

**Planning Committee:** 10 November 2010

**Item Number:**

**Application No:** ENF 420/47/09

**Case Officer:** Martin Perry  
01926 456523 martin.perry@warwickdc.gov.uk

**Quarry Park, Old Milverton Lane, Old Milverton,  
Leamington Spa, CV32 6RW**

The unauthorised use of land for open storage.  
Property Owner(s) Mr Markham

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This report is being brought to Planning Committee in order to request that enforcement action be authorised.

**BACKGROUND**

In October 2009 it was brought to the attention of the Enforcement Section that land at Quarry Park was being used for the external storage of bags of equipment in addition to authorised storage within the building at the site.

Contact was made with the land owners who have consistently maintained that the open storage is an authorised use by reason of the planning permission granted by application W03/0099 '*Change of use of agricultural storage building to class B8 storage of fall-arrest safety equipment*' supported by correspondence from the District Council in 2004. (Appendix 1).

The documentation that accompanied the above planning application included a site plan, with a red line boundary around the whole of the field, identifying the application site within which the building the subject of the application was situated.

In August 2004 correspondence and dialogue was undertaken with the planning agent acting on behalf of the owners concerning the erection of a larger building at the site.

Within that context, following the receipt of legal advice, informal written advice was provided by the District Council to the effect that there is no restriction on storage in the open at the site (Appendix 1).

Following the complaint received in October 2009 site visits and aerial photographs quantified the extent to which the land was being used for open storage.

An in depth review of the planning history and correspondence was undertaken and a further legal opinion obtained which is contrary to that obtained in 2004. That advice is that external storage at the site comprises an unauthorised material change of use which notwithstanding the informal advice provided in 2004 does not prevent the District Council from taking formal enforcement action now should it be considered to be justified.

## **RELEVANT POLICIES**

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)

DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)

Planning Policy Guidance 2 : Green Belts

## **PLANNING HISTORY**

W94/0580 - Erection of a 3 bay Dutch barn. Granted July 1994.

W03/0090 – Change of use of agricultural storage building to Class B8 storage of fall-arrest safety equipment. Granted April 2003.

W04/0453 – Erection of extension to existing building for agricultural storage. Withdrawn May 2004.

## **KEY ISSUES**

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

The site is an area of open Green Belt land to the North of Leamington Spa positioned between Old Milverton Lane and the River Avon. It is adjacent to and visible from the nearby Blackdown Nursing Home.

### **Assessment**

The main issue relevant to the consideration of this request is the impact of the external storage of equipment on the rural character, openness and appearance of the surrounding area.

It has been determined by way of the 2003 planning permission that the use of the existing Dutch Barn for the storage of the fall arrest equipment is an acceptable use.

The external storage of the bags of equipment in a manner which is prominently visible from Old Milverton Lane and Blackdown Nursing home, has a significant and unacceptable impact on the immediate area including the openness and rural character of the countryside and Green Belt.

For that reason the unauthorised use comprises inappropriate development in the Green Belt to which there is therefore an objection in principle.

### **Justification for Enforcement Action**

The legal advice recently obtained is that the use permitted by the 2003 planning permission specifically related to a change of use of **a building** to use for storage rather than to the land and building.

The subsequent use of the land for open storage is unauthorised and such that the quantity of equipment stored there in bags has an unacceptable impact in the surrounding area and if not controlled could potentially escalate further.

The site owners are relying on an informal opinion expressed in the letter dated 16 August 2004 as to the lawful use of the site and have declined to cease the use and remove the bags.

Notwithstanding the opinion expressed at that time, the current Legal opinion is that the 2003 permission did not grant consent for open storage. In all of the circumstances of this case, having regard to the current extent of harm and the potential escalation of the external storage, it is considered appropriate to exercise control over this unauthorised use by way of the service of an enforcement notice.

### **RECOMMENDATION**

That enforcement action be authorised to ensure that the use of the open land for storage ceases with a compliance period of six months.

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## **APPENDIX 1**

Environmental Directorate  
**Planning & Engineering**  
**John Archer - Head of Planning & Engineering - Development Control**

Telephone: 01926 456534 after 2pm  
Switchboard: 01926 450000  
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Email: [planning\\_east@warwickdc.gov.uk](mailto:planning_east@warwickdc.gov.uk)  
My Ref: L/32/3296/JNF  
Your Ref: PJF/lec/M152/PF/7260  
Date: 16 August 2004

Wood Frampton  
Aylesford House  
70-72 Clarendon Street  
Leamington Spa  
CV32 4PE.

Dear Mr. Frampton,

**RE: Land at Quarry Park, Old Milverton Lane, Leamington Spa**

Thank you for your letter received on 11 August 2004.

I have now had the opportunity to discuss your client's proposal with both Mr. John Edwards (Group Leader – Development Control) and Ms Mary Sue-Stathe (Head of Legal). It is the view taken by Ms Stathe that the planning permission (ref W03/0090) for the storage of fall-arrest safety equipment relates to the site edged red and not specifically to the building itself.

During our discussions on 24 May 2004 it was indicated that your client would be interested in erecting a larger building to accommodate his current operation together with the remainder of the application site being used for agricultural purposes; however following considerations by the planning department, given the site is located within the Green Belt and Special Landscape Area, I do not consider it to be likely to gain support. Whilst I appreciate there is no restriction with regards to open storage, Mr. Edwards, at this stage does not feel this is sufficient grounds to justify a substantially large building on the site.

You will appreciate that these comments represent informal opinions and as such should not be construed as prejudicing the District Council's decision should a future application be submitted.

If you have any further queries, Mr. Edwards is available on 01926 456541.

Yours sincerely,

Miss J Fitzsimons  
Senior Planning Officer (Development Control)