

PLANNING AND HIGHWAYS REGULATORY COMMITTEE

Gibraltar Farm, Lindeth Road, Silverdale

12 December 2011

Report of Head of Regeneration and Policy

PURPOSE OF REPORT			
To update the Committee on the results of ongoing investigations into camping and caravanning activities at Gibraltar Farm which were the subject of a petition to Council on 2011			
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input checked="" type="checkbox"/>
			Referral from Cabinet Member
Date Included in Forward Plan			
This report is public			

RECOMMENDATIONS

- (1) That the Committee note progress that is being made on the investigation
- (2) That Members confirm that a recommendation on this matter be referred to the Committee for decision rather than be determined under delegated powers.

1. Introduction

- 1.1 At its meeting on 14th September 2011 Council considered a petition from local residents in Silverdale which complained about errors made by the Regeneration and Policy Service with the issuing of a Certificate of Lawfulness for a seasonal caravan site at Gibraltar Farm. The petition also made allegations about other breaches of planning control relating to camping and caravanning activities on the site and asked the council to ensure that its officers continued to investigate those complaints even though the site owners had successfully rebutted the councils efforts to correct the error relating to Lawful use.
- 1.2 Council resolved that:-

a) The Heads of Regeneration and Policy and Health and Housing be instructed to conduct a detailed investigation into the allegations of unlawful activity at Gibraltar Farm contained in the petition documentation, and, in consultation with the Head of Governance to consider the expediency case for enforcement or other regulatory action under the Planning acts and other associated legislation, having regard to the impacts on the landscape and amenities of the Arnside/Silverdale AONB, the amenities of local residents, and any other material considerations.

b) That reports be prepared for Cabinet or the relevant regulatory committee as appropriate outlining the conclusions of those investigations to enable Members to consider recommendations on how to proceed.

c) That presentation of a report to Cabinet or the relevant regulatory committee be implemented before December 2011.

d) That Council officers preparing the report be required to consult with the organisers of the petition during the presentation of their report.

e) That a copy of the report be provided to the organisers of the petition in order for them to be able to supply written observations on the report when it is considered by Cabinet or the relevant regulatory committee.

1.3 This report has been prepared to update members on the investigations so far.

2.0 Procedural matters.

2.1 The council as the local planning authority has a duty to investigate alleged breaches of planning control in line with national policy on the enforcement of planning control (PPG.18). When investigating alleged breaches the aim is to consider firstly whether there is a breach and secondly whether (if there is a breach) it is expedient to take enforcement action. Clear evidence of harm which must be defensible at appeal has to be identified. It is not sufficient to take enforcement action simply because a development should have had planning permission.

2.2 It is important that the council always maintains its impartiality when investigating enforcement matters. Planning enforcement by its very nature often brings the private interest of one party into conflict with the interests of another. The council's duty is to act in the wider public interest and not simply to support the interests of either party in dispute. It should be noted that in this instance both the complainants and the landowners have accused the council in writing of acting in a biased manner. Both accusations are completely unfounded as the council, as always, pursues only the wider public interest.

2.3 After the council meeting the objectors asked council officers to consider whether there is merit in trying to reach a negotiated settlement with the landowners to try and achieve a resolution to the amenity impacts which they say are harming the living conditions of local residents and the amenities of the Arnside/Silverdale AONB. Such a negotiation has been successful in the South Lakeland part of the AONB with another caravan site operator. Because of the complex nature of this case in terms of planning law it is having to be handled by the Head of Regeneration and Policy and the Assistant Head.

2.4 Officers have been in contact with the landowners planning consultants and have so far experienced reasonable cooperation. Despite the landowners making counter complaints about the manner in which the council considered the petition they have

been prepared to provide the council with a comprehensive description of what they record as the uses they have undertaken on the site, and have more recently identified these activities on a plan of the site. They have also indicated a willingness, in principle, to enter into a negotiated settlement and have indicated areas where they have been prepared to self regulate their use of the land. Officers have now discussed the claims made with the objectors to look for areas of common ground.

3.0 Potential directions for the investigation.

- 3.1 At this stage it is not the purpose of this report to assess the planning and enforcement merits of the various claims although it is clear that the landowners cite rights to undertake activities under lawful use rules and deemed planning permissions granted by the General Permitted Development Order. Steps will be taken to assess these claims in detail and to discuss them with an external advisor with a specific expertise in complex enforcement law.
- 3.2 In the meantime, however the aim will be to continue to discuss the claims of lawful rights with local objectors and also to consider the self regulation identified by the land owners to see if there is scope for agreement between the parties to find compromise.
- 3.3 Senior Officers will try to ensure that this is done expeditiously especially to avoid the issue being unresolved by the start of the next holiday season but members need to be aware that senior staff including the Service Head are engaged in a number of major planning cases including major infrastructure planning proposals which cannot be set aside to prioritise this case alone. Members are aware of the pressures on other areas of the service.

RELATIONSHIP TO POLICY FRAMEWORK

The enforcement of Planning Control is one of the main tools to secure implementation of the Local Development Framework and to safeguard the community from unlawful development which causes material harm.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

This issue raises concerns of adverse impacts on the landscape and character of the Arnside/Silverdale AONB, and the amenities of local residents.

FINANCIAL IMPLICATIONS

There are no financial implications at this stage arising from the report.

SECTION 151 OFFICER'S COMMENTS

The S.151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

There are no legal implications at this stage arising from the report

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Petition from local residents reported to Council on 14th September 2011. Planning and lawful use applications relating to Gibraltar Farm.

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