

HAMBLETON DISTRICT COUNCIL

Report To: Planning Committee
21 June 2012

From: Director of Housing and Planning Services

Subject: **PLANNING ENFORCEMENT CHURCH FARMHOUSE, THORNTON LE STREET**

Thorntons Ward

1.0 PURPOSE AND BACKGROUND:

1.1 To consider the details and decide upon appropriate Planning Enforcement Action relating to development at Church Farmhouse, Thornton le Street.

2.0 DECISIONS SOUGHT:

2.1 To resolve to take Planning Enforcement action as set out in the recommendation at paragraph 8.1

3.0 BACKGROUND:

3.1 An application for a Certificate of Lawfulness (10/00761/CLE) was submitted for the use of the site for the storage of lorries in 2010. This application was subsequently withdrawn on 10 February 2011.

3.2 A "Retrospective application for the change of use of land and the formation of hardstanding in conjunction with the storage and maintenance of 5 fairground lorries as amended by plans received by Hambleton District Council on 27 September 2011" was submitted on 2 February 2011. The application was considered by the Planning Committee on 31 March 2011, 23 June 2011, 10 November 2011 and 1 March 2012. The Planning Committee resolved to grant planning permission at the meeting held on 10 November 2011 subject to conditions and a planning obligation. A subsequent report reconsidering the application and recommending that it be refused was deferred. The application was withdrawn on 14 May 2012.

3.3 The applicant has indicated their intention to submit a further planning application for the use of the site for the storage of fairground lorries.

4.0 FINANCIAL IMPLICATIONS AND EFFICIENCIES:

4.1 Costs of instructing Counsel in the event of an appeal against the Enforcement Notice.

5.0 EQUALITY/DIVERSITY ISSUES: (Include in covering report or Annex if relevant)

5.1 Travelling show people are identified as "travellers" for the purposes of the "Planning policy for traveller sites" March 2012. Which at paragraph 3 states that: "The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community".

5.2 It is not considered that this matter is significantly influenced by the policy relating to “travellers” because it does not relate to living accommodation.

6.0 BREACHES OF PLANNING CONTROL

6.1 The site has been used in breach of planning control for the storage and maintenance of fairground lorries.

6.2 The breaches fall in to two types, those involving operational development and those which are a material change of use.

6.3 The operational development that has taken place on the site is the laying out of hardcore to provide vehicle hardstanding.

6.4 The change of use that has taken place is the cessation of the equestrian use and uses associated with the workshop use and the commencement of a use for the storage and maintenance of fairground lorries.

7.0 ENFORCEMENT ACTION

7.1 Members have previously considered the merits of the proposal for storage of fairground lorries and resolved to grant planning permission. However, officers have subsequently come to the conclusion from evidence of actual use of the site that the “storage” goes beyond simple storage and involves significantly more “maintenance” than originally assumed.

7.2 Evidence exists of breaches of planning control both ‘operational development’ and a ‘material change of use’.

Operational development

7.3 The laying of hardcore was noted to take place and documented by local residents. The application 11/00198/FUL also sought retrospective planning permission for the hardstanding areas that had already been formed to allow turning and parking of the fairground vehicles as set out in the agents ‘Update Statement’ of August 2011.

7.4 Reference is made to varying amounts of material having been brought to the site to form the hardstanding. Photographs exist of the ground before the development of the hardstanding was formed, however no survey drawing is known to exist that provides definitive information of ground levels on the site.

Material change of use

7.5 In 1999 permission was granted for a workshop to be altered and extended and used in connection with a shop fitting business. In 2000 permission was granted for the formation of a manege and associated floodlighting. Both these uses commenced. The storage and maintenance of fairground lorries is a new use which has not become immune from enforcement action.

Consideration of the appropriate action

7.6 The NPPF requires that LPA’s act “proportionately in responding to suspected breaches of planning control... take action where it is appropriate to do so.” (NPPF paragraph 207)

7.7 The fact that a breach of control has occurred does not mean that it is “proportionate” or “appropriate” to serve a planning Enforcement Notice.

7.8 The operational development involves the laying out of additional hardstanding on ground that had previously been used for a mix of equestrian manege, hardstanding for other uses and agricultural grassland. The operational development facilitates the material change of use. It has reportedly raised ground levels and removed some grassed areas. To

undertake the formation of hardstanding in certain circumstances is “permitted development” however provision of hardstanding generally requires planning permission and where this is outside Development Limits must meet the tests of the LDF Policies set out in CP1, CP2 and CP4 as an exception to the normal policies of restraint. Without a bona fide use for the hardstanding it is appropriate to require its removal and restoration of the land to its former condition.

7.9 The issue of an enforcement notice requiring the removal of the hardstanding can be supported for the following reasons:

1. The development is contrary to the National Planning Policy Framework, Planning policy for traveller sites and the Hambleton Local Development Framework Policies CP1, CP2, CP4, CP16 and DP30 as the use would, in the absence of a justified demonstrable exceptional case, cause avoidable harm to the character and appearance of the landscape of the countryside.

7.10 The Parish Council have raised concerns that the development has an impact on heritage assets both “designated” and “undesigned” as revealed by the Historic Environment Team including the route of the Roman Road from Thirsk to the River Tees and the Medieval settlement at Thornton le Street. Advice on significance of the impact of the works on the heritage assets has been sought from the County Council Archaeology team.

7.11 The use of the land for storage and maintenance of fairground lorries in an unregulated manner has the potential to cause significant harm. It is now considered that it is not feasible to grant planning permission for this use with conditions which will adequately overcome the potential harm.

7.12 The issue of an enforcement notice requiring the cessation of the use of the site for the storage and maintenance of fairground lorries can be supported for the following reasons:

1. The development is contrary to the National Planning Policy Framework, Planning policy for traveller sites and the Hambleton Local Development Framework Policies CP1, CP2, CP4, CP16 and DP30 as the use would cause harm to the character and appearance of the landscape of the countryside.
2. The development is contrary to the National Planning Policy Framework, Planning policy for traveller sites and the Hambleton Local Development Framework Policies CP1, CP2, CP4, has not been shown to be likely to reduce the need for travel and fails to show that an exceptional case exists that justifies a breach of the principle of resisting development that is not sustainable.

8.0 RECOMMENDATIONS:

8.1 That an enforcement notice be issued requiring the:

- 1) Removal of hardstanding and restoration of the land to its former condition as ménage, grassland and hardstanding or in the alternative entirely as grassland, allowing 6 months for the completion of the work.
- 2) Cessation of the use of the site for the storage and maintenance of fairground equipment, allowing 2 weeks for compliance.

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Background papers:

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