

Enforcement and possible unauthorised development

1. Introduction

This report considers current matters of enforcement and possible unauthorised development. The taking of planning enforcement action is delegated to the Head of Planning in consultation with the Chairman. Therefore, only a few matters that require Committee decision to take formal action are reported to Committee.

It is not an offence to carry out works without planning permission and the National Planning Policy Framework (NPPF) states that enforcement action is discretionary and that local planning authorities should act proportionately in responding to suspected breaches of planning control. Local authorities are also advised to take action only where it is appropriate to do so. The purpose of this report is normally, therefore, is to report to Committee matters that are breaches of planning control but where it is recommended that it is not expedient to take enforcement action.

2. Policy

The Council's Policy on Planning Enforcement is set out in the adopted Planning Enforcement Charter. The essential thrust of the Policy is that We will not condone wilful breaches of planning law but we will exercise our discretion about taking enforcement action if it is considered expedient to do so. The principal enforcement policies are:

Policy PE2

Immediate planning enforcement action will be taken against any unauthorised development that unacceptably affects public amenity or causes harm to land or buildings.

Policy PE3

Formal enforcement action will not normally be taken where a trivial or technical breach of planning control has occurred that causes no material harm

Policy PE24

Where development is being carried out which is considered to be significantly different from the approved plans and the changes cause serious harm to public amenity, immediate enforcement action may be taken, including the issue of a Stop Notice or Enforcement Injunction to stop the unauthorised development. However, where no material harm is being caused or where the works are "de-minimus", no further action will be taken.

3. Items

Each item contains a full description, details of any investigation, and an assessment of the situation and concludes with a recommendation.

This report relates to:

Item 1 Former Lafarge Site and adjoining land at Hollybush Lane North, south of North Camp Railway Station.

All information, recommendations and advice contained in this report are understood to be correct at the time of writing this report. Any change in circumstances will be updated verbally at the Committee meeting. Where a recommendation is either altered or substantially amended between preparing the report and the Committee meeting, a separate sheet will be circulated at the meeting to assist Members in following the modifications proposed.

4. Human rights

The Human Rights Act 1998 (the Act) has incorporated part of the European Convention on Human Rights into English law. Any recommendation either to take or not to take enforcement action has been assessed to make sure that the decision is compatible with the Act. If there is a potential conflict this will be highlighted in the individual report on the relevant item.

5. Financial implications

There are no direct financial implications arising from this report. However, in the event of an appeal, further resources will be put towards defending the Council's decision. Rarely, and in certain circumstances, decisions on planning enforcement cases result in the Council facing an application for costs arising from a planning appeal. Officers will aim to alert Members where this may be likely and provide appropriate advice in such circumstances.

Keith Holland
Head of Planning

BACKGROUND PAPERS

Rushmoor Local Plan Review (1996-2011)

Rushmoor Core Strategy (October 2011)

Planning Enforcement - Policies And Procedures

National Planning Policy Framework (NPPF)

Item 1 : Update

SITE LOCATION	Former Lafarge Site and adjoining land at Hollybush Lane North, south of North Camp Railway Station.
ALLEGED BREACH	Unauthorised material change of use of land to: (a) commercial car spares/car sales use; and (b) storage of scrapped cars; both with associated development comprising construction of bunds, hard-surfaces, roads, fences and siting of structures on the land.
RECOMMENDATION	Report be NOTED

1. INTRODUCTION

- 1.1 This report has been prepared to update Members with progress towards compliance with the Enforcement Notice upheld at appeal that relates specifically to the former Lafarge concrete batching plant. This is land that is surrounded by the fishing lakes to the north, east and south and bound by Hollybush Lane to the west.
- 1.2 The land lies within the Blackwater Valley green corridor (formerly a strategic gap) identified as 'countryside' by the Rushmoor Core Strategy. It is also land within Flood Zones 2 and 3, land at intermediate and high risk of fluvial flooding. The land is adjacent to the Ramillies Park Site of Importance for Nature Conservation (SINC), which is to the south.

2. RELEVANT HISTORY

- 2.1 Members may recall that the Council's Enforcement Notice served in September 2015 was subject to appeal heard at a Public Inquiry held in October 2016. The appeal was dismissed by two subsequent Inspector's decisions dated 30 November 2016 and 23 August 2017 and the Enforcement Notice upheld with some variations and an amended Notice Plan. The amended Enforcement Notice took effect from 23 August 2017 and imposes the following staged requirements:-

“(A) Cease using any part of the land for:-

- motor vehicle sales;***
- storage of motor vehicles;***
- storage of de-polluted motor vehicle bodies;***
- general storage of motor vehicle parts;***
- the siting of the Mobile Home used for residential purposes [already removed];***
- the siting of the Portable Buildings marked “B” on the Notice Plan;***
- car parking;***
- the siting of the watchtower/camera gantry.***

(B) Remove from the land:-

- all motor vehicles;
- all motor vehicle parts;
- the Mobile Home [already removed];
- the Portable Buildings marked “B” on the Notice Plan;
- the hardstanding in the area marked “H” and shown hatched black on the Notice Plan;
- the tarmac car park marked “C” and shown in black stippling on the Notice Plan;
- all lighting columns; metal freight containers; skips; storage tanks; fork-lift; truck; fork-lift pallets and boxes; temporary metal mesh fence panels; refuse bins; advertising and other signage; scaffolding; assorted scrap machinery; metal; sanitary ware, furniture, tools, plant equipment and other materials;
- the watchtower/camera gantry marked in the approximate position by a red circle on the Notice Plan.

(C) Take down the earth bunds and spread and level the resultant material on the appeal site returning the site to its former levels. Following this replant (and replace and replant any species which die or fail within five years of being replaced) the land shown marked “Y-Y” on the Notice Plan with a native mix of trees comprising oak, hawthorn, blackthorn, rowan, hazel and beech planted in a random order as young (‘whip’) saplings about 40 – 60cm in height at 1 metre separations into appropriately prepared soil.”

2.2 The timescales for the staged compliance with the requirements of the Enforcement Notice are set from the date when the Notice took effect and are, as a result:-

- Within 3 Months (i.e. **by 23 November 2017**) to remove from the land all of the portable buildings;
- Within 6 Months (i.e. **by 23 February 2018**) to comply with the remainder of the requirements in (A) and (B) above; and
- Within 12 Months (i.e. **by 23 August 2018**) to undertake the taking down of the earth bunds, the spreading and levelling of the resultant material on the appeal site returning the site to its former levels, and the planting of the cleared area Y-Y on the Notice Plan.

2.3 The amended Enforcement Notice Plan identifies the area of land to which the Notice relates and is attached at the end of this report.

3. THE CURRENT SITUATION

3.1 An inspection of the site was undertaken on 6 April 2018 as a check at an intermediate stage on the landowner’s progress towards compliance with the requirements of the Enforcement Notice. This has revealed that substantial progress has been made in meeting Requirements A and B of the Notice. Indeed, the site is now largely empty. All the uses of the site which were required to be ceased have ceased; the land has largely been cleared of cars, car parts, portable buildings, and assorted plant and materials; the concrete

hardstanding annotated “H” on the Notice Plan has been broken up; and the camera gantry and ‘watchtower’ kiosk removed. What remains to be removed from the land at this stage is as follows:-

- (a) A quantity of assorted building materials, plant, equipment, motor vehicles, skips and storage containers that belong to a Building Company that the landowner has allowed to store such items on the land. The landowner indicates that these items should have been removed by now, but the Building Company has been having difficulties finding a replacement storage site.
- (b) Portable toilet/canteen blocks and a small number of waste skips/containers, pallets and containers : the landowner has advised that these are being retained on site for the time being to provide facilities for the workers operating at the site and for the clean-up of the site that will be needed to implement the Notice requirements C;
- (c) The tarmac car parking area stippled black and annotated “C” on the Notice Plan;
- (d) Lamp columns : although the light units have been removed, the remainder of these installations still need to be removed;
- (e) A pile of waste/scrap wood;
- (f) A stack of metal sheet piles;
- (g) A small garden-type shed;
- (h) The support structure for the camera ‘watchtower’; and
- (i) Scaffolding surrounding the former concrete plant hopper tower : the landowner advises that this scaffolding is in place in order to undertake maintenance of the hopper tower, although no such works are apparent.

- 3.2 The next compliance date of the Notice is now 23 August 2018, by which time Requirements C of the Notice comprising the taking down of the bunds annotated “Y-Y” on the Notice Plan and the spreading of this material over the site and the landscape planting of the land where the bunds were located should have been completed. The landowner is making preparations to undertake this remedial work.

4 COMMENTARY

- 4.1 Unauthorised development took place on a scale that could not be ignored by the Council despite the land involved being isolated from the remainder of the Borough and with limited visibility from publicly-accessible places. The Enforcement Notice appeal decisions have established that clear-cut planning harm arose from the unauthorised development on the land and that that planning permission would be needed for any use of the land. Furthermore, any future use of the land would have to be compatible with the ‘countryside’ policy designation of the land and its flood risk status.
- 4.2 Once an Enforcement Notice has taken effect it remains effective in perpetuity providing a permanent prohibition of the breach(es) of planning control that are identified. Accordingly, any resumption of the breach(es) of planning control identified by an Enforcement Notice can be dealt with. Failure to comply with the requirements of an Enforcement Notice that has taken effect within the timescales that are specified by the Notice, or the resumption of

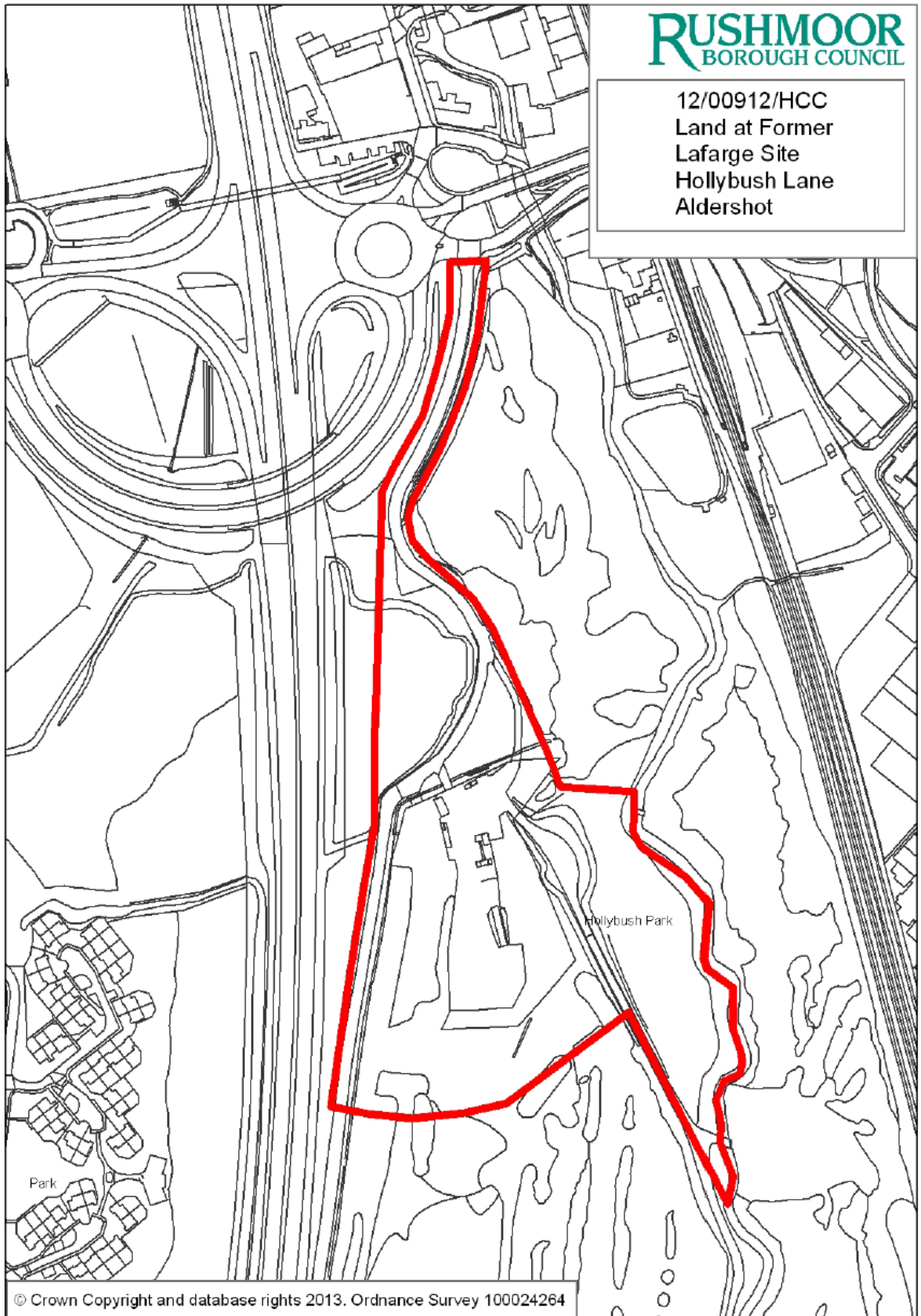
breach(es) identified by a Notice, results in an immediate offence being committed which it would be open to the Council to prosecute.

- 4.3 Whilst some further work is still need to be undertaken to comply with Notice requirements A & B, it is considered that substantial progress has been made towards meeting these requirements. The site is now largely cleared and the breaches of planning control mostly rectified. The landowner still has to undertake substantial further works at the site to comply with Notice requirements C by 23 August 2018 in respect of the taking down of the bunds enclosing the north, east and south margins of the Notice land. As a result, it is not currently considered expedient for the Council to commence prosecution proceedings in respect of the residual non-completion of the requirements A & B at this stage. The landowner is aware that there are some works to complete in this respect.

5 RECOMMENDATION

- 5.1 It is recommended that the report be NOTED.

12/00912/HCC
Land at Former
Lafarge Site
Hollybush Lane
Aldershot



Enforcement Notice Plan as modified by Appeals

