

Planning Committee: 18 December, 2012 **Item Number: 11**

Town/Parish Council: **Rowington**

Case Officer: Gary Fisher
01926 456520
gary.fisher@warwickdc.gov.uk

Sandall House Farm, Narrow Lane, Lowsonford

RECOMMENDATION

That Planning Committee note the current position in respect of enforcement investigations undertaken at this site and endorse the approach being taken by officers in respect of existing and any future such investigations.

BACKGROUND

Over the last few years, there have been a substantial number of reports alleging unauthorised activities and operational development at this site. The investigation of those allegations has involved the use of significant resources within the Enforcement Team and included the submission of retrospective planning applications in respect of which planning permission has been granted.

Appendix 1 summarises investigations that have been undertaken within the last 2 years and their outcome.

Over that period, Rowington Parish Council, the Lowsonford Conservation Society and local residents have expressed on-going concern in respect of the number of alleged breaches of planning control at this site; the absence of enforcement action directed at those matters, and the granting of retrospective planning permissions.

KEY ISSUES

The Site and its Location

Sandall House Farm is a predominantly equestrian establishment including a range of buildings of various ages and designs located in the open countryside and the Green Belt.

Assessment

In accordance with established national planning principles, it is only expedient for Local Planning Authorities to pursue the remedy of breaches of planning control including by means of formal enforcement action in the circumstances where there is a material planning objection to the unauthorised activity or development in question, i.e. where planning permission would be refused or would only be granted subject to conditions controlling the nature of the activity or development.

The absence of planning permission is not in itself a ground for taking such action and the submission of retrospective planning applications seeking to regularise unauthorised development is an established mechanism within the planning framework.

Appendix 1 identifies that of the 15 alleged breaches of planning control that have been investigated at this site over the last 2 years:-

- i. 7 have not involved any breach of planning control;
- ii. 2 have related to minor such breaches which it was not considered expedient to pursue;
- iii. 1 has been resolved voluntarily;
- iv. 5 have resulted in the submission of retrospective planning applications for which planning permission was granted, 1 of which is continuing to be monitored (see below).

By way of example of investigations that have been undertaken, following a change of ownership of the site, the investigation of the first allegation listed at Appendix 1 involved the use of significant investigative resources estimated to amount to in excess of 10 officer working days. Officers were satisfied that no material change of use had occurred however, Rowington Parish Council and Lowsonford Conservation Society were vociferous in their ongoing concerns such that it is estimated that the majority of that officer time was spent engaging with those parties.

Repeated concerns have also, for example been expressed about the visual condition of the domestic curtilage of the residential property at the site. Again, whilst officers have advised that the condition of that part of the site is not such that formal action could be taken, this matter continues to be of concern to the Parish Council and is raised as an ongoing issue.

With regard to the use of the horse exercise gallops at the site, the hours and nature of that use have been the subject of recent revised grants of planning permission. There are however continuing concerns about the use of the gallops outside of the revised permitted hours. Most recently, occasional ad hoc use beyond those hours has been identified and the site owner has been advised that such use must cease. The Parish Council and local residents are assisting in the monitoring of the situation on the ground.

Officers have continued to seek to engage with the owner of the site in order to encourage proactive discussions and the submission of planning applications prior to the undertaking of development, however there are no provisions within planning legislation enabling this to be required.

Officers are also continuing to engage with the local community and Parish Council in response to concerns relating to potential breaches of planning control. Nevertheless, their expectations of the Council in taking action and determining retrospective planning applications appear to continue to exceed the powers available in that respect.

Further, in order to ensure the most effective use of resources and service provision, this approach must also be balanced in a proportionate manner with the need to increasingly focus on harmful breaches of planning control rather than on minor issues and repeat notifications which it is not expedient to pursue.

CONCLUSION

Should unauthorised development occur at this or any other site, in respect of which there is a material planning objection, including for example the repeated regular use of the horse exercise gallops beyond the permitted hours, the remedy of that planning harm will be pursued by appropriate means.

However, in the circumstances where there is either no such breach or where no material planning harm results, no further action will be taken and in the absence of significant new evidence, further notifications will not be pursued.

Appendix 1: Summary of Enforcement Investigation Issues

<u>Allegation</u>	<u>Outcome</u>
The change of use of the site	No material change of use identified.
Construction of horse exercise pen in the wrong location	Exercise pen reconstructed in the correct location.
Horse exercise pen not constructed in accordance with planning permission granted	No material variation from the approved scheme.
Provision of groom's accommodation within existing building	The accommodation provided is ancillary to the use of the site and as such does not comprise a material change of use.
Use of horse exercise gallops beyond permitted hours	Applications to vary the planning conditions relating to the timing and nature of the use granted. Current occasional use beyond the permitted hours identified: situation being monitored.
Erection of fence adjacent to public right of way	Unauthorised fencing identified to which there is no planning objection and which was therefore not pursued further.
Development undertaken within the residential curtilage of the dwelling at the site (2 investigations)	No unauthorised works identified.
Creation of new access tracks (2 investigations)	Retrospective planning permission granted (W/12/0448).
Construction of "muck heap" enclosure	Retrospective planning permission granted (W/12/1174).
Construction of hardstanding area.	Retrospective planning permission granted (W/12/1174).

The visual condition of the residential curtilage of the dwelling at the site	The condition of this area was not such that further action could be taken.
The height of a new building recently constructed relative to the planning permission granted	The building is constructed marginally lower than approved such that no further action is to be taken.
The laying of new drainage pipes within the site	Planning permission not required for the works undertaken.