

**5o E/11/0325/A - The unauthorised storage of material on land at the rear of Barleycroft Works, Barleycroft End, Furneux Pelham, Herts, SG9 0LL, the storage of articles and materials in excess of 3.6 metres in height within the authorised site yard area and the storage of articles and materials other than in the approved areas of the site.**

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**Parish: FURNEUX PELHAM**

**Ward: LITTLE HADHAM**

**RECOMMENDATION:**

That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to apply to the court for injunctions under Section 187B of the Town and Country Planning Act 1990 and any such further steps as may be required to secure:

1. the removal of the unauthorised goods, articles and materials from the land to the rear of the site and the restoration of that land to its former condition;
2. the removal of the goods, articles and materials at the works site stored in areas other than those approved in planning permissions 3/99/1636/FP and 3/99/0081/FP.
3. to restrict the height of any goods, articles or materials stored within the authorised areas of the site to a maximum of 3.6 metres.

Reason why it is expedient to seek injunctive relief:

The previous service of statutory notices on these sites and subsequent prosecutions for the breaches of one of them has failed to remedy the breaches of planning control at the sites.

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**1.0 Background:**

- 1.1 The sites are shown on the attached Ordnance Survey extracts. Unfortunately neither of the roads at the 'T' junction are named. Photographs of the site will be available at the meeting.
- 1.2 Pallets Unlimited have operated a business comprising the repair and recycling of pallets for several years and, more recently, have also operated a business manufacturing woodchip material from wood imported into the site. This element of the business was granted a lawful development certificate by a Planning Inspector in May 2006 following the allowing of an appeal against an enforcement notice issued by Hertfordshire County Council.

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- 1.3 Planning permission granted for the site in 1999 restricted the storage of goods, articles and materials to identified areas of the site and then to a maximum height of 3.6 metres.
- 1.4 In 2001 a concern was expressed to this Council that pallets appeared to be stored in piles that exceeded the maximum limit. Following investigations by the enforcement officer and authorisation by Members, a breach of condition notice was issued for both overheight storage and storage of goods, articles and materials outside the approved areas of the site.
- 1.5 The then enforcement officer visited the site and met the owner on a number of occasions in 2002 and 2003, with the then enforcement manager, but the notice was not complied with.
- 1.6 Accordingly the owner was prosecuted and convicted of failing to comply with the requirements of the notice on 5<sup>th</sup> November 2004 and fined £500. Compliance with the maximum storage height was confirmed on 12<sup>th</sup> May 2005.
- 1.7 In September 2006 a further complaint was received with regard to the both the storage of wood based material on the agricultural field to the rear of the site and of overheight storage within the site. A number of visits to the site by the enforcement officer followed and material in the authorised area of the site was measured at heights exceeding 5 metres. Despite a number of meetings and letters, the owner did not reduce the height of the stored material until 2007, following a letter from the Council's Solicitor warning of the likelihood of a further prosecution.
- 1.8 At this time the owner, in response to a planning contravention notice, claimed that the wood based material was being stored on the field for an agricultural purpose; the construction of a cattle corral.
- 1.9 There being no evidence to the contrary, officers accepted that the owner's intentions were as he stated. However a further concern was expressed to the Council in October 2008 regarding further piles of material in the field.
- 1.10 A further visit from the enforcement officer in November 2008 revealed that there were a number of large piles of woodchip material in the field. These piles were light in colour and appeared to be newer than the original piles of woodchip. There were also darker piles of material present.

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- 1.11 The officer then spoke to the owner of Pallets Unlimited who stated that the material was being stored on the agricultural land before being sold to farmers elsewhere; it was not for agricultural use on the site itself. He considered this to be an agricultural use. He was, however, informed that the storage was for the purposes of his business and that represented a material change of use of the land. This was reinforced by a letter on 18<sup>th</sup> November 2008 in which he was asked to remove the material within 14 days.
- 1.12 On 3<sup>rd</sup> December 2008 a further site visit revealed that there was still a substantial amount of woodchip material stored on the land. The matter was reported to Committee on 14<sup>th</sup> January 2009 and a planning enforcement notice served on the land on 13<sup>th</sup> February 2009.
- 1.13 A complaint was also received during this period regarding the height of material stored in the works yard. Whilst it appeared to officers from outside the yard that the material was stacked too high, the owner refused to allow officers into the yard to measure the material in February and March 2009, although he did admit in a letter to the head of Planning and Building Control of 6<sup>th</sup> February 2009 that it was too high.
- 1.14 The matter was referred to Committee on 11<sup>th</sup> February 2009 and authority granted to prosecute the owner for wilful obstruction of the enforcement officers and to obtain a warrant requiring admission to the land.
- 1.15 On 12<sup>th</sup> May 2009 the enforcement officers entered the works yard and measured the material stored there, which exceeded the maximum permitted.
- 1.16 On 10<sup>th</sup> September 2009 the owner was convicted of three offences at Hertford Magistrates' Court, one relating to the overheight storage of material within the works yard and the other two of obstructing the enforcement officers. He was fined £630 for each offence.
- 1.17 Following further complaints, the enforcement officers again visited the site on 9<sup>th</sup> November 2011 and found considerable amounts of wood related material stored in the agricultural field to the rear of the site, piles of material and pallets in the works yard that exceeded the 5 metre surveyors pole used to record the heights and piles of wood and pallets stored in unauthorised areas of the site.
- 1.18 The enforcement officer wrote to the owner, who was not present on site, by both letter and e-mail. The letter pointed out the offences

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disclosed by the visit and required works to rectify the breaches of planning control within 7 days to avoid further action being taken.

- 1.19 On 16<sup>th</sup> November 2011 officers received a letter, dated 10<sup>th</sup> November 2011, from the managing director of the company operating the site admitting the overheight storage within the site and stating that the material being stored in the field was soil conditioner and cattle/poultry bedding which he intends to use for an agricultural purpose. This land is currently in apparently successful arable use and there are no cattle or poultry on the land. It is the view of officers that this storage of chipped wood on the land is in breach of the extant planning enforcement notice.
- 1.20 The enforcement officers again visited the site on 16<sup>th</sup> November 2011 and found that there was no apparent reduction in the material stored in the field nor the material stored in unauthorised areas of the site.

## **2.0 Planning History:**

- 2.1 The recent planning and enforcement history is as follows:

### **Planning.**

3/99/0081/FP	Change of use of redundant grain store to industrial/storage	Approved with conditions
3/99/1636/FP	Enlargement of yard area for storage	Approved with conditions
3/04/0117/FP	Erection of building for shredding and storage	Refused
3/09/1053/FO	Temporary variation of condition to allow open storage height to be increased to 5.8 metres	Refused
3/09/2049/FP	Cessation of commercial use and demolition of associated buildings. Erection of 12no. residential dwellings with parking cartlodge and parking spaces. Relocation of vehicular access.	Refused

### **Enforcement.**

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E/01/0383/A	Materials stored in excess of 3.6 metres high in breach of a planning condition	Breach of Condition Notice issued; prosecuted and convicted at Hertford Magistrates Court.
E/05/0159/A	Complaint of scaffold structure.	No breach of planning control
E/06/0493/A	1. Height of stored material in yard. 2. Storage of woodchip on agricultural land.	1. Complied 2. No apparent breach.
E/08/0501/A	Wood piled too high on site in breach of planning conditions	Prosecuted & complied
E/09/0355/A	Unauthorised use of land as factory business	No breach
E/09/0377/A	Use of plant/machinery outside permitted hours	Not expedient to pursue

### **4.0 Considerations:**

- 4.1 Local residents have regularly complained to the Council with regard to breaches of planning control at the above sites since 2001. This has led to a breach of condition notice being served on the works site in 2002; prosecutions for failing to comply with that notice on two occasions (2004 and 2009) and two prosecutions for obstructing officers exercising their powers of entry under the Act. All these prosecutions led to convictions and relatively minor financial penalties.
- 4.2 The field behind the works site was acquired by the owners in 2006 and is now, following a number of complaints, the subject of a planning enforcement notice, issued in 2009, prohibiting the storage of wood or wood related materials.
- 4.3 Following further complaints in 2011 officers again have evidence that there are clear breaches of both the breach of condition notice and the enforcement notice. It is also apparent that there is significant storage of goods, articles and materials in unauthorised areas of the works site.

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- 4.4 It is possible to further prosecute the owners for breaches of the extant notices. However, previous prosecutions have failed to rectify these breaches of planning control for more than a token period and officers' consider that a further prosecution would be unlikely to ensure long term compliance with the planning requirements.
- 4.5 Whilst authority has already been delegated to Officers to take any steps as may be necessary to secure compliance with planning controls on the site and adjacent land, it is now considered necessary to obtain injunctive relief to restrain breaches of planning control on these two sites.
- 4.6 In that respect this matter is brought back before Members both for updating purposes and in order to ensure that it is clear that authority is delegated to Officers in relation to these further steps. The reasons for doing so remain as per the earlier enforcement action taken.

### **5.0 Recommendation:**

- 5.1 For the above reasons, it is recommended that authorisation be given to Officers to apply to the court for injunctions under Section 187B of the Town and Country Planning Act 1990 and any such further steps as may be required to secure compliance with the planning conditions imposed on the works site and compliance with the extant enforcement notice on the land adjacent to the works.