

- a) E/12/0154/A - Stationing of a mobile home and the installation of a sewerage tank at Plots 32 – 35 Esbies Estate, off Station Road, Sawbridgeworth, CM21 9JE and,  
b) E/12/0155/A - The raising of land levels by the laying of hardcore, rubble and other materials on the site at Plots 26-28 Esbies Estate, off Station Road, Sawbridgeworth, CM21 9JE
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**Ward: SAWBRIDGEWORTH**

**Parish: SAWBRIDGEWORTH**

### **RECOMMENDATION**

- a) That Members note the service of Temporary Stop Notices; in relation to the unauthorised works at the above plots; agree with that action, and authorise any such further steps as may be required to secure compliance with those Notices and require the cessation of any further unauthorised development on these two plots.
- b) That, in addition, the Director of Neighbourhood Services, in consultation with the Director of Internal services, be authorised to issue Stop Notices (having the requirements set out in the boxes in paragraphs 2.3 and 2.8 of this report) and Enforcement Notices requiring the following:-

#### **Plots 26-28**

The removal of any hard surfacing material, including hardcore, rubble, and other similar materials from the site and the return of the land to its previous levels.

#### **Plots 32-35**

The cessation of the use of the site for the stationing of a residential mobile home; the removal of the mobile home and the removal of any ancillary development associated with it, such as brick skirting or plinth and the underground sewerage system/tank.

and any further steps as may be required to secure the cessation of any further unauthorised development on the sites and the removal of the existing unauthorised uses and development.

#### **Period of compliance**

The Temporary Stop Notices took effect immediately; the Stop Notices will come into effect 3 days after service and require immediate compliance; and the Enforcement Notices have a compliance period of 1 month from the date of service.

## E/12/0154/A and E/120155/A

Reasons why it is expedient to issue and serve Stop and Enforcement Notices:

### Plots 26-28:

1. The site lies within the Metropolitan Green Belt and the unauthorised works represent inappropriate development that is detrimental to the visual amenity and character of the site and the surrounding area. Furthermore, the development would prejudice the satisfactory resolution of the condition of the land and wider area as part of the current enforcement proceedings relating to the estate as a whole. No very special circumstances are apparent in this case that would clearly outweigh the harm caused to the Green Belt and the development is thereby contrary to policy GBC1 of the East Herts Local Plan April 2007 and national guidance given in the National Planning Policy Framework.
2. The site lies within Flood Zone 3b and the development exacerbates the risk of flooding in the area and is thereby contrary to saved policy ENV19 of the East Herts Local Plan Second Review April 2007 and the advice given in the National Planning Policy Framework and associated Technical guidance.

### Plots 32-35

1. The site lies within the Metropolitan Green Belt and the use of the land for the stationing of a caravan for residential use represents inappropriate development that is detrimental to the openness, visual amenity and character of the site and the surrounding area. Furthermore, the unauthorised use would prejudice the satisfactory resolution of the condition of the land and wider area as part of the current enforcement proceedings relating to the estate as a whole. No very special circumstances are apparent in this case that would clearly outweigh the harm caused to the Green Belt and the development is contrary to policies GBC1 and HSG10 of the East Herts Local Plan April 2007 and national guidance given in the National Planning Policy Framework.
2. The site lies within Flood Zones 2 and 3a and as such the use of the site for residential purposes is unacceptable from a flood risk perspective and is contrary to saved policy ENV19 of the East Herts Local Plan Second Review April 2007 and the advice given in the National Planning Policy Framework and associated Technical guidance.

## **E/12/0154/A and E/120155/A**

### **1.0 Background**

- 1.1 The Esbies Estate is identified on the attached Ordnance Survey extract. Some Members will be aware that it has a long and complex planning history, having been used for leisure purposes (weekend/seasonal holiday chalets and caravans) for very many years, with some development having first taken place prior to 1948.
- 1.2 The estate 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. There is also a residential development of flats to the south of those commercial buildings.
- 1.3 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.
- 1.4 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 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.
- 1.5 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.
- 1.6 The whole of this site is located within the Metropolitan Green Belt, and within a wedge of land, particularly vulnerable to the impact of development, adjacent to the River Stort. Policy GBC1 of the East Herts Local Plan Second Review April 2007 is therefore relevant in this case.
- 1.7 Some Members will be aware that Enforcement Notices were issued and served on various plots within the estate in July 2010 and these are the subject of current appeals to the Planning Inspectorate and a rather long-

## E/12/0154/A and E/120155/A

running public inquiry. The unauthorised works on the estate involve the stationing 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.

- 1.8 Members should also be aware that, on several of the plots, the occupiers are claiming Gypsy status and have cited the need for Gypsy and Traveller accommodation in the District as a reason to allow the current unauthorised developments to remain on site. The Council has challenged that Gypsy status however during the recent inquiry proceedings and of course no decision has yet been reached on these matters as the inquiry has yet to finish.
- 1.9 The particular planning history for the plots which are the subject of this report is set out in section 2.0 of this report.
- 1.10 On Thursday 24<sup>th</sup> May 2012 concerns were raised with the Planning Enforcement team that, despite the on-going enforcement proceedings across the estate, further works were being undertaken on the above plots. During a visit to the site, it was evident that on plots 26-28 hardcore, rubble and other materials were being laid and that the level of the land on this part of the site had been raised as a result. It was also evident that those works were continuing on site. Photographs of this site will be available at the meeting.
- 1.11 A mobile home had been sited on Plots 32-35 and a sewage system installed to include a large tank sunk into the ground. Photographs of this site will be available at the meeting.
- 1.12 In view of the nature of the unauthorised developments taking place; the fact that the site owners/occupiers were all aware of the current enforcement proceedings and the flagrant nature of the breaches, it was considered necessary and expedient to issue Temporary Stop Notices on both plots. This action was carried out with the agreement of the Chairman of the committee and the Council's Legal Manager.
- 1.13 The Notices were issued and served on the same day, the 24<sup>th</sup> May 2012 and required the following:-

### Plots 26-28

To cease any operational development on the land including:-

- the raising of land levels on the site

## **E/12/0154/A and E/120155/A**

- the storage, laying or compacting or regrading of any hardcore, rubble, scalplings, planings or other similar material on the site
- any works to hard surface the site

### **Plots 32-35**

- a) To cease any operational development on the land including:-
  - any further works to facilitate the installation of the mobile home on the site, including the construction of any brick or other form of plinth/skirt around the unit.
  - Any further works to the recently sited sewerage tank and any other works to provide any new tanks or other drainage works, and
- b) To cease the use of the land for the stationing of a mobile home, and
- c) To prevent the bringing onto the site of any further mobile homes or caravans

1.14 It should be noted that the Temporary Stop Notices are valid for 28 days - until the 20<sup>th</sup> June 2012, when it will be necessary to either take no further action or to serve an Enforcement Notice requiring the removal of the unauthorised developments, together with a Stop Notice requiring no further works on the plots.

1.15 It may be necessary for the Stop and Enforcement Notices referred to in this report to be served prior to the committee meeting (in order to ensure that there is no 'gap' between the effect of the Temporary Stop Notices' and the Stop and Enforcement Notices in which further unauthorised works could be carried out). In those circumstances the agreement of the Chairman will again be sought to issue the new Notices prior to the meeting in consultation with the Legal Manager and Members will then be asked to approve that action retrospectively.

## **2.0 Planning history and proposed action on each plot**

### **Plots 26, 27 and 28.**

2.1 An application in 1963, under reference 3/245-63, for the siting of a caravan on plot 28 was granted permission, subject to a condition limiting the use 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 on the site for permanent residential purposes (again on plot 28) was refused. Two enforcement notices were served on the site in 2010 one requiring the removal of caravans (except the one approved under ref: 3/245-63), vehicles, plant and machinery etc and the other requiring the removal of hard surfacing on the site.

## **E/12/0154/A and E/120155/A**

- 2.2 In summary, therefore, one caravan for seasonal use is permitted on part of the plot but no permission exists for any raising of land levels or hard surfacing works.
- 2.3 During the site visit on the 24<sup>th</sup> May 2012 it was evident that there were no mobile homes on the site and the land levels had been raised with piles of hardcore and rubble laid across the plot. The Temporary Stop Notice referred to above was issued and served the same day. It should be noted that there is already an extant enforcement notice on this site in respect of hardsurfacing and it would be possible for the Council to issue legal proceedings or take direct action in that respect. However, in view of the significant raising of the land in this case, it is considered expedient to issue a further notice against this additional development.

### **Proposed action – Plots 26 to 28**

Enforcement notice requiring the removal of any hard surfacing materials, including hardcore, rubble, and other similar materials from the site and the return of the land to its previous levels.

Stop Notice requiring the cessation of any operational development on the land to raise land levels by the storage, laying or compacting or regrading of any hardcore, rubble, scalplings, planings or other similar material on the site; and any works to hard surface the site.

### **Plots 32, 33, 34, and 35**

- 2.4 Plot 34 (only) was originally occupied by a chalet bungalow (approved in 1970 for seasonal holiday purposes). A later permission (3/00/2132/FP) for the demolition of the chalet and its replacement with a caravan – again for seasonal use - was granted in 2000, but this permission was apparently never implemented and therefore expired in 2006. The chalet building remained on the site until at least April 2008.
- 2.5 A Certificate of Lawfulness, reference 3/03/0334/CL, for the use of the chalet bungalow as a single dwelling house was granted in regard to plots 32, 33, and 34.
- 2.6 However, in July 2010 two enforcement notices were served on the site (both of which are subject to the current enforcement appeal proceedings). One required the cessation of use of the site for the storage of caravans and the other the erection of lighting columns at the site. The existing hard surfacing on the site was considered to be lawful through the passage of time and no action could be taken against this.
- 2.7 In summary, therefore, no permission exists for any use of these plots for residential purposes, or for the stationing of mobile homes.

## **E/12/0154/A and E/120155/A**

- 2.8 During the site visit on the 24<sup>th</sup> May 2012, however, Officers noted that a mobile home had been stationed on the land and a sewerage system to include a large underground tank was being installed. The mobile home was not occupied at the time of this site visit although it was clearly being made ready for occupation. Piles of bricks were being placed around the mobile home in preparation for, what appeared to be, the construction of a brick plinth. Persons on the site advised Officers that the site was intended to be occupied for permanent residential purposes for a Gypsy/Traveller family already known to Officers (although Gypsy status is challenged by the Council) and the subject of current enforcement action elsewhere on the estate. A Temporary Stop Notice was issued and served on the same day as set out above. The mobile home remains on site at the time of writing this report although it appears to remain unoccupied.

### **Proposed action – Plots 32 to 35**

Enforcement notice requiring the cessation of the use of the site for the stationing of a residential mobile home; the removal of the mobile home and the removal of any ancillary development associated with it, such as brick skirting or plinth and the underground sewerage system/tank.

Stop Notice requiring the cessation of any further activity to facilitate the installation of the mobile home on site, to include the construction of any brick or other form of plinth/skirt around the unit and any further works to the recently sited sewerage tank and any other works to provide any new tanks or other drainage works; the use of the site for the stationing of a mobile home; the occupation of the mobile home or the bringing onto the site of any further mobile homes or caravans.

## **3.0 Policy**

- 3.1 The relevant 'saved' Local Plan policies in this case are:-

GBC1 – Appropriate Development in the Green Belt.

HSG10 – Accommodation for Gypsies

ENV19 – Development in Areas Liable to Flood

- 3.2 The National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) are also of relevance in this case.

## **4.0 Considerations**

- 4.1 The whole of the Esbies estate lies within the Metropolitan Green Belt, and the unauthorised development is clearly contrary to Metropolitan Green Belt

## **E/12/0154/A and E/120155/A**

policy as expressed in policy GBC1 of the adopted Local Plan and also within the NPPF. The owners of the various plots on the estate which are subject to current enforcement proceedings have accepted that the use of the land for permanent residential purposes and the provision of hard surfacing/lighting columns, walls etc are all inappropriate development in the Green Belt.

- 4.2 In addition to the harm caused by inappropriateness, other additional harm has been identified and this relates to the impact on visual amenity in the area; the increased risk of flooding as a result of new development and the associated risk to any future occupiers of the estate.
- 4.3 Cumulatively, the unauthorised developments on the estate have resulted in significant harm to the character and appearance of the area and it is for this reason that the Council has sought to remedy the situation with the service of a range of enforcement notices in July 2010. The Council's intention, once the outcome of the current appeals process is known, is to seek a comprehensive and strategic approach to ensure compliance with all the various enforcement notices on the estate in order to achieve a significant overall improvement to its appearance.
- 4.4 In accordance with national and local planning policy, therefore, this further unauthorised development should not be permitted unless there are other material planning considerations which clearly outweigh all this harm, such as to constitute the 'very special circumstances' required to justify the inappropriate development in the Green Belt.
- 4.5 Officers are aware, from the information submitted to the current inquiry and from conversations with the owner/interested party on the site, that the plots the subject of this report are intended to be occupied by persons claiming Gypsy status. It is understood therefore that the same 'need' argument (for Gypsy and Traveller sites regionally, nationally and locally) together with their own personal circumstances will be put forward as 'very special circumstances', in support of this inappropriate development.
- 4.6 However, as with the other cases already before the inquiry, the Council will a) challenge that Gypsy status and b) considers that, in any event, there is no urgent need for Gypsy and Traveller accommodation in the District. Furthermore, the development does not accord with policies of the Development Plan, including the criteria based policy of the Local Plan (HSG10).
- 4.7 The 'need' argument put forward does not therefore outweigh the harm caused to the Green Belt in this case.



## **E/12/0154/A and E/120155/A**

- 4.8 As regard the personal circumstances of the site owners/occupiers, these have been considered during the current appeals process and Officers have clearly set out to the appeal inspector that the Council does not consider that these are sufficient to clearly outweigh the harm caused to the Green Belt in this case. No additional information has been received by officers in relation to these two sites and the current breaches of planning control that would lead them to alter this view.
- 4.9 Based on the evidence submitted to date, Officers do not accept that there are very special circumstances in this case that would clearly outweigh the harm caused to the Green Belt, or justify planning permission being granted contrary to the provisions of the Development Plan and national planning policy guidance given in the National Planning Policy Framework (NPPF) and in *Planning Policy for traveller sites* (March 2012).
- 4.10 Officers have considered whether a temporary planning permission should be granted for the unauthorised works in this case. However, as there is considered to be no immediate need for Gypsy accommodation in the District; that significant harm is caused to the Green Belt; and that there is potential harm to residents from flooding, Officers do not consider that a temporary planning permission would be appropriate in this case.
- 4.11 Accordingly, Officers are satisfied that the enforcement action proposed in this report is proportionate and appropriate in all the circumstances of the case. The human rights of the owners/occupiers of the plots under Article 8 of the European Convention on Human Rights have been considered. However, it should of course be noted that Article 8(2) allows interference by a public authority where the interference accords with the law and is necessary in a democratic society for the wider public interest and for the protection of health

## **5.0 Conclusion**

- 5.1 It is therefore recommended that Members concur with the decision to issue Temporary Stop Notices on the site and further, that they authorise the service of additional Stop Notices and Enforcement Notices as set out within this report.