

Alleged Unauthorised Development

Burham
Burham Eccles
Wouldham

13/00405/WORKH

574571 162058

Location: Land South West Of Junction Of Chatham Road And Common Road Chatham Kent

1. Purpose of Report:

- 1.1 To report the unauthorised engineering work being importation to the site of soil, rubble and other material to raise land within the site

2. The Site:

- 2.1 The site lies to the south of Common Road and on the western side of the now redundant section of the former A229.

3. History:

- 3.1 Enforcement Notice served 02.04.13 requiring the removal of a means of enclosure exceeding 1m in height adjacent to the highway.
- 3.2 TM/13/02554/FL Undetermined

Change of use of land from pub car park to B8 (storage yard), erection of fencing and enlargement of access

4. Alleged Unauthorised Development:

- 4.1 The unauthorised engineering works comprising the raising of the land by the deposition of soil rubble and other material that has been brought onto the land. Although I have categorised the development as an engineering operation, it is conceivable that there is an element of change of use (to storage use) also; any authority for enforcement should address both eventualities.

5. Determining Issues:

- 5.1 Members will be aware that at the current time prosecution action for
- the non-compliance with the Enforcement Notice issued on 2 April 2013 requiring the removal of a means of enclosure exceeding 1m in height adjacent to the highway, and
 - the failure to comply with a Section 215 Notice with regard to the demolition of the Upper Bell Public House

is being held in abeyance pending the outcome of planning permission TM/13/02554/FL, which is reported elsewhere on this agenda.

- 5.2 It is clear that certain materials such as soil, rubble and other loose material have been imported to the site which has deposited and distributed in such a way as to result in the raising of land levels and increasing the area of the compacted surface. This is an engineering operation requiring the benefit of planning permission from this Authority. No application has been made.
- 5.3 I have been in correspondence with KCC (as the Waste Planning Authority) regarding whether these activities amount to a waste disposal operation, in which case any enforcement action would fall to KCC to undertake. KCC has not seen fit to regard this as a waste disposal operation and therefore it rests with the Borough Council to pursue the matter.
- 5.4 The site falls within the Kent Downs Area of Outstanding Natural Beauty and, because of its location, visual appearance and its effect in extending the area of hard surface, the development has a detrimental impact on the natural beauty and landscape of this Area. The development has not employed appropriate materials for this particular location and has no regard to local distinctiveness and the landscape character of the area. For these reasons, it is contrary to policy CP7 of the Tonbridge and Malling Local Development Core Strategy 2007. The development also does not accord with the detailed design guidance contained within the Kent Downs Area of Outstanding Natural Beauty Landscape Design Handbook January 2005.
- 5.5 The engineering operation does not respect the site or its surroundings and is contrary to policy CP24 of the Tonbridge and Malling Local Development Framework Core Strategy 2007 and is also contrary to policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 for similar reasons. The development does not conserve the landscape and scenic beauty of the AONB and is therefore contrary to paragraph 115 of the National Planning Policy Framework.
- 5.6 The development has also had an urbanising effect which is harmful to the function of the Strategic Gap that separates the built-up areas of Maidstone, the Medway Towns and the Medway Gap. It therefore fails to meet the objections of TMBCS policy CP5.
- 5.7 For the above reasons I believe that it is expedient to take enforcement action to seek the removal of the unauthorised engineering works, and the cessation of any associated change of use. Clearly there is a balance to be struck between removing the most harmful elements of the development and requiring the removal of large amounts of material, which would necessarily have the undesirable effect of causing further disturbance to local residents. This balance can be recognised in drawing up the detailed terms of any enforcement notice.

5.8 There have also been allegations that the site is used for residential purposes which has been and continues to be the subject of further enforcement investigation. Should it prove necessary this matter will be reported to a future Area Planning Committee.

6. Recommendation:

6.1 An Enforcement Notice **BE ISSUED**, the detailed the wording of which to be agreed with the Director of Central Services, requiring the removal of the works comprising the deposition of loose soil, rubble and other material and the cessation of any associated change of use for the reasons identified above.

Contact: Richard Edmonds