

MEMO

FROM: Sarah Castle

OUR REF: 20/00104/WKS

TO: Catherine Knight – Service Lead Legal

DATE: 18 June 2020

RE: The issuing of an Enforcement Notice in relation to the agricultural change of use of the land to residential and associated engineering operations at Land at Dradfield Lane, Soberton .

Please arrange for the service of the Enforcement Notice

Introduction

A site visit was carried out on 26 May 2020 following an allegation that works had taken place in the form of laying hard core, drainage works, and the erection of a gate, boundary fencing, and above all the change of use of the land to the stationing of residential trailers to the extent that it would become a “trailer park”.

It was established whilst on site that the highway crossover did not require planning permission, the gate at 2m high was permitted development, the fence adjacent to the road and to the crossover was 1.8m high and no drainage works had taken place. The fence has been screened with planting. The hard core was in the process of being laid. This has continued to be laid including drainage pipes (confirmed by photo sent by the owner) and an enclosed (timber frame) vegetable patch has been created. On 1 June 2020 the site was once again visited and the owner confirmed his intentions to live on site in a converted lorry trailer unit, i.e. the rear part of an artic lorry that attaches to the cab tractor unit; the internal dimensions of which could meet the definition of a caravan if kept on the wheel base, as he was already living in a two storey 4 bed converted trailer elsewhere. A trailer unit was brought to the site after the Temporary Stop Notice (TSN) was served and since then the Council has received emails from the owner and confirmation of his intention to live on site. The area of the land in question is 4.25ha in size and the works would not benefit from agricultural permitted development in any case.

Clearly, there is a deliberate intention to continue to develop the site as Mr Butler has ignored the TSN and despite seeking external planning advice he has not yet submitted a planning application. It is therefore expedient to serve an Enforcement Notice.

Planning History

20/00117/FUL Provision of 2 general purpose storage agricultural buildings, access track and hardstanding – withdrawn 18 March 2020.

Mr Butler was not the applicant.

Expediency

The site is located in the countryside off Dradfield Lane, Soberton. In accordance with policy MTRA4 of the Winchester District Local Plan Part 1 Joint Core Strategy, permission for new development will be limited to that which has an essential need to be located in the countryside. This may include development which is necessary for agricultural, horticultural or forestry purposes, and certain types of open recreational uses which require a countryside location. Development proposed in accordance with this policy should not cause harm to the character and landscape of the area or neighbouring uses, or create inappropriate noise/light and traffic generation.

This restriction on new development is also followed though in paragraph 79 of the NPPF.

In this case, the works that have been undertaken do not comply with this local plan policy. The works described in the introduction, the storage of a trailer unit and the parking of vehicles are not necessary for agricultural, horticultural or forestry purposes nor are they associated with a proposed open recreational use. The owner has stated his intention to have a residential use of the land and the works undertaken so far are to facilitate that use.

Human Rights

The Human Rights Act 1998 makes it unlawful for the Council to act in a way incompatible with any of the Convention rights protected by the Act unless it could not have acted otherwise. In arriving at the recommendation to take enforcement action, careful consideration has been given to the rights set out in the European Convention of Human Rights including Article 6 (right to a fair trial), Article 8 (right to respect for private family life), Article 14 (prohibition of discrimination in enjoyment of convention rights) and Article 1 of the first protocol (the right to peaceful enjoyment of possessions). It is considered that where there is an interference with the rights of the recipient of an enforcement notice, such interference is considered necessary for the following reasons: the protection of the environment and the rights and freedoms of others. It is also considered that such action is proportional to the legitimate aim and in the public interest.

Service

Please serve the site

And

Nicholas Butler
33 Highland Road
Emsworth
PO17 7JL

Land Registry details already on Legal file.

Fee £462 x 2

Sarah Castle
Principal Planning Officer (Enforcement)

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Authorised By

David Townsend
Team Leader - Enforcement