

**Planning Committee:** 26 February 2013 **Item Number: 13**

**Investigation Number:** ENF 024/3/13

**Town/Parish Council:** Old Milverton Parish Council

**Case Officer:** Gary Fisher  
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### **Land at Old Milverton Lane, Leamington Spa**

The use of land for commercial storage purposes; the use of land for the stationing of residential caravans; the undertaking of engineering operations comprising the excavation of land and the movement and stockpiling of material to create bunds and vehicle access ways; the installation of a hard standing area/widened vehicular access at the entrance to the site.

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This report is brought before committee to request that enforcement action be authorised.

### **RECOMMENDATION**

That appropriate enforcement action be authorised in respect of the following:-

1. The permanent cessation of the use of the land for commercial storage purposes with a compliance period of 2 months.
2. The permanent cessation of the use of the land for the stationing of residential caravans with a compliance period of 2 months.
3. The permanent removal in their entirety from the site of bunds and vehicle access ways and the reinstatement of the sites to their former condition with a compliance period of 2 months.
4. The permanent removal from the site of the hard standing area/widened vehicular access at the entrance of the site onto Old Milverton Lane and the reinstatement of its site to its former condition as a field entrance with a compliance period of 2 months.

### **BACKGROUND**

As part of current investigations into a number of alleged breaches of planning control at this site, unauthorised works have been identified as follows:-

1. The use of land for commercial storage uses including the stationing of in excess of 50 storage containers which it is understood are rented out to 3<sup>rd</sup> parties on part of the site; the storage of scaffolding, other equipment and vehicle trailers on another part of the site; and the

storage of other miscellaneous items on land immediately adjacent to the River Avon.

2. The use of part of the site for the stationing of residential caravans.
3. The undertaking of engineering operations comprising the excavation of land and the movement and stockpiling of material to create bunds and a vehicle access way.
4. The installation of a hard standing area/widened vehicular access at the entrance to the site.

The majority of the above works and activities were identified in late January/early February 2013. The evidence is that they follow from the sale of adjacent land at Quarry Farm for redevelopment. That site was formerly in use for commercial storage and the evidence is that the stored items and materials have been removed from that site onto adjoining land prior to that redevelopment commencing.

In view of the extent and nature of the engineering operations taking place at the site, a Temporary Stop Notice was issued on 5 February 2013 requiring those works to cease. That notice has a life of 4 weeks after which it expires.

Discussions with the owners/occupiers of the site are on-going.

## **RELEVANT POLICIES**

### **Warwick District Local Plan 1996-2011**

- DP1-Layout and Design.
- DP3- Natural and Historic Environment and Landscape
- DP6 - Access
- RAP6 – Directing New Employment

### **National Policy**

The National Planning Policy Framework.

## **RELEVANT PLANNING HISTORY**

- W/09/0649: Certificate of Existing Lawful Use issued in respect of the use of the adjacent site at Quarry Farm for commercial storage purposes. This application initially also sought a Certificate in respect of some of the land the subject of this report, however that area was removed from the application because lawfulness could not be demonstrated.
- W/11/1670: Planning permission granted for the redevelopment of the adjacent site at Quarry Farm as an 80 bed residential care home. Preliminary works are currently commencing on site in advance of the implementation of that permission.

## **KEY ISSUES**

### **The Site and its Location**

The site is located in the Green Belt and open countryside to the north of Leamington Spa with access from the classified Old Milverton Lane (C42). The north western part of the site forms the floodplain of the River Avon beyond which the remainder rises steeply away from the river.

There are a small number of existing developed sites within the Green Belt in close proximity most notably, the Woodland Grange hotel to the north and the Nuffield private hospital to the east across Old Milverton Lane.

The land in question comprises a substantial area in the same ownership including:-

- i. a significant area on the southern and eastern parts of the site in use for private equestrian purposes;
- ii. an area to the immediate south of the Quarry Farm development site comprising a dirt track by means of which vehicular access is gained to the storage areas at the rear of the site;
- iii. land on several levels to the west (rear) of the development site currently in use for commercial storage purposes and the stationing of 2 residential caravans;
- iv. land to the south west of the site comprising the floodplain of the River Avon on which the storage of ad hoc items is taking place.

### **Assessment**

The National Planning Policy Framework (NPPF) sets out that planning should take account of the character of different areas, protecting Green Belts and recognising the intrinsic character and beauty of the countryside whilst supporting thriving rural communities within it (paragraph 17).

It sets out that as with previous Green Belt Policy, inappropriate development is, by definition harmful and should not be approved except in very special circumstances (paragraph 87). At paragraph 99 it also states that development including engineering operations which do not preserve the openness of the Green Belt are inappropriate development to which there is therefore an objection in principle.

The NPPF at paragraph 100 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

Historic aerial photographs indicate that since at least 2006, the areas to the rear of the pre-existing storage site at Quarry Farm (now being redeveloped) were accessible from that site. However, no substantive and unambiguous evidence has been brought forward to demonstrate any lawful commercial storage or other use of that land.

The wider site the subject of this report is located in the Green Belt and open countryside adjacent to other existing brownfield sites in close proximity where it in part performs the function of visually separating those uses.

The unauthorised commercial storage use on the rear area of the site along with the associated engineering operations to form bunds and an access track impact upon the openness, visual amenities and character of the countryside and Green Belt. They do not preserve the openness of the Green Belt and as such comprise inappropriate development in respect of which there is therefore an objection in principle and no known very special circumstances sufficient to outweigh that harm.

Should those uses be permitted to continue to expand including onto the flood plain of the River Avon, that harm will be further exacerbated and in addition floodplain capacity is likely to be increasingly impacted.

The unauthorised use of part of the site for the stationing of 2 residential caravans comprises sporadic and unsustainable residential development in the open countryside and Green Belt contrary to national guidance and Local Plan policies which seek to direct such development into more sustainable locations.

Whilst there is evidence that the caravans are occupied, to date no information has been forthcoming about their occupants and the reasons for their being there.

The hard standing area/widened vehicular access at the entrance to the site essentially serves to facilitate the unauthorised uses by improving vehicular access into it. However, Warwickshire County Council as Highways Authority has expressed concerns regarding the construction and layout of this feature and the extent of visibility at a location where the speed limit changes from 40 to 60 miles an hour to the extent that the increased intensity of use of the site is considered to be likely to compromise highway safety.

### **Justification for enforcement action**

Whilst discussions are currently continuing with the owners/occupants of the site, in view of the significant adverse impact of the above unauthorised development described above, authorisation for formal enforcement action is sought in order that it may be employed to remedy these outstanding matters.

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