



REGULATORY SERVICES COMMITTEE

17 May 2012

REPORT

Subject Heading:

Planning Contravention
Waste Recycling Centre
Gobions Farm, Collier Row

Report Author and contact details:

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Local Development Framework

Policy context:

Financial summary:

Enforcement action and a defence of the
Council's case in any appeal will have
financial implications.

The subject matter of this report deals with the following Council Objectives

- | | |
|--|-------------------------------------|
| Ensuring a clean, safe and green borough | <input type="checkbox"/> |
| Championing education and learning for all | <input type="checkbox"/> |
| Providing economic, social and cultural activity in thriving towns
and villages | <input type="checkbox"/> |
| Value and enhance the life of our residents | <input checked="" type="checkbox"/> |
| Delivering high customer satisfaction and a stable council tax | <input type="checkbox"/> |

SUMMARY

This report relates to an unauthorised change of use of part of Gobions Farm for the purposes of a waste recycling centre. The change of use does not benefit from planning permission and the site is within the Green Belt. The use for the purposes as a recycling centre is regarded as an unacceptable use and is considered as harmful to the amenity of the locality and to the Green Belt.

RECOMMENDATIONS

That the committee consider it expedient that an Enforcement Notice be issued and served to require, within 3 months:

1. Cease the unauthorised use, of the land as a recycling yard
2. Remove all installations and machinery brought onto the land in connection with the unauthorised use
3. Restore the land to the condition prior to the commencement of the unauthorised use

In the event of non compliance, and if deemed expedient, that proceedings be instituted under the provisions of the Town and Country Planning Act 1990.

REPORT DETAIL

1. **Site Description**

Gobions Farm is a farm that is mainly agricultural but has a number of industrial uses within the main farm building complex; most uses have been ongoing for a number of years. The farm is within the Metropolitan Green Belt. The land is owned by the Crown and managed by a land agent who rents the farm to a tenant who then sub-leases a number of the buildings.

The land to be enforced against is shown outlined bold black on the attached plan.

The authorised use of the farm is for the purposes of agriculture but the various uses of the building do not benefit from planning permission. However, these uses have been ongoing for a period of in excess of 10 years and are therefore immune from enforcement action. The area of the farm yard that is being used for this unlawful purpose was previously occupied by a removal company and therefore had an accepted B8 use for storage and distribution.

2. **The Alleged Planning Contravention**

On 5th October 2011 the Planning Enforcement service received a complaint stating that a recycling yard had commenced operation at this location. Having checked the history of the site it was found that there had not been any historical use for this purpose. Given that this use does not fall within any accepted use class it must be regarded as a ' Sui Generis' use and as

Regulatory Services Committee.

such requires planning permission. The activity consists mainly of the recycling of wood, glass and plastic which takes place in the open. When the correct weather conditions exist it gives rise to airborne particles drifting over and into nearby residential dwellings and therefore physically impacting upon their amenity.

The first contact was made with the agent acting on behalf of the 'Crown' who own the land, despite numerous exchanges of e-mails progress was slow. Direct contact has now been made with the company that are operating the recycling facility and also their chosen planning agent. They have indicated that a planning application will be forthcoming but given that this has become protracted it is deemed expedient that enforcement action be commenced.

3. Relevant Planning History

P0399.03 – Sales of conservatories – Approved
E0013.08 – Certificate of Lawfulness for B8 storage – No decision given
E0014.08 – Certificate of Lawfulness for B2 industry – No decision given
D0141.10 – Certificate of Lawfulness for B8 storage – Withdrawn
P0824.10 – Car wash – Granted

4. Enforcement background

December 2002 and January 2003 – Goods vehicles operating from the site – It appears that this use may have ceased.

January 2003 – Sales of conservatories – A planning application was approved.

April 2005 – Storage use by a removal company – The use was deemed immune from action.

September 2008 – Development without planning permission – Structure was removed.

November 2009 – Car wash operating – Planning application approved

October 2011 – Recycling yard operating – Ongoing

5. Material Considerations of the Use or Development

The site is located within the Green Belt. National Planning Policy Framework states that when considering planning applications that substantial weight is given to any harm to the Green Belt, including any impact on openness. The NPPF states further that the re-use of buildings, provided of permanent and substantial construction, is not inappropriate.

Policy DC45 of the Local Development Framework states that development in the Green Belt will only be granted for certain specified uses and that any proposed use should not have a greater impact on the openness of the Green Belt. Policy DC45 states that planning permission for the redevelopment of authorised commercial/industrial sites will be granted

Regulatory Services Committee.

provided there is a substantial decrease in the amount of building on the site and improvements to the local Green Belt environment.

Policy DC55 states that planning permission will not be granted if it will result in exposure to noise above acceptable levels.

Policy DC61 states that planning permission will not be granted where the proposal has unreasonable adverse effects on the environment by reason of noise impact, hours of operation, vibration and fumes.

6. Justification for Intended Action

The issue is whether it is expedient for this Council to serve a planning Enforcement Notice having regard to the impact of this unauthorised use on the open character and appearance of the Green Belt and the amenity of the locality.

In staff's view the recent use undertaken has a harmful physical impact upon the openness of the Green Belt as all activities relating to this unauthorised use are undertaken in the open which gives rise to airborne pollution and noise both of which impact upon the amenity of nearby residential properties.

Although the site was previously used for storage purposes, there has been no decrease in the impact of the development on the openness of the Green Belt.

Green Belt policy and guidance confirm that planning permission should only be granted if such identified harm is clearly outweighed by very special circumstances. No such very special circumstances have been put forward or are considered to exist. The continued use is contrary to NPPF and policy DC45 of the LDF.

The use is considered to result in an adverse impact on nearby residential amenity. The waste recycling activity includes grinding of material resulting in noise and airborne particles drifting into nearby properties. Continued use is considered to be contrary to Policies DC55 and DC61 of the LDF.

In Staff's opinion the current unauthorised operational development cannot be overcome by the submission of a planning application and accordingly, in order to remedy these breaches it is requested that authority is given to serve an Enforcement Notice.

IMPLICATIONS AND RISKS

Financial implications and risks:

Regulatory Services Committee,

Enforcement action may have financial implications for the Council.

Legal implications and risks:

Enforcement action, defence of any appeal and, if required, prosecution procedures will have resource implications for the Legal Services.

Human Resources implications and risks:

No implications identified.

Equalities implications and risks:

No implications identified.

BACKGROUND PAPERS

Case Notes, Photographs and Site Plan