



**AGENDA ITEM: 8**

**PLANNING COMMITTEE:  
12th January 2012**

**Report of:** Borough Planner

**Relevant Managing Director:** Managing Director (Transformation)

**Contact for further information:** Miss E.O.M. Woollacott (Extn. 5135  
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**SUBJECT: ENFORCEMENT ITEMS**

**1. PURPOSE OF REPORT**

- 1.1 To bring to Members' attention those alleged breaches of planning control where a decision needs to be made as to whether authorisation be given to issue formal notices.

**2. RECOMMENDATION**

- 2.1 (a) That the Borough Solicitor be authorised to issue notices of the types and under the Sections of the Town and Country Planning Act 1990 as set out below, requiring the steps to be taken within the time periods and for the reasons, all as set out below.
- (b) That the Borough Solicitor be authorised to take proceedings where any steps required by the notice are not taken within the period for compliance and the Borough Planner be authorised to enter the land and take those steps. In the event of the Borough Planner having to take such action, he be authorised to recover the expenses reasonably incurred.
- (c) That the Borough Solicitor be authorised to withdraw, vary and re-issue notices if subsequent information indicates this to be necessary.
- OR
- (d) That no further action be taken.

### 3. BACKGROUND

- 3.1 The following report details an alleged breach of planning control where I consider authorisation to issue a notice would be appropriate. As with all such cases, I shall, during implementation of the appropriate procedures, continue to negotiate to try and achieve removal of the breach without the need for formal action. The case is set out below under report 4, including an indication of the type of notice, the steps to be taken, the time period for compliance and the reasons for the notice.

**ENFORCEMENT No. E/2011/0341/UAU**

**LOCATION LAND AT AUGHTON CHASE, SPRINGFIELD ROAD, AUGHTON**

**ALLEGED BREACH WITHOUT PLANNING PERMISSION THE CHANGE OF USE OF THE LAND FROM A SHOW CENTRE/INDOOR SPORTING ARENA TO A MIXED USE AS A SHOW CENTRE/INDOOR SPORTING ARENA AND THE SELLING OF CHRISTMAS TREES.**

- 4.1 The site, about 0.7 hectares in extent, is located behind a barn/former garden centre and electricity substation to the south-east of the junction of Springfield Road and the A59 (Liverpool Road). The site to the north-west of these buildings was formerly occupied by a restaurant, which was destroyed by fire in about 1993. There is a single dwelling to the west of this complex of buildings. To the south-west of the site there is a row of eight dwellings, which is located within Sefton M.B.C. The land to the north and east of the site is in agricultural use; mainly intensive arable. There is a nursery with greenhouses adjacent to the north-eastern boundary.
- 4.2 The site is 'L' shaped with a larger, single span asbestos clad building measuring about 62 metres by 22 metres. This large building was originally constructed in 1968 as an indoor riding school and cattle court. Permission 1983/0765 was granted in 1985 for the change of use to a dog show arena, with the scope subsequently widened to additional specified indoor sports (application 1987/1138). It was known as the Aughton Show Centre.

Therefore, the site, including the building, benefits from a long-standing planning permission for use as a show centre/indoor sporting arena, and events, such as dog shows, have been held there on an infrequent basis. Planning permission 2001/1074 was granted on appeal in August 2003 for the change of use to offices and the provision of car parking. This was subject to 12 conditions, four of which stated no development was to take place until details of materials, landscaping, tree protection and the disposal of surface water had been submitted. These conditions have not been complied with, so the permission has not been implemented and has now expired.

- 4.3 The access to the site is off Springfield Road, via a narrow tarmac track. This leads to a gravelled yard in front of the building. The surrounding land is generally open and rural in character and is within the Green Belt.

- 4.4 The Council have in the past received complaints that Christmas trees have been sold from various parts of the site in the weeks before Christmas, the last such complaint being in 2006. Due to the short duration of the use and the land not being within a curtilage of a building the Council has been unable to take action as Class B of Part 4 of the General Permitted Development Order 1995 permits the temporary use of land for not more than 14 days in any calendar year.
- 4.5 In December 2011 the Council received a complaint the Christmas trees were being sold from the Aughton Chase site in front (to the north) of the building. The scale of the enterprise is reflected by the fact that the value of the trees is some £12,000. The use commenced on the 28th November 2011 and the operator intends staying there until Christmas or when all the trees are sold. A generator and temporary lighting have been brought on to the site for use in connection with the sales together with a touring caravan being occupied at night for security. The trees themselves are displayed by being supported by the type of fencing used to screen development sites. In this particular case the land concerned is within the curtilage of a building and therefore no temporary use of the land is permitted.
- 4.6 Section 172(1) of the Town and Country Planning Act 1990 provides that a local planning authority may issue a notice where it appears there has been a breach of planning control and it is expedient to issue the notice having regard to the provisions of the development plan and any other material considerations.
- 4.7 Policy DS2 of the West Lancashire Replacement Local Plan relates to development in the Green Belt and reflects national advice in PPG2. Criterion 2 of Policy DS2 states planning permission will not be given except in very special circumstances for changes of use of land unless they would maintain the openness of the land and would not conflict with the purpose of including land in the Green Belt. An outdoor retail use, together with various paraphernalia, including the presence of a caravan and generator, does not fall within any of the prescribed categories of appropriate uses in the Green Belt and is, therefore, inappropriate development. The presence of an outside commercial use also detracts from the visual amenity of this rural area and so has a detrimental impact on the openness of the Green Belt. The use has resulted in material harm to the objectives of the Green Belt, in particular to safeguard the land from encroachment by inappropriate uses and to protect its fundamental characteristic, openness.
- 4.8 Part 4 of Policy DE10 (retail and other town centre development) will only permit out-of-centre sites being used for retail, leisure and entertainment uses if:
- there are no suitable alternative sites available;
  - the provision would sustain and enhance the vitality and viability of any existing centre;
  - there is a clearly defined need;
  - there is no adverse impact on residential amenity; and
  - the site is accessible and well served by a choice of means of transport.
- The selling of Christmas trees on this land in the Green Belt fails on at least the first three criteria. Therefore, it is contrary to Policy DE10, which aims to safeguard the retail uses within existing centres. Furthermore, it is contrary to Policy DE6 (the rural economy) as it is a retail use and does not involve the re-

use of an existing building. Also, there are lawful rural commercial enterprises, such as nurseries, which sell Christmas trees.

- 4.9 Although it is too late to take any formal action this year it is reasonable to anticipate the problem will return in 2012. Therefore, I consider it is expedient to pursue enforcement action to remedy this breach.
- 4.10 Type of notice - Enforcement notice under Section 172.

Compliance period – One month.

Steps to be taken:

1. Cease the use of the land and building for the sale of Christmas trees.
2. Remove from the land/site all the paraphernalia associated with such sales, including the generator, caravan and fencing.

Reasons for the service of the notice:

1. The use of the land for the selling of Christmas trees conflicts with Policy DS2 in the West Lancashire Replacement Local Plan and advice given in Planning Policy Guidance Note 2 (Green Belts) as it constitutes inappropriate development that detracts from the visual amenity and unduly reduces the openness of the Green Belt and involves encroachment in the countryside, thereby conflicting with one of the purposes of including land in the Green Belt aimed at safeguarding the countryside from encroachment by inappropriate uses.
2. The use of the land for the selling of Christmas trees conflicts with Policy DE10 in the West Lancashire Replacement Local Plan as there are other suitable alternative sites, it does not sustain and enhance the vitality and viability of any existing centre and there is no defined need for it in this location.
3. The use of the land for the selling of Christmas trees conflicts with Policy DE6 of the West Lancashire Replacement Local Plan as it is a retail use and does not involve the re-use of an existing building.