

**Planning Committee:** 09 December 2003  
**Investigation No:** ACT413/43/02

**Principal Item Number:** 7

**Town/Parish Council:** Haseley

**Case Officer:** Mike Duffet  
01926 456520 planning\_appeals@warwickdc.gov.uk

**Five Ways Nurseries, Five Ways, Haseley**

The unauthorised stationing of a mobile home for residential occupation  
FOR Mrs C Askew

---

**SUMMARY OF REPRESENTATIONS**

In October 2002 it was brought to our attention that there was allegedly a mobile home in residential occupation within this site occupied by Warwickshire Plant Hire Ltd. The site was visited by the Enforcement Officer in November 2002 who met the site owner, Mrs Askew. She confirmed that there was a mobile home which was occupied by her and other family members. Previously the mobile home had been on site and used in association with the agricultural machinery repair and storage business as an office.

Mrs Askew was advised that the residential use was unacceptable, taking into account the location of the site within the Green Belt. As an indication was given that an agent would be appointed the matter was held in abeyance for a month. In February 2003 a final warning letter was sent since there had been no progress or contact made by any agent.

In March 2003, Mrs Askew appointed an agent and in June 2003 a certificate of lawfulness application for the use of land for the stationing of a mobile home for residential purposes was made. (W20031010) The evidence was considered but the conclusion reached, following advice from Legal Services, was that it was not possible to issue a certificate because the residential use by Mrs Askew had been for less than four years and therefore was not immune from possible enforcement action.

Notwithstanding this decision, Mrs Askew continues to reside in the mobile home. An appeal against the refusal of the lawful use has been made and within the recent appeal it is claimed by the agent that the occupation of the mobile home is related solely to the repair, storage and agricultural uses of the site.

**PLANNING HISTORY**

In 1958 and again in 1972 planning permission was refused for the erection of a dwelling house.(Applications 2686A and 2686/1) In 1986 approval was obtained for a building for the repair of agricultural machinery (W860637), and in 1999 the siting of a 22.5 metre telecommunication tower obtained planning permission on part of the site.(W981463)

In October 2000 a certificate of lawfulness application was made for 'the use of land and ancillary buildings for the general storage and repair of machinery and vehicles in relation to agricultural and construction plant.'(W20001383) Sufficient evidence in support of the claim that this use had been present in 1990 (ten years prior to the application) and continued since then was provided and a lawful use certificate with this description was issued in November 2000.

In June 2003 a certificate of lawfulness application was made for 'the use of land for the stationing of a mobile home for residential purposes'.(W20031010) The whole of the yard and strip of land fronting the Honiley Road was identified as the land. The submitted evidence stated that a mobile home at the rear of the site had been in residential use since January 2000 and that between 1992 and July 2000 there had been some degree of residential use on land adjacent to the yard entrance. The application was refused in August 2003 for reasons which included the following:

*"..it is considered that as the residential use of the land occupied by the mobile home of Mrs Askew has only been since January 2000, a period of less than 4 years, that the time period is not immune from possible enforcement action and that it is not possible to grant a lawful use certificate in these circumstances."*

In November 2003 an appeal by way of an exchange of written representations against this decision has been made to the Planning Inspectorate.

## **RELEVANT POLICIES**

The site is located in the Green Belt and within a Special Landscape Area. Local plan policy **(DW) ENV1** – Green Belt in line with national advice in PPG2 places a presumption against new residential development outside a recognised settlement unrelated to meeting recognised needs of agriculture. The principle of residential as a land use in this rural location has previously been refused, and taking into account the current strategic policy considerations as contained in the Warwickshire Structure Plan 1996 – 2011 it is considered that the residential use represents "inappropriate development" in the Green Belt.

## **KEY ISSUES**

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

The site known as Five Ways Nurseries is located within the Green Belt to the north-east of the A4177 Five Ways roundabout, about 200 metres from the road junction. The extensive yard area is set back from the road to Honiley and the sole vehicular access is from an entrance at the end of a lay-by on the south side of the road. The site is also occupied by a number of established steel framed buildings, the largest being at the far end of the site adjacent to the rear site boundary. The adjoining area predominantly consists of large fields and hedgerows, but there is an established detached residence known as 'The Silver Barrel' to the north of the site.

### **Details of the Development**

The alleged breach of planning control is the unauthorised stationing of a mobile home for residential occupation without the benefit of planning permission.

## Assessment

The introduction of a permanent residential use in the open countryside and Green Belt is very strictly controlled and under normal circumstances even barn conversion schemes are more favoured for employment use. The stationing of the mobile home is within a lawful commercial site (rather than on farm land) and the residential use has to be considered in relation to the provisions contained in the development plans for the area. The need to consider possible enforcement action requires taking into account policy and amenity factors and other material considerations which may apply.

### 1. What evidence is there of a breach of planning control?

There is no doubt that Mrs Askew has owned the whole site since the late 1970s and since then operated an agricultural machinery storage and repair business from the land. Prior to January 2000, it is understood that Mrs Askew lived elsewhere in the district but then due to a change of personal circumstances moved onto the site on a permanent basis. This evidence was included in the lawful use application made earlier this year. The residential use of a mobile home represents a change of use of land which requires being the subject of a planning application. No planning application has been received, and the lawful use application has been refused.

### 2. Policy implications

The site is outside any settlement and within the Green Belt. The occupation of the mobile home is not related to any substantiated agricultural need and therefore in PPG2 terms represents 'inappropriate development'. All inappropriate development is by definition harmful to the Green Belt and as set out in PPG2 should not be approved, except in very special circumstances.

### 3. Very special circumstances

Within the lawful use application it was claimed that the residential occupation of the mobile home has assisted in the security of the premises.

The presence of some type of residential occupation by a well known local individual (Mr Pinfold) between 1992 and 2000 elsewhere at Five Ways Nurseries is considered to be a separate issue. This was why the lawful use application was refused. No evidence has been forthcoming that he had any contract of employment to carry out site security duties in association the commercial business at the site and instead was a retired gentleman who occupied a specific small parcel of land with separate facilities for car parking. At no time during his alleged period of occupation was his presence brought to the attention of the District Planning Authority.

### 4. Justification for enforcement action

On the basis of the evidence available to date, it is not considered that the alleged very special circumstances justify allowing a breach of Green Belt policy. Mrs Askew herself has indicated that her concern is site security, yet this objective does not necessarily get achieved by a residential presence, especially when there will be periods of time when the occupiers will not be at the site, whether during the day or night periods.

The lawful use application has been recently refused because it is not accepted that the residential use on two separate locations at Five Ways Nurseries is lawful. An appeal against this decision has been made to the Planning Inspectorate. In certain circumstances, it may have been possible to defer the consideration of whether to take enforcement action until the outcome of the relevant appeal was known.

In this instance, the unauthorised activity is considered to be a permanent residential use, and commenced in January 2000, a period of over three years (but just less than four years). Section 171B of the Town & Country Planning Act 1990 sets out the time limits for taking enforcement action, and with regard to changes of use to a use as a single place of residence, the time limit is FOUR years. Therefore unless an enforcement notice is served by January 2004 the unauthorised residential use of the mobile home will become immune from enforcement action.

The implications of the Human Rights legislation cannot be ignored, but the justification for the continued residential presence of Mrs Askew at the Green Belt site has not been proved. The period of compliance of six months is not considered to impinge upon her Human Rights, taking into account the strict planning controls that are established for the rural area where the site is situated.

### **RECOMMENDATION**

That enforcement action be authorised to ensure that the residential use ceases, to protect the character of the Green Belt. The period for compliance to be six months, to enable a reasonable time for alternative residential accommodation to be obtained.

*Background Papers -Lawful use refusal application W20031010*