

Planning Committee

11 November 2022

Agenda item number 7.2

Enforcement- Land at North End Thorpe next Haddiscoe

Report by Head of Planning

Summary

An Enforcement Notice has been served which was not written in full accordance with the resolution of Planning Committee and so is invalid.

Recommendation

That the Enforcement Notice be withdrawn.

1. Background

- 1.1. In early 2020, reports were received of development taking place at a site off North End in Thorpe-next-Haddiscoe. On investigation, it was found that a dismantled, large storage building had been brought onto the site. Discussions with the operator established that they were storing the dismantled building on-site, pending resale or use elsewhere. In May 2020, further reports of development were received, and it was found that various structures and items of leisure and domestic paraphernalia had been brought onto the site. In addition, hardstanding had been put down at the site entrance, paths had been laid and a hedge planted.
- 1.2. This is a remote location with a strongly rural character, where the neighbouring land use is primarily agricultural. It was considered that the cumulative impact of the storage of the various structures and items, plus the laying of paths and fencing, had had the effect of altering the character of the land from rural countryside to having the appearance of a leisure plot and land used for storage. Planning permission is required for such a change of use. No application had been made and the operator, who had been advised that the activities on the site were unacceptable in planning terms, had failed to clear the site as requested.
- 1.3. A report was presented to the 4 December 2020 meeting of the Planning Committee with the following recommendation:

“ it is recommended that an Enforcement Notice is served requiring the clearance of the site and the cessation of its use as a leisure plot and for storage. A compliance period of 4 months would be appropriate.”

Member resolved unanimously to support the recommendation

2. The Enforcement Notice

- 2.1. The Enforcement Notice was served on 12 January 2021. The requirements of the Notice were for the operator to remove all the structures and equipment on the site, including the removal of the paths and the hedging.
- 2.2. An overall compliance period of four months was given.
- 2.3. Members will observe that the requirements of the Enforcement Notice as served were not in full accordance with the resolution of the Planning Committee, in that the requirement for the “ ... cessation of (the) use as a leisure plot and for storage” was omitted.

3. The legal issues

- 3.1. The Authority’s Scheme of Delegation in force in December 2020 delegated to officers the authority to serve an Enforcement Notice “In cases of urgency and (subject to consultation (if possible) with the Chair, or in the absence of the Chair the Vice-Chair, of the Planning Committee)” (May 2019 version para 39 (iii)). Clearly, this was not a case of urgency and the matter was, in any event, considered by Planning Committee, so the only authority for this Enforcement Notice was with the Planning Committee. As the Enforcement Notice as issued did not accord with the resolution of the Planning Committee, it is without legal authority and invalid.

4. Legal advice and next steps

- 4.1. The legal advice is that the Enforcement Notice does not accord with the resolution of the Planning Committee as it doesn’t deliver or require what is the cessation of the use and it must therefore be withdrawn.
- 4.2. The withdrawal of an Enforcement Notice is a straightforward process.
- 4.3. Having withdrawn it, however, it will then be necessary to make an assessment as to whether the remaining development on site constitutes a breach of planning control and, if it does, whether it is expedient to serve a further Enforcement Notice. The withdrawal of one Enforcement Notice does not preclude an LPA from the service of a further one.
- 4.4. At the most recent site visit on 12 September 2022, there were stacked timber posts, roofing sheets and small amounts of other materials on the site, plus minor domestic items including a fire pit and some seating. This was not so extensive as to constitute a storage use. The site had been strimmed since a visit earlier in the summer, when it had been very overgrown. It no longer had the domestic appearance it had had when the gazebo and patio structures were present. The paths and planting remained but, as noted in the report to the 1 April 2022 Planning Committee, the site will naturalise over

time. It is considered, on balance, that the remnant materials and structures do not constitute development and further action is not justified.

5. Conclusion and recommendation

- 5.1. The omission of part of the resolution from the Enforcement Notice was an error, and is regrettable, but it nonetheless has consequences for the validity of the Notice. The Enforcement Notice is legally invalid and must be withdrawn.
- 5.2. Whilst there has not been full compliance with the Enforcement Notice, sufficient works have been completed to overcome the principal issues and address the breaches so it is not considered necessary to consider further action.
- 5.3. It is recommended that the Enforcement Notice be withdrawn.

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Date of report: 28 October 2022

Appendix 1 – Location plan

Appendix 1 – Location map

