

E/11/0283/B – Unauthorised laying of hard standing material at land to the west of 12 Birch Green, Hertford, SG14 2LP

Parish: HERTINGFORDBURY

Ward: HERTFORD RURAL SOUTH

RECOMMENDATION:

That no further action is taken in respect of the Enforcement Notice issued on 21st October 2011 requiring the removal of hard surfacing from the site.

Reason: The requirements of the enforcement notice have generally been met, with the exception of some limited hard surfacing material that remains dispersed across the site. It is not considered expedient in the public interest to pursue any further remedial work on the site.

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1.0 Background

- 1.1 The site is shown on the attached ordnance survey extract. It lies to the north of The Old Coach Road on the western edge of the village of Birch Green and is accessed from the highway just to the west of number 12 Birch Green.
- 1.2 Immediately to the east of the site is a group of dwellings, all listed buildings, at No's 6, 8, 10, 12 and 14 Birch Green. To the south and west of the site is open agricultural land and countryside.
- 1.3 Members may recall that on 27th August 2011, the site was levelled; hard surfaced; and was occupied by a number of caravans for residential use. The Council sought, and was granted, a High Court injunction preventing any further works from taking place on the site and also preventing its use for the stationing of residential caravans.
- 1.4 As works continued on site and the caravans were not removed, the Council brought further proceedings in the High Court for the breach of the injunction. The action resulted in the cessation of the use of the site for the stationing of caravans and the removal of some of the hardstanding.
- 1.5 The Council also issued an Enforcement Notice in October 2011, requiring the removal of the remaining hard surfacing from the site.
- 1.6 The owners/occupiers of the site appealed against that notice and also

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submitted a planning application (Ref: 3/11/1511/FP) for the use of the site as private Gypsy and Traveller caravan site comprising 3 no. mobile homes, 3 no. touring caravans, associated hard standing and the installation of septic tank in November 2011. As this was recommended to be refused, the applicant appealed against non-determination and this enabled the planning appeal to be linked with the enforcement appeal relating to hard surfacing.

- 1.7 A public inquiry was held in 2012 and the Planning Inspector's decision was 'called in' by the Secretary of State. In August 2013, he confirmed the recommendation of the Inspector that the enforcement notice be upheld, with a varied compliance period of 3 months. Planning permission was also refused for the use of the site as a private Gypsy and Traveller caravan site.
- 1.8 Following the end of the compliance period for the enforcement notice, the owner stated that the hard surfacing had been removed from the site in accordance with its requirements and indicated that top soil had also been imported to form 'green areas' over some of the site.
- 1.9 In order to confirm this, Officers of the Council and a representative of the Parish Council visited the site with an independent contractor. A mechanical digger was used to scrape back the top soil on these 'green areas' to view the depth of the top soil and identify the nature of the ground beneath. Eight random trial holes were dug across the site and it was found that the majority of the hard surfacing material appeared to have been removed, as required by the notice.
- 1.10 Some broken brick and road planings remain on the land, interspersed with the soil. However, this is not considered to be a significant amount of hard surfacing material, compared to that which was imported onto the site in August 2011. Numerous photographs of these trial holes were taken, and a selection of these will be available at the Committee meeting.

2.0 Planning History

- 2.1 Outline planning permission was refused for the erection of a single dwelling on the application site in January 1989 (LPA Ref: 3/88/2612/OP) and subsequently in January 1994 (LPA Ref: 3/93/1650/OP). The reasons for refusal in each case related to Green Belt policy; piecemeal backland development out of keeping with the character of the area; and intrusion into the open countryside. Neither refusal was appealed.

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2.2 The remaining planning history for this site relates to the enforcement matters referred to above regarding the use of the site as a private gypsy and traveller caravan site and the creation of hard surfacing on the site.

3.0 Policy

3.1 The site is located within the Metropolitan Green Belt and as such policies GBC1; HSG10 (Accommodation for Gypsies); ENV1 (Design and Environmental Quality); ENV20 (Groundwater Protection) and OSV3 (Category 3 Villages) in the adopted East Herts Local Plan 2007 are relevant to the determination of this matter.

3.2 In addition, the National Planning Policy Framework (NPPF) and the national Planning Practice Guidance (NPPG) are material considerations.

4.0 Considerations

4.1 The determining matter in this case is whether the requirements of the enforcement notice – to remove the hard surfacing from the site and reinstate the land to its former condition - have been satisfactorily complied with.

4.2 Although the cessation of the use of the site for the stationing of caravans was achieved in 2011 and the majority of the unauthorised hard surfacing material has been removed from the site since then, concern was expressed that some hard surfacing material had been left on the site and simply covered over by the importation of new top soil – to create some slightly raised planting beds. However, the site investigations carried out during Officers' last visit, as described above, revealed that the majority of the unauthorised hard surfacing material has been removed from the site, including the areas beneath the slightly raised 'green areas'. At the time of that visit it was also evident that the land is now returning to a more natural condition with the regrowth of natural vegetation, although some hard surfacing materials remains on site, interspersed with the topsoil. A small bund of topsoil also remains on the northern boundary of the site dividing it from the paddock area to the north.

4.3 Whilst additional remedial work could be carried out to further screen the remaining hard surfacing materials from the site and to redistribute the top soil, this would once again disturb the site; delay its return to a natural condition, and also has the potential to disturb any returning wildlife species.

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4.4 Given the above, and the improving condition of the land, Officers consider that it would not be expedient in the public interest to pursue any further remedial work at the site. It is considered more appropriate in this case to allow the site to re-naturalise through the normal course of events.

5.0 Recommendation

5.1 That Members endorse the recommendation in this case that no further action be taken.