water run-off. It has not been demonstrated there would be no increase in flood risk on-site, elsewhere or exacerbate the existing situation contrary to Policy CS9 of the Woking Core Strategy (2012) and the NPPF (2019).
- (vi) It appears to the Council that the unauthorised development was substantially completed within the preceding last 4 years.

- (vii) Section 58 of the National Planning Policy Framework (NPPF) states 'effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control'. It is considered that enforcement action is proportionate for the reasons listed above.

The above reasons therefore make it expedient to undertake enforcement action and issue the necessary notice.

7. FINANCIAL IMPLICATIONS

The financial implications including staff resources, the costs of any subsequent appeal, court hearing, legal representation and/or any other costs (including where appropriate, taking direct action) are all matters that have been considered in the making of this report.

An appeal against an Enforcement Notice could be subject to an application for full or partial award of the Appellant's costs in making an appeal if it was considered that the LPA acted unreasonably.

If the committee decide to take enforcement action and the owner decides to exercise their right of appeal, this case is unlikely to be determined by Public Inquiry and therefore costs are likely to be minimal.

8. RECOMMENDATION

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