



# REGULATORY SERVICES COMMITTEE

# REPORT

18 July 2013

**Subject Heading:**

Planning Contravention  
Sylvan Glade  
Benskins Lane. Noak Hill

**Report Author and contact details:**

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**Policy context:**

Local Development Framework

**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 concerns rural land at the rear of Sylvan Glade, Benskins Lane, Noak Hill which is within the Metropolitan Green Belt. The land is to the rear of the residential curtilage and does not benefit from residential or any other accepted use. In 2012 the Planning Enforcement service received a complaint that travellers had moved onto the land with 5 caravans and associated vehicles, this was confirmed during a site visit by staff. The owner of the property does not live at the address and it has not been possible to contact him to discuss this matter.

## RECOMMENDATIONS

That the committee consider it expedient that an Enforcement Notice be issued and served to require, by 6 months:

1. Cease the unauthorised use of the land, to the rear of the main residence, for residential purposes
2. Remove all caravans, vehicles and equipment associated with the unauthorised residential 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**

The land in question is situated in Benskins Lane which is a private road off Church Road, Noak Hill; this is within the Metropolitan Green Belt. Sylvan Glade is situated at the northern end of Benskins Lane and is a private residence with a large area of land at the rear which does not benefit from any authorised use.

This report refers to an unauthorised change of use of the land to the rear of the residential property for the purposes of residential use by the placement of 5 travellers caravans and associated vehicles.

### 2. **Relevant Planning and Enforcement History**

P0883.06 – Retention of outbuilding - Refused

Enforcement Notice - 31 March 1992 – Development by formation of hardstanding and erection of three buildings.

Appeal dismissed – Notice upheld with minor variations.

Enforcement Notice - 2 April 1992 – Use for industrial purposes, storage, parking of vehicles other than residential.

Appeal dismissed and notice upheld in full.

Enforcement Notices – 18 September 2007 – Development by formation of hardstanding and erection of an outbuilding. Change of use for storage of building materials, scaffolding, vehicles and waste materials.

Appeal dismissed – Notices upheld with minor variations.

3. **The Alleged Planning Contravention**

An unauthorised change of use of the non-residential land at the rear of the dwelling to a residential use by the stationing of residential caravans and vehicles.

4. **Policy and Other Material Considerations**

The site is within the Green Belt. The National Planning Policy Framework does not consider changes of use to be appropriate development in the Green Belt. The rear part of the site does not have any authorised use and forms part of the open area of the rural Green Belt in this part of the Borough. The residential use, with the stationing of caravans, parking of vehicles and other residential paraphernalia significantly reduces the openness of this part of the Green Belt.

For the above reasons, the site is not considered to be appropriate for residential use and should a planning application be submitted it would likely be refused.

As well as being contrary to national planning policy, the breach is also contrary to Policy DC45 (Green Belts) of the LDF.

5. **Recommendation for action**

Given the unauthorised use and the intensified use of the land it is deemed unlikely that planning permission would be granted as planning conditions could not overcome the impact on the Green Belt.

It is therefore recommended that an Enforcement Notice be served.

**IMPLICATIONS AND RISKS**

**Financial implications and risks:**

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:**

Section 149 of the Equalities Act 2010 (EA) came in to force on 1<sup>st</sup> April 2011 and broadly consolidates and incorporates the 'positive equalities duties' found in Section 71 of the Race relations Act 1976 (RRA), Section 49 of the Disability Discrimination Act 1995 (DDA) and section 76(A)(1) of the Sexual Discrimination Act 1975 (SDA) so that due regard must be had by the decision maker to specified equality issues. The old duties under the RRA, DDA and SDA remain in force.

The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998.

Having identified the site it is regarded that there are no Equalities implications here even though the group of people involved with the unauthorised use are 'travellers' which are regarded as an ethnic group in their own right. However the travellers do not have a specific need to be on this site whether it is for ethnic or any other reason, this was investigated by staff at the time of the site visit and face to face conversations with the people living in the caravans.

## **BACKGROUND PAPERS**

- 1. Non-exempt notes and correspondence on case file*
- 2. Aerial Photographs*
- 3. Relevant Planning History*