

Alleged Unauthorised Development

East Peckham

10/00011/UNAUTU

567306 148587

East Peckham And
Golden Green

Location: Land West Of Branbridges Road East Peckham Tonbridge
Kent

1. Purpose of Report:

1.1 To report the unauthorised change in use of the land to land used as a residential caravan site and the creation of hard surfaces.

2. The Site:

2.1 The site lies outside the settlement confines of East Peckham, within the Metropolitan Green Belt and open countryside. The site is also sited within Flood Zone 3 which is the highest risk flood zone.

2.2 The site lies to west of Branbridges Road and to the rear of the Rose and Crown public house and to the rear of properties on Old Road.

3. History:

3.1 There is no relevant planning history for this site. However a currently invalid planning application was received on 18 January for the change of use of land to use as a residential caravan for one gypsy family with two caravans, construction of hard standing and erection of amenity building.

4. Alleged Unauthorised Development:

4.1 The alleged unauthorised development is a change in use of land to a residential caravan site and the creation of hard surfaces

5. Determining Issues:

5.1 On Friday 15 January enforcement staff inspected the site in response to local concerns that works were being carried out on the land. Whilst some activity appeared in hand, there was no breach of planning control at that time. Over the weekend of 16 and 17 January 2010 it appears that a caravan was moved on to the land and a hard surface created. The site was inspected on the morning of 18 January 2010 and it was discovered that the caravan was in residential use and that one family had moved onto the site.

5.2 In accordance with appropriate and normal practice enforcement staff conducted a Human Rights interview and were told that the family had come from the long establish Hoath Wood encampment adjoining Kings Hill and they stated they were gypsies. The family comprises a mother and father with two young children (aged 2

and 1) with a further child expected in July 2010. They indicated that they own the site and claimed that that they had nowhere else to live. Planning staff were told that the family could not return to the Hoath Wood site. The family have local connections with the father having lived on the Windmill Hill, Teston Road, West Malling site in West Malling as a child. His father lives in East Peckham and has been seriously ill and one of the reasons for moving to the site was to be near his father. The family have no contact with Social Services.

- 5.3 Members will recall that, at the 28 October 2009 Committee meeting, permission was refused for a similar development and in similar circumstances nearby at Pinkham Lane East Peckham. Following refusal an enforcement notice was authorised to seek the removal of the caravans and all hard surfaces on the Pinkham Lane site. One of the main factors taken in to consideration to support the refusal of planning permission was the fact that the site was in flood Zone 3 which is classified as being highly vulnerable to risk to life as a result of flooding.
- 5.4 Caravans and mobile homes are classed as amongst the most vulnerable uses to potential flooding and, as a consequence, should be sited in the least flood sensitive areas. Consequently such development should not be permitted in Zone 3 and is contrary to advice in PPS25 – Development and Flood Risk, Circular 01/2006 and policy CP10 of the Core Strategy and NRM4 of the SEP. The decision to enforce in the Pinkham Lane case took into account not only these policy considerations but also a recent and very material appeal decision in Sevenoaks District where the Inspector concluded that the risk to life from flooding was an insuperable impediment to allowing residential caravans in this Flood Zone. There are no overriding material considerations to justify development in this area and the use of land as has now occurred is contrary to policy CP20 of the TMCS.
- 5.5 The development falls within Flood Zone 3 as does the Pinkham Lane site and suffers the same levels of risk to life as would occupation of that site.
- 5.6 The site is within the Green Belt where Government guidance contained within PPG 2 applies. Paragraph 1.5 of PPG 2 defines the purposes of including land within the Green Belt, one such being to assist in safeguarding the countryside from encroachment. The development causes harm to the openness of the Green Belt, with the introduction of a caravan and a hard standing. The mobile home can clearly be seen from Branbridges Road and forms a prominent feature in the landscape.
- 5.7 The development is clearly inappropriate development within the Green Belt. The development also represents an encroachment into the Green Belt in its own right.
- 5.8 PPG 2 also states at paragraph 3.1 that there is a general presumption against allowing inappropriate development which should not be permitted, except in very special circumstances. Policy CP3 TMBCS states that proposals within the Green Belt will be considered against National Green Belt policy.

- 5.9 Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites confirms the importance of Green Belt policies and the protection of the environment from inappropriate development. It states “there is a general presumption against inappropriate development within Green Belts. New gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in PPG2. National planning policy on Green Belts applies equally to applications for planning permission from gypsies and travellers, and the settled population. Alternatives should be explored before Green Belt locations are considered.”
- 5.10 The development is not one that falls within any special category listed in policy CP14 of the TMCS 2007.
- 5.11 Bearing in mind all of the above factors, the flood risk to occupants of the caravan outweighs all other considerations and, notwithstanding any other matters including the Human Rights implications for this family, there is so little prospect of planning permission being given for this use of this site for inappropriate development in the Green Belt that it is appropriate to immediately serve an Enforcement Notice to secure the cessation of the unauthorised use.

6. Recommendation:

The Chief Solicitor be authorised to issue an Enforcement Notice as set out below and serve copies on all interested parties, he being authorised to amend the wording of the Enforcement Notice as may be necessary.

The Notice to take effect not less than 28 days from the date of service, subject to:

- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

Breach Of Planning Control Alleged

Without planning permission the change of use of land to use as a residential caravan site and the creation of a hard surface.

Reasons For Issuing The Notice

It would appear to this authority that the above breach of planning control has occurred within the last ten years. The site is in Flood Risk Zone 3 and is classified as a highly vulnerable form of development. Therefore there is a serious and unacceptable risk to life that can not be satisfactorily mitigated, contrary to guidance in PPS25 (Development and Flood Risk) and policies NRM4 of the South East Plan and CP10 of the Tonbridge and Malling Core Strategy 2007. The development constitutes inappropriate development within the Metropolitan Green Belt and is therefore harmful by definition and also by reason of the harm to the amenities and openness of the Green Belt. The development is thereby contrary to PPG 2 and Policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007. The development is contrary to policy CP14 of the Tonbridge and Malling Core Strategy

2007 which states that development will not normally be permitted in rural areas, unless the development falls into one of the special categories listed in policy, none of which applies to the development proposed. The development is contrary to policy CP20 of the Tonbridge and Malling Core Strategy 2007 for the reason that it is located in the Green Belt. Due to the overriding flood risk of the site, no adequate case of overriding material considerations has been made to justify the harm caused by development.

Requirement

To cease the use of the site for the stationing of any caravan and remove from the land all caravan(s) and hard surfaces.

Period For Compliance

Three calendar months from the date the Notice becomes effective.

Contact: Richard Edmonds