

E/06/0155/A – Various unauthorised structures; changes of use and untidy sites at Esbies Estate, off Station Road, Sawbridgeworth

Ward: SAWBRIDGEWORTH

Parish: SAWBRIDGEWORTH

1.0 Purpose of report:

- 1.1 This report is to update members on the current situation relating to enforcement matters at the Esbies Estate, off Station Road, Sawbridgeworth, and to obtain authorisation to continue with further enforcement action at various plots within the estate where unauthorised development has occurred and where it is considered expedient to do so. The report sets out the planning background relating to the estate and, in section 3.0, describes the planning history of each plot; the development that currently exists on each one; and identifies what action, if any, is recommended in each case.
- 1.2 The circumstances that exist on the estate are subject to change on a frequent basis and for this reason Officers are seeking authority for: -
- a) action against the unauthorised developments currently identified, and
 - b) delegated authority to ensure that if circumstances change on any of the plots prior to the service of an authorised enforcement notice, the notices can be amended by Officers to accurately and precisely reflect the situation on site at that time. This will ensure that, at the time of service, the notices are accurate, clear and precise as required under the provisions of the 1990 Act.

RECOMMENDATION

- a) That the Director of Neighbourhood Services, in conjunction with the Director of Internal Services, be authorised to issue enforcement notices under section 172 and “untidy land” notices under section 215 of the Town and Country Planning Act 1990 and any other steps as may be required to secure the action identified on each plot as set out in section 3.0 of this report.

Period of Compliance:

- i) Removal of mobile homes and/or cessation of permanent residential use - 6 months

- ii) Other operation development - 2 months
e.g. hard surfacing etc

- b) That authority be delegated to the Director of Neighbourhood Services, in consultation with the Director of Internal Services, to take any further or amended enforcement action under Section 172 of the Town and Country Planning Act 1990, where additional but similar unauthorised development occurs on the estate, or where circumstances relating to those unauthorised developments identified in this report change, provided that this delegated authority is only taken on development occurring within six months of the date of this resolution, and it is considered expedient in the public interest to take action.

Reasons why it is expedient to issue and serve enforcement notices:

1. The site lies within the Metropolitan Green Belt as defined in the East Herts Local Plan wherein permission will not normally be given except in very special circumstances for development for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to the rural area. No such very special circumstances are apparent in this case. The unauthorised developments and uses are detrimental to the character, appearance and openness of the area and thereby contrary to Metropolitan Green Belt policy as expressed in PPG2 and also in policy GBC1 of the East Herts Local Plan Second Review April 2007.

2. The mobile homes and caravans are sited within Flood Zones 2 and 3 and as such the development is at risk of flooding to the detriment of the safety of future occupiers. In addition, the unauthorised hard surfacing on the site exacerbates the risk of flooding and the developments are thereby contrary to the advice given in PPG25 and to policy ENV19 of the East Herts Local Plan Second Review April 2007.

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2.0 Background

- 2.1 The attached Ordnance Survey extract identifies the location of the site known as Esbies Estate, which has been used for leisure purposes (holiday chalets and caravans) for very many years, with some development having first taken place prior to 1948.

E/06/0155/A

- 2.2 The site is located within an area of low lying land alongside the River Stort which, together with the river itself, forms a narrow belt of land that separates the town of Sawbridgeworth from the smaller settlement of Lower Sheering. To the east of the estate, on the opposite side of the river, is an industrial and commercial development, some of which is accommodated within former malting buildings.
- 2.3 To the west of the estate is a residential area comprising a mix of modern semi-detached and terraced dwellings on rising land. To the south there is a further belt of open land.
- 2.4 The estate comprises a central track with plots on either side. The plots vary considerably in size, character and appearance, with some occupied by caravans/mobile homes, some with timber chalet buildings, and some remaining relatively undeveloped. Historically the site was green in character and benefited from a considerable amount of soft landscaping. It was generally used as leisure plots with small chalet buildings occupied during March to September each year. However, in recent years, a significant amount of unauthorised development has occurred, which has eroded the open, landscaped character of the estate. Much hard standing has been laid and many of the plots are now occupied all year round with varying numbers of mobile homes, caravans and sheds.
- 2.5 Esbies Estate has a long and complicated planning history. Although the site was originally divided up into around 46 Plots, these have amalgamated over time to form approximately 19 sites currently, although the precise number and size of plots is subject to change on a frequent basis.
- 2.6 The whole of this site is located within the Metropolitan Green Belt, in a particularly vulnerable wedge adjacent to the River Stort. Policy GBC1 of the East Herts Local Plan Second Review April 2007 is therefore relevant in this case.
- 2.7 Members may recall that, in July 2005, the Council approved a development brief for Esbies Estate to encourage the comprehensive redevelopment of the site in order to improve its appearance, and to remedy the various breaches of planning control that had by then occurred on the site. Unfortunately, to date, no formal proposals for its redevelopment have been submitted and it must be acknowledged that there are a number of significant constraints to development such as the location of the site in the Green Belt; on land likely to flood; and with some access difficulties.
- 2.8 Members will also be aware that Enforcement Notices were issued and served on various plots within the site in late 2006 and these were the

E/06/0155/A

subject of appeals to the Planning Inspectorate. However, for legal and technical reasons, these notices had to be withdrawn. Since then, Officers have taken further legal advice in respect of the complex problems at the site and have carried out further site visits and investigations in order to establish accurately the nature and extent of unauthorised development across the site.

- 2.9 The unauthorised works involve the siting of numerous mobile homes; the erection of outbuildings; the creation of large areas of hard surfacing; and various changes of use of the land, including permanent residential occupation (contrary to previous conditions relating to seasonal use only) and the parking/storage of commercial vehicles and mobile homes. Some plots are simply overgrown and untidy in appearance.
- 2.10 Officers have revisited the estate on numerous occasions and found an ever changing situation to include the amalgamation of plots, the removal of holiday chalets, the addition of hard standings and the erection of various sheds and lighting columns. The following section describes the planning history relating to each plot; what development currently exists on each one; and sets out the action that Officers consider can be taken in each case.
- 2.11 It is also important to note that in spring 2008 applications for Certificates of Lawfulness were submitted in respect of five of the plots on the site; Plots 2-3; 40-41; 42-43; 44; and 46. The application in respect of plot 44 was subsequently withdrawn and the other four were determined at appeal on 26th November 2009. No certificates were granted in respect of three of the sites and, in respect of plot 46 a certificate was granted for the “use of the site as a residential caravan site for one caravan, with residential occupation occurring only between 1st April and 30th September each year”

3.0 Planning history and proposed action per Plot

Plot 1

- 3.1 It appears that a holiday chalet was granted planning permission under ref: 3/730-76/FP. This chalet was subsequently granted a Certificate of Lawfulness for permanent residential use under ref: 3/02/2314/CL recognising the fact that it had been used as a dwelling for a period in excess of 4 years.

During a recent site visit it was noted that the chalet has been removed and the site was being used for the storage of 6 mobile homes.

Proposed action – Plot 1

Enforcement notice requiring the removal of the mobile homes, a shed, the hard standing and a lighting column

Plots 2, 3, 4.

- 3.2 In 1963 a licence was granted on the 26th June 1963, on Plot 2 for the stationing of one caravan, subject to a condition restricting the seasonal use of the site only. Planning permission was also granted, under reference 1000-63, for two caravans on Plot 2, subject to a seasonal use condition. Planning permission was refused in 2003 under 3/03/0557/FO to allow permanent residential use on Plot 2.

Planning permission was also refused under 3/03/0558/FO to allow permanent residential use on Plot 3.

Plots 2 and 3 were the subject of an appeal to the Planning Inspectorate against the non determination of an application for a Certificate of Lawfulness, under reference 3/0820/CL, submitted on the 2nd May 2008, for the 'use as a residential caravan site without compliance with condition 1 attached to planning permission 1000-63. After a public Inquiry the Inspector dismissed the appeal and refused to grant a Certificate of Lawfulness.

During a recent site visit it was noted that there were no caravans on the site, it being occupied by several vehicles (7 transit-size vans; 3 cars/light vans) and trailers. On a previous visit the site contained 1 touring caravan and a shed. Part of the site is hard surfaced and there are 3 lamp posts

Proposed action – Plots 2 to 4

Enforcement notice requiring the cessation of the use of the land for the storage of vehicles and trailers; the removal of the lighting columns and hard surfacing.

Plots 5, 6, and 7

- 3.3 Planning permission was refused in 1954 for the siting of two caravans. In 1969 permission was granted on Plot 6, under reference E/2126-69, for the stationing of a weekend holiday chalet.

A s.215 Notice was issued and served on the site on the 2nd August 2006.

E/06/0155/A

The site is currently overgrown with a small chalet, a single mobile home unit and a touring caravan stationed on the land. These all appear to have been in situ for many years. Officers consider therefore that they are lawful in planning terms. However their dilapidated state adds to the loss of amenity of the area.

Proposed action – Plots 5,6 & 7
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Notice under section 215 of the Act requiring the condition of the land to be improved by the removal of all overgrown vegetation and the removal of the unsightly mobile home and caravan.

Plots 8, 9, and 10

- 3.4 A Certificate of Lawfulness was issued in March 2003, under 3/02/2556/CL, for the retention of an existing timber bungalow on the site for use during the months of April to September only.

An enforcement notice requiring the removal of the hard standing was issued on the 17th January 2003; a subsequent appeal was withdrawn.

During a site visit in July 2009 to the site there was a single mobile home unit, a touring caravan and a commercial lorry and private car on site. The area was hard surfaced.

During a further site visit on the 7th December 2009 there were no caravans; 3 lamp posts; and hard surfacing.

Proposed action – Plots 8,9, & 10
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Prosecution for failure to comply with the previous Enforcement Notice and/or Enforcement notice requiring the removal of the hard surfacing and lighting columns

Plots 11 and 12

- 3.5 Planning permission was refused in 1954, under reference 538-54, for the erection of huts for weekend use on both plots 11 and 12. In 1991, an enforcement notice was issued in respect of the change of use of the land for the stationing of a caravan. A subsequent planning application, under reference 3/0431-92FP, for a caravan for weekend use during the summer months was refused in 1992.

During a recent visit it was noted that there was no caravans, vehicles or structures on the land, although there was hard surfacing.

E/06/0155/A

Proposed action – Plots 11 and 12
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Enforcement notice requiring the removal of the hard standing

Plots 13, 14, and 15.

3.6 There is no planning history on these plots.

During a recent visit it was noted that there were no caravans or vehicles on the land, although there was hard surfacing and 4 light columns.

Proposed action – Plots 13 to 15

Enforcement notice requiring the removal of the hard surfacing and light columns
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Plots 16, 17, and 18

3.7 In 1954 planning permission was refused, under reference 183-54 for 2 caravans on Plot 17. The council again refused planning permission, under reference 1302-87/FP, for 2 mobile dwelling units. On the 9th March 1992 an enforcement notice was served on Plots 16, 17 and 18 regarding the stationing of 2 caravans. An appeal was dismissed.

During a recent visit to the site there was a single mobile home unit, a shed used as a kitchen extension to the caravan, 3 touring caravans and vehicles. Part of the site had been hard surfaced with block pavements and concrete slabs. There are 2 lamp posts.

Proposed action – Plots 16, 17 and 18.

Prosecution in respect of failure to comply with the 1992 Enforcement Notice and/or Enforcement notice requiring the cessation of the use of the land for permanent residential purposes; the removal of the mobile home, caravans, sheds, hard surfacing and lighting columns
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Plots 19, 20 and 21

3.8 A certificate of lawfulness was granted, under reference 3/96/1548/CL, in 1996 for the stationing of one mobile home for seasonal use.

During a recent visit to the combined sites there was no mobile home on the land and the site was being used for the storage of commercial vans, lorries, trailers and private vehicles, plant and machinery and contractors materials. Officers have some concern that there may be some animal shelter buildings and enclosed pens to the rear of the site.

Proposed action – Plots 19, 20 and 21

Enforcement notices requiring the cessation of the use of the land for unauthorised storage purposes, commercial vehicle parking and the removal of buildings and structures used in connection with the unauthorised storage and animal keeping.

Plots 22, 23, 24 and 25.

- 3.9 In 1953 an application for the erection of a temporary bungalow was refused permission. An enforcement notice was served in 1992 against the unauthorised stationing of a mobile home and the erection of front boundary walls.

During a recent visit the site was devoid of structures but was overgrown and unkempt. Plot 25, where there is no planning history, has recently been incorporated into the adjacent plots by the removal of fencing; this part of the site contains an abandoned chalet and porch structure and touring caravan. The site is overgrown and unkempt.

Proposed action – Plots 22 to 25

A section 215 notice requiring the removal of the unsightly chalet and caravan; the removal of all overgrown vegetation and dumped materials to include building waste and buildings and large caged plastic containers.

Plots 26, 27 and 28.

- 3.10 On plots 26 and 27 applications in 1988 for the retention of non-permanent dwellings were withdrawn. An application in 1963, under reference 245-63, for the siting of a caravan on plot 28 was granted permission, subject to a condition limiting the siting from April to the end of September only. An application for a Certificate of Lawfulness, under reference 3/03/0795/CL, for the use of a dwelling for permanent residential purposes on Plot 28 was refused.

During a recent visit the site was being used for the storage of commercial vans and vehicles. Also on site were two single unoccupied mobile units and hard surfacing and numerous large gas bottles.

Proposed action – Plots 26 to 28

Enforcement notice requiring the removal of the mobile homes, hard surfacing and gas bottles; and cessation of the use of the site for the storage of commercial and private vehicles

E/06/0155/A

Plot 29

- 3.11 An application in 1963, under reference 997-63, for the siting of a caravan on plot 29 was granted permission, subject to a condition limiting the occupancy from April to the end of September only.

During previous visits in 2006 to the site this area was overgrown with vegetation within which there were piles of hardcore and rubbish and dumped vehicles. In early 2008 the whole plot had been cleared and hard surfacing had been laid. In July of that year a mobile home was stored on the site and by October a further two mobile homes were being stored.

During a recent visit to the site there were 6 mobile homes which appeared to be being used for residential purposes and a touring caravan. There was evidence of domestic paraphernalia to include fencing, patio tables, chairs and umbrellas and pergolas; and a wooden shed structure attached to one mobile home.

Proposed action – Plot 29

Enforcement notice requiring the cessation of the permanent residential use of any part of the land; removal of the mobile homes/caravan (except for one seasonal caravan), domestic paraphernalia associated with the unauthorised permanent residential use, lighting column and hard surfacing.
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Plot 30

- 3.12 There is no planning history in regard to this site.

During a recent site visit it was noted that there was a chalet building on site. It is clear from photographic evidence and history of the site that this chalet has existed for many years and is lawful in planning terms. However the chalet is in a derelict state and the site is overgrown.

Proposed action – Plot 30

S.215 Notice requiring the removal of the chalet and the tidying of the site.

Plot 31

- 3.13 In 1992 there was a retrospective application for an additional caravan on site that was refused, together with authorisation given to take enforcement action. It is clear from photographic evidence and the history of the site that a single mobile home has existed on the plot for many years.

E/06/0155/A

During a recent visit to the site there is a single unit mobile home on the land. However the chalet is in a derelict state and the site is overgrown.

Proposed action – Plot 31

S.215 Notice requiring the removal of the chalet and the tidying of the site.

Plots 32, 33, 34, and 35

- 3.14 A Certificate of Lawfulness, reference 3/03/0334/CL, for the use of a bungalow as single dwelling house was granted in regard to plots 32, 33, and 34. An application in 2000 was granted for the demolition of an existing summer chalet and replacement of a caravan was granted for plot 35, subject to a condition limiting the use from April to the end of September only.

During a recent site visit the land was being used for the storage of 2 mobile homes and the aforementioned chalet building to the rear of the site has been demolished. There is an unauthorised wall and gates and the land has been hard surfaced.

Proposed action – Plots 32 to 35

Enforcement notice requiring the cessation of the use of the site for the storage of mobile homes; removal of hard surfacing; light columns and the unauthorised boundary walls and gates.
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Plots 36, 37, and 38

- 3.15 Planning permission was granted in 1963, under reference 195-63, for a summer caravan to be used between 1st April and 30th September each year on plot 38. In 2000 planning permission was granted for the demolition of the chalet and its replacement with a caravan. A condition was imposed restricting its use to between 1st April and 30th September each year. In 2002 a certificate of lawfulness was submitted, under reference 3/02/1794/CL, for the retention of a chalet/ holiday home and mobile home including residential garden for permanent residential purposes. The application was refused as it was considered that insufficient evidence had been provided that the chalet and caravan had been occupied permanently.

During a recent visit to the site the land has been hard surfaced with concrete and block pavements and was devoid of any structures, except for two light columns. There was a commercial van on the site.

E/06/0155/A

Proposed action – Plots 36 to 38

Enforcement notice requiring the removal of all hard surfacing and the light columns.

Plots 39, 40, and 41

- 3.16 Planning permission was granted in 1963, under reference 758-63, for the stationing of 1 caravan on plots 40/41 between 1st April and 30th September each year. In 2003 an enforcement notice was issued regarding the hard surfacing of the site.

During a recent visit to the site there was a single unit mobile home on the site, 2 touring caravans, various private vehicles and a trailer, 3 sheds, hard standings and two light columns. The boundary wall and gates do not benefit from express or deemed planning permission.

An application for Certificate of Lawfulness, under reference 3/08/0823/CL, was submitted for 'the use as a residential caravan site without complying with condition 1 attached to planning permission E/758-63. This application was not determined and was the subject of an appeal to the Planning Inspectorate. This Certificate and appeal refer to Plots 40 and 41 only. Following a public inquiry the Inspector dismissed the appeal and refused to grant the Certificate of Lawfulness.

Proposed action – Plots 39 to 41

Prosecution for failure to comply with 2003 Enforcement Notice. Further Enforcement notice requiring the cessation of the use of the land for permanent residential purposes; removal of the mobile home and touring caravan (except as may comply with planning permission 758-63), sheds, hard surfacing, light columns and the unauthorised boundary wall and gates.

Plots 42 and 43

- 3.17 This site may include a strip of land which was previously a drainage ditch. In 2003 an enforcement notice was issued regarding the hard surfacing of the site and the erection of light columns. This notice referred to Plots 42 – 45 and a subsequent appeal was withdrawn.

During a recent visit to the area the land had been hard surfaced with concrete, pavements and road planings. There was a mobile home on site, a shed, a large stable type building and a light column.

E/06/0155/A

An application for a Certificate of Lawfulness, under reference 3/08/0928/CL, has been submitted for 'the use of the land as a residential caravan site for one caravan and the erection of a stable building. This application was not determined and was the subject of an appeal to the Planning Inspectorate. Following a public inquiry the Inspector dismissed the appeal and refused to grant the Certificate of Lawfulness.

Proposed action – Plots 42 and 43
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Prosecution for failure to comply with the previous Enforcement Notice and Enforcement Notice requiring the removal of the mobile home, the shed, the stable building, all hard surfacing and the light column.

Plots 44

- 3.18 Planning permission was granted in 1962, under reference 1985-62, for the siting of 2 caravans. The permission was subject to a condition limiting the use from 1st April to 30th September only. In 1992 an Enforcement notice was issued and served requiring the cessation of the use of the caravans for residential occupation after 30th September and before 1st April. The Planning Inspectorate dismissed the appeal and upheld the Notice.

An application for a Certificate of Lawfulness, under reference 3/08/0821/CL, has been submitted for 'the use as a residential caravan site without complying with condition 1 attached to planning permission E/1985-62. This application was not determined and was the subject of an appeal to the Planning Inspectorate. Following a public inquiry the Inspector dismissed the appeal and refused to grant the Certificate of Lawfulness.

During a recent visit to the site the plot was hard surfaced by road chippings, except for a small area to the rear, and there was a single unit mobile home.

Proposed action – Plots 44

Prosecution for the failure to comply with Enforcement Notice served in 1992 requiring the cessation of the use of the land for permanent residential purposes and an Enforcement Notice served in 2002 requiring the removal of the hard surfacing.
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E/06/0155/A

Plot 45

- 3.19 Planning permission, under reference E/330/67, was granted on the 30th March 1997 for a shed, WC and kitchen with a seasonal condition attached.

In January 2003 an Enforcement Notice was issued and served requiring the removal of the hard standing, the lamp columns and the reinstatement of the land. A subsequent appeal was withdrawn.

During a recent site visit this plot partially laid to hard standing with a grass area to the rear and parked on the hard standing was a commercial vehicle, 2 private vehicles and domestic paraphernalia. There was also a small shed on site.

Proposed action – Plots 45

Prosecution for failure to comply with an Enforcement Notice requiring the removal of the hard surfacing and light columns.

Plot 46.

- 3.20 Planning permission was granted in 1970 for the erection of a holiday chalet to be used between 1st April and 30th September each year.

During a recent visit to the area the land had been hard surfaced with block pavements and road chippings and there an unauthorised front boundary wall and gates. On site were a double mobile home unit and other domestic paraphernalia.

An application for a Certificate of Lawfulness, under reference 3/08/0822/CL, was submitted for 'the use as a residential caravan site'. This application was not determined and was the subject of an appeal to the Planning Inspectorate. Following a public inquiry the Inspector allowed the appeal and granted the Certificate of Lawfulness for the use of the plot as a residential caravan site for one caravan, with residential occupation occurring only between 1st April and 30th September each year.

During a recent visit on the 7th December 2009 to the site there was the double mobile home unit, which appeared to be in residential use. There were, for example, various items of washing on a clothes dryer visible inside the unit; bags of shopping; lights on the porch; a private car outside, etc. The site was hard surfaced with road chippings and pavements. There were a private vehicle and golf style and the site was bounded at the front with unauthorised walls and gates.

Proposed action – Plot 46

Enforcement notice requiring the cessation of the use of the land for permanent residential purposes and the removal of the hard surfacing and front walls and gates.

4.0 Policy

- 4.1 Policy GBC1 – Appropriate Development in the Green Belt.
Policy ENV19 – Development in Areas Liable to Flood.

5.0 Considerations

- 5.1 The determining issues in this case relate to the impact of the unauthorised structures, plant, machinery equipment and hard standings and the unauthorised uses of the land for permanent residential occupation and storage on the character and openness of the Metropolitan Green Belt and the flood plain.
- 5.2 The unauthorised development is clearly contrary to Metropolitan Green Belt policy as expressed in PPG2 and in policy GBC1 of the adopted Local Plan. The uses and structures are considered to be detrimental to the character, appearance and openness of the surrounding area. Furthermore, the unauthorised use of the site for permanent residential occupation is inappropriate in this location on land at high risk of flooding and the unauthorised hard surfacing works further exacerbate the likelihood of flooding. The development is thereby also contrary to policy ENV19 of the Local Plan.

6.0 Conclusion

- 6.1 It is therefore recommended that enforcement action be taken to secure the removal of the identified unauthorised hard standing and structures from the land and the cessation of the use of the site for permanent residential purposes and for those unauthorised storage purposes identified in this report. Notices under section 215 of the Act are also suggested on some plots to improve the overall appearance of the estate.
- 6.2 It is also recommended that authority is delegated to officers to enable changes to be made to those enforcement notices authorised, in the event that circumstances change on site prior to their service. Such delegated authority is sought only for limited alterations to the notices such as for example where the numbers of mobile homes or caravans on a plot(s) change; or additional caravans are brought onto site; or perhaps where the extent of hard surfacing changes. That authority is also only sought for a

E/06/0155/A

period of six months from the date of the resolution. Any more significant changes on site, or new unauthorised development that is not similar in nature to those already identified, will be the subject of further reports to committee.