RESIDENTIAL CHALET CARAVAN, LANE END FARM, LOWICK

1 SUMMARY

1.1 This matter was reported to the Development Control Committee on 1 July 2009. Committee decided to inspect the site. The site inspection took place on 8 July 2009. This report sets out the issues in relation to a breach of planning control and recommends a course of action.

Recommendation that: enforcement action be taken to secure the removal of the unauthorised residential chalet caravan and associated decking at Lane End Farm, Lowick

2 BACKGROUND

2.1 Planning permission was granted in October 2008 for the change of use of the agricultural land at Lane End Farm to an equestrian use (commercial rearing of horses). The application also included new exercise areas, improvements to an access and the siting of an administration and staff block.

2.2 A chalet caravan has been sited in the field adjoining the farmyard. It has a similar appearance to the approved administration and staff block, but the chalet caravan is not covered by the permission as it is not sited as shown on the approved plan.

2.3 The chalet caravan is now being permanently occupied on a residential basis by the owners of the site and their two children. Decking has also been erected around two sides of the chalet caravan. The chalet caravan and the associated decking are a breach of planning control. My assessment of the breach is set out in Annex 1.

2.4 The owner has employed an agent who is currently preparing a retrospective planning application for the chalet caravan. The application will include details of the need for residential accommodation to meet the tests of Planning Policy Statement 7. Committee will be verbally updated at the meeting.

3 POLICY CONTEXT

3.1 See Annex 1 for development plan and other policy considerations.

4 OPTIONS

4.1 We can do nothing about the breach of planning control, we can try to negotiate a solution or we can issue an enforcement notice to remedy the breach. We must decide which course of action is in the public interest and be able to clearly set out our reasons for our decision.

5 PROPOSALS

5.1 I propose that action be taken and my reasoning is set out in Annex 1.

6 BEST VALUE IMPLICATIONS

6.1 My recommendation has no Best Value implications.

7 FINANCE CONSIDERATIONS

7.1 My recommendation has no financial implications for the Authority.
8     RISK

8.1 I have identified no particular areas of risk in my recommendation. I have set out clear reasoning in Annex 1, which is sufficient to justify this as a reasonable decision in circumstances of the case.

9     LEGAL CONSIDERATIONS

9.1 My recommendation attempts to strike a balance between rights under the Human Rights Act and the way we have regard to the country’s economic well being and protect the rights and freedoms of others. It is for the committee to decide whether to accept the recommendation based on their knowledge of the facts.

9.2 The Human Rights Act 1998 (HRA) gives greater effect to the rights and freedoms guaranteed under the European Convention on Human Rights, incorporating some of the rights set out in the Convention and its Protocols into British law. The HRA places an obligation on public authorities to act compatibly with these rights.

9.3 Article 6 of the Act states that everyone is entitled to a fair and public hearing. If an enforcement notice is issued the appeal process would allow the owners a fair trial.

9.4 Article 8 states that everyone has the right to respect for their private and family life, their home and their correspondence. This is a qualified right allowing a public authority to interfere in accordance with law and when necessary in a democratic society (amongst other things) for the protection of the rights and freedoms of others. An enforcement notice would not fail to respect the private or family life of the owners or others.

9.5 Article 1 of the First Protocol relates to the Protection of Property. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided by law. This is a qualified right allowing enforcement as is necessary to control the use of property in accordance with the general interest. The enforcement notice would deprive the owners of their current residence, but they do own a house in Backbarrow which is currently being rented out. We can ensure that the compliance period on an enforcement notice is of a suitable length to allow alternative accommodation to be arranged.

9.6 My recommendation is a proportionate response.

10    HUMAN RESOURCES

10.1 My recommendation has no staffing implications.

11    DIVERSITY IMPLICATIONS

11.1 My recommendation has no diversity implications.

12    SUSTAINABILITY

12.1 My recommendation has no significant environmental, economic and social effects other than those I refer to in Annex 1.

Background Papers      Planning application file reference 7/2008/5230
Author/Post             Julie Birkett (Compliance Planner)
Date Written            20 July 2009
ANNEX 1: EXPEDIENCY REPORT

A report leading to a decision whether formal enforcement action should be taken.

Enforcement reference no: E/2009/0058
Location: Lane End Farm, Lowick
Description: Residential Chalet Caravan

1. Context

1.1 The Government, in Planning Policy Guidance 18: Enforcing Planning Control advises that in considering any enforcement action the decisive issue should be whether the breach of control would unacceptably affect public amenity or the existing use of the land and buildings meriting protection in the public interest. It also states that enforcement action should always be commensurate with the breach of planning control to which it relates.

1.2 PPG 18 also states that:

- it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity
- an enforcement notice should not be issued solely because the development is unauthorised, if it is acceptable on its planning merits
- where an initial attempt to secure a voluntary remedy to the harmful effects of unauthorised development fails formal action should not be hampered by negotiations

1.3 As a Local Planning Authority we have a discretionary power to issue an enforcement notice where it appears to us:

- that there has been a breach of planning control, and
- that it is expedient to issue the notice, having regard to the provisions of the development plan and any other material considerations

1.4 In November 2005 we adopted the central and local government Concordat on Good Enforcement. In our enforcement policy, adopted at the same time, we set out our commitment to the principles of good enforcement including: clear standards, openness, helpfulness, proportionality and consistency. Our policy states that when we identify a breach of control we will consider whether there is a voluntary solution, but will not let this hinder effective formal action when this is warranted. It also commits us to acting proportionately to ensure that our action is commensurate with the breach.

1.5 This report contains:

- the background to the investigation including relevant planning history
- the breach of planning control
- that we are within the relevant time limit for enforcement action
- relevant development plan policies
- material planning considerations including the views of any interested parties
- the reasons why enforcement action is or is not expedient in the public interest
- a recommendation
2. **Background**

2.1 Lane End Farm is adjacent to the A5092 near Lowick. It has been a farm and consists of a mix of traditional and modern buildings accessed by a narrow lane from the A5092. On the opposite side of the lane is the original farmhouse, which is now in separate ownership.

2.2 The farm buildings and 6.56 hectares of the surrounding land are now being used for equestrian uses (commercial rearing of horses) as approved by planning permission reference 7/2008/5230. The permission approved the siting of an administration and staff block for a three year period. The staff block was shown as a timber style chalet caravan, with the windows removed from the rear elevation.

2.3 The approved plans show the staff block being sited to the east of the modern farm building next to an existing wall. The chalet caravan has been placed in the field on the other side of the wall, but the wall has now been removed so the chalet caravan can be accessed from the yard.

2.4 The owners have not been able to recruit any suitable full time staff so they have taken on the day to day running of the business. They are permanently occupying the chalet caravan together with their two children.

2.5 Timber decking has also been erected on the north and east side of the chalet caravan.

3. **Breach of planning control**

3.1 Without planning permission the material change of use of land for the siting of a residential chalet caravan and associated decking.

4. **Relevant time limit for enforcement action**

4.1 The chalet caravan was sited on the land in February 2009 and it has been permanently occupied since the middle of April 2009. Unauthorised changes of use become immune from enforcement action ten years after it is substantially complete. This means that the development would become immune from action and therefore lawful in April 2019.

5. **Relevant development plan policies**

5.1 The site is located outside of any designated settlement boundary within the open countryside.

5.2 The relevant North West of England Plan Regional Spatial Strategy to 2021 Policies are:

   - DP7 - Promote Environmental Quality
   - RDF2 - Rural Areas

5.3 The relevant extended Cumbria & Lake District Joint Structure Plan 2001-2016 Policy is:

   - E37 – Landscape Character

5.4 The relevant saved Lake District National Park Local Plan Policies are:
• NE1 - Development in the Open Countryside
• H5 – Housing in the Open Countryside
• H10 – Mobile Homes

6. Assessment

6.1 The chalet caravan meets the definition of a caravan. Policy H10 of the Lake District National Park Local Plan states that the siting of caravans for the use as residential accommodation will not normally be permitted.

6.2 Planning Policy Statement 7 – Sustainable Development in Rural Areas (PPS7) makes it clear that isolated new houses in the countryside require special justification for planning permission to be granted. In some cases residential development may be justified when accommodation is required to enable a full time worker to live at or close to their place of work. The most common example is an agricultural workers dwelling.

6.3 PPS7 does state that when accommodation is required on a newly created unit, it should normally, for the first three years, be provided by a caravan or similar temporary accommodation. But evidence of the functional need must be provided.

6.4 No evidence of a functional need has been provided in this case. As it has not been proved that there is an essential need for on site accommodation the residential chalet caravan is contrary to our development plan policies and national policy.

6.5 The chalet caravan has also been located in a prominent position and it is clearly visible from the A5092. The decking increases the adverse impact of the chalet caravan on the area, as it increases the size of the structure and adds to the domestic character. If evidence of an essential need for accommodation was proved then it is my opinion that this location would be unacceptable.

7. Recommendation

7.1 Due to the failure to comply with PPS7 and the adverse affect on the character and appearance of the area I recommend that enforcement action is taken to secure the removal of the unauthorised residential chalet caravan and associated decking at Lane End Farm, Lowick.

7.2 As the chalet caravan is currently the home of the owner and his family we need to carefully consider their human rights. The compliance period on the enforcement notice should allow sufficient time for alternative living arrangements to be made. I recommend that a six month compliance period would be acceptable.