

Planning Committee

Wednesday 27 August 2008 7.30pm

**Council Chamber
Runnymede Civic Centre, Addlestone**

Members of the Committee

Councillors G B Woodger (Chairman), D W Parr (Vice Chairman), Mrs F M Angell, J R Ashmore, Mrs F J Barden, J M Edwards, J R Furey, Mrs E Gill, C Knight, M T Kusneraitis, Mrs Y P Lay, H W V Meares, Mrs M Roberts, N Stewert and P B Tuley.

AGENDA

Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Mr B A Fleckney, Administration and Leisure Department, Committee Section, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425620). (Email: bernard.fleckney@runnymede.gov.uk).**
- 3) Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on www.runnymede.gov.uk.
- 4) Public speaking on planning applications only is allowed at the Planning Committee. For details please contact the Administrative Section of the Technical Services Department. **(Tel Direct Line: 01932 425174)**

- 5) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

LIST OF MATTERS FOR CONSIDERATION

PART I

Matters in respect of which reports have been made available for public inspection

	<u>Page</u>
1. FIRE PRECAUTIONS	5
2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP	5
3. MINUTES	5
4. APOLOGIES FOR ABSENCE	5
5. DECLARATIONS OF INTEREST	5
6. PLANNING APPLICATIONS	5
7. PLANNING APPLICATION FEE INCOME	6
8. ENFORCEMENT – 18-20 RIVERSIDE, LALEHAM REACH, CHERTSEY	6
9. PLANNING APPLICATIONS DETERMINED BY DIRECTOR OF TECHNICAL SERVICES	10
10. EXCLUSION OF PRESS AND PUBLIC	11

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection

- a) Exempt Information
(No reports to be considered under this heading)
- b) Confidential Information
(No reports to be considered under this heading)

GLOSSARY OF TERMS AND ABBREVIATIONS

TERM	EXPLANATION
BCN	Breach of Condition Notice. Formal enforcement action to secure compliance with a valid condition
Brownfield land	'Previously Developed Land'. Land which is or was occupied by a permanent (non-agricultural) structure, including the curtilage of the development (therefore includes gardens)
BVPI's	Best Value Performance Indicators. Specified by central government to measure performance on a wide range of Council services
CHA	County Highways Authority. Responsible for offering advice on highways issues relating to planning applications as well as highways maintenance and improvement
CIR	Government Circular – document setting out policy which has legal connotations
CLEUD	Certificate of Lawful Existing Use or Development. Formal procedure to ascertain whether a development which does not have planning permission is immune from enforcement action
CLOPUD	Certificate of Lawful Proposed Use or Development. Formal procedure to ascertain whether a development requires planning permission
Conservation Area	An area of special architectural or historic interest designated due to factors such as the layout of buildings, boundaries, characteristic materials, vistas and open spaces
CPA	Comprehensive Performance Assessment. An external process to assess the quality of individual Council's Performance (set out in the Local Government White Paper 2001). It brings together evidence from a range of internal and external sources, in addition to an on site inspection, in order to arrive at an overall category
DC	Development Control – the area of planning service that processes planning applications, planning appeals and enforcement work
Design Statement	A design statement is submitted with a planning application and sets out the design principles that the applicant has adopted to make the proposal fit into its wider context
Development Plan	The combined policy documents of the Structure Plan, Local Plan, Minerals and Waste Plans. Will shortly be replaced by the South East Plan, the Local Development Framework and the Minerals and Waste Frameworks
DTS	Director of Technical Services
EA	Environment Agency. Lead government agency advising on flooding and pollution control
EIA	Environmental Impact Assessment – formal environmental assessment of specific categories of development proposals
ES	Environmental Assessment under the Environmental Impact Assessment Regulations
FRA	Flood Risk Assessment
GPDO	General Permitted Development Order. Document which sets out categories of permitted development (see 'PD')
GOSE	The Government Office for the South East. This is the local office of the Deputy Prime Minister for the South East region of England
HGV	Heavy Goods Vehicle
LBC	Listed Building Consent
LDD	Local Development Documents – component parts of the LDF
LDF	Local Development Framework. The policy document that will guide development in the Borough up to 2026
LDS	Local Development Scheme - sets out the programme and timetable for preparing LDDs

TERM	EXPLANATION
Listed building	An individual building or group of buildings which require a level of protection due to its architectural interest, historical interest, historical associations or group value
LNR	Local Nature Reserve
Local Plan	The current planning policy document that will be replaced by the LDF
LPA	Local Planning Authority
LSP	Local Strategic Partnership – Leads on the Community Strategy
Material Considerations	Matters which are relevant in determining planning applications
Net Density	As defined in PPG3: Housing. The density of a housing development excluding major distributor roads, primary schools, open spaces serving a wider area and significant landscape buffer strips
PCN	Planning Contravention Notice. Formal notice which requires information to be provided in connection with an enforcement investigation. It does not in itself constitute enforcement action
PD	Permitted development – works which can be undertaken without the need to submit a planning application
PDG	Planning Delivery Grant. An annual grant from central government which reflects the previous year's performance in delivering planning services
P & I	Policy and Implementation – the area of planning service that produces the Local Development Framework, monitors development and supports the Runnymede Business Partnership and Travel Initiative
PINS	Planning Inspectorate
POS	Public Open Space
PPG	Planning Policy Guidance. This is guidance issued by the Secretary of State detailing National Planning Policy within existing legislation
PPS	Planning Policy Statements. The replacement title for PPG
Ramsar Site	A wetland of international importance
RIPA	Regulation of Investigatory Powers Act. Provides limitation on covert surveillance relating to enforcement investigation
SAC	Special Area of Conservation – an SSSI additionally designated as a Special Area of Conservation under the European Community's Habitats Directive 1992 in order to maintain or restore priority natural habitats and wild species
SCI	Statement of Community Involvement. The document and policies that indicate how the community will be engaged in the preparation of the LDF
SEA/SA	Strategic Environmental Assessment/Sustainability Appraisal – formal appraisal of the Local development Framework
SEEDA	South East England Development Agency
SEERA	South East England Regional Assembly – based in Guildford. Responsible for producing South East Plan
Sec. 106	A legal agreement for the provision of facilities and/or infrastructure either directly by a developer or through a financial contribution, to meet the needs arising out of a development. Can also prevent certain matters
SNCI	Site of Nature Conservation Importance. A non-statutory designated area of county or regional wildlife value
South East Plan	Regional Planning Document produced in draft form by SEERA. Will provide regional planning guidance and housing targets for individual Councils for the period up to 2026
SPA	Special Protection Area. An SSSI additionally designated a Special Protection Area under the European Community's Directive on the Conservation of Wild Birds 1979
SPD	Supplementary Planning Document – provides additional advice on policies in Local Development Framework (replaces SPG)
SSSI	Site of Special Scientific Interest
Structure Plan	Strategic guidance for the whole county produced by Surrey County Council. Will eventually be replaced by the South East Plan

TERM	EXPLANATION
SUDS	Sustainable Urban Drainage Systems. Providing urban drainage systems in a more environmentally sensitive way by systems designed to reduce the quantity of run-off, slow its velocity or provide for filtering, sedimentation and biological degradation of the water
Sustainable Development	Sustainable development is the core principle underpinning planning. It is defined as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs"
TA	Transport Assessment – assessment of the traffic and transportation implications of a development proposal
TPO	Tree Preservation Order – where a tree or trees are formally protected and prior consent is needed for pruning or felling
TRICS	Computerised database and trip rate analysis used to estimate traffic flows to and from a variety of land uses, to assess transportation implications of new development in southern England
Use Classes Order	Document which lists classes of use and permits certain changes between uses without the need for planning permission

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

3. MINUTES

To confirm and sign the Minutes of the meeting of the Committee held on 6 August 2008 (Appendix 'A') as a correct record.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

6. PLANNING APPLICATIONS

A list of planning applications to be determined by the Committee is attached.

If Members have particular queries or interests in certain applications, the application files will be available for inspection and Officers present from 7.00 p.m. prior to the meeting in the ante room of the Council Chamber. This will be an informal opportunity for Members to see further details of applications and representations and to discuss and clarify issues. Copies of all letters of representation will also be placed on the table in the Chamber prior to the meeting and will be available for inspection by Members.

OFFICERS' RECOMMENDATION that -

the said applications be determined as indicated and any permission granted be subject to the conditions authorised.

(TO RESOLVE)

Background Papers

A list of background papers is available from the Technical Services Department.

7. PLANNING APPLICATION FEE INCOME (DF)

1. Purpose of Report

1.1 **To inform the Committee of the latest position regarding planning application fee income compared to financial projections for the 2008/09 financial year.**

2. Background Information

2.1 The Financial Monitoring Statement was introduced to all Committees in September 2006 to inform Members of the current financial position of the services under the remit of each Committee. It is reported quarterly.

2.2 Each statement reflects an updated position based upon the 2008/09 original estimates approved by this Committee in January.

3. Report

3.1 When the Statement was reported to the June meeting of this Committee, Members expressed concern about the reduced income from planning application fees, compared to the financial projection for that period.

3.2 Whilst it was appreciated that the introduction of the Planning Tariff charges from 1 April might have temporarily slowed planning application submissions, there was wider concern about the impact of the slow down in the economy on the building industry and the effect on planning applications and fee income received.

3.3 The Committee therefore requested that an update on planning application income be brought forward on a regular basis. The Director of Finance will therefore be bringing updates to Committee meetings that follow the previous month's outturn.

3.4 The latest income figures are attached at Appendix 'B' and Officers will verbally comment thereon at the meeting.

(FOR INFORMATION)

Background Papers

None stated

8. ENFORCEMENT - 18-20 RIVERSIDE, LALEHAM REACH, CHERTSEY (DTS)

1. Purpose of Report

1.1 **To seek the authorisation of the Planning Committee to issue Enforcement Notices in respect of a change of use of the land for the siting of a mobile home, the storage of containers, and the erection of a conservatory and decking at Nos. 18-20 Riverside, Laleham Reach, Chertsey.**

2. Site description

2.1 The site is located on the western side of Laleham Reach, the western boundary of the site fronting the River Thames. The site falls within the designated Green Belt, an Area of Landscape Importance and is located within the River Thames flood plain (high risk zone 3b or functional floodplain). The site plan is shown at Appendix 'C'.

2.2 The mobile home has an approximate depth of 12.5 metres, an approximate width of approximately 9.8 metres and a height of some 3.8 metres. The attached brick based

conservatory has a width of some 3 metres, a depth of some 5.3 metres and a height of approximately 4 metres to the ridge.

3. Site History

- 3.1 CHE.7464 - Siting of caravan at 18 Riverside, Laleham Reach. Refused 26/09/1951. Appeal dismissed 29/11/1951.
- 3.2 CHE.7854 - Siting of caravan at 18 Riverside, Laleham Reach. Refused 23/07/1952.
- 3.3 CHE.20241 - To site 3 residential caravans at 18, 19 and 20 Riverside, Laleham Reach. Refused 14/06/1967.
- 3.4 CHE.23124 - proposed use of land as site for 3 caravans at 18,19 and 20 Riverside, Laleham Reach. Refused 13/01/1971. Appeal dismissed 21/07/1972.

4. Unauthorised Development

- 4.1 In September 1997 a complaint was received that a mobile home had been brought onto the site. The case officer at this time noted that the previous use of the site had been abandoned and was of the view that the mobile had been there no longer than 3 months. Enforcement action to remove the mobile home from the site was never pursued at this time. No certificate of lawfulness was ever granted on the site for this mobile home.
- 4.2 At the beginning of March 2007 a complaint was received that two mobile homes had been brought onto the site and joined together to make one residential unit and that a conservatory and area of decking had also been added to the mobile unit. This followed the demolition and removal of the previous mobile from the site. Aerial photographs from 2003 and 2008 show the new mobile to be larger than the one it replaced (see Appendix 'D'). Upon removing the original smaller mobile home from the land at 18-20 Riverside, Laleham Reach and bringing on much larger mobiles and then affixing a conservatory and decking to the mobiles, the owner lost any claim to the smaller mobile being lawful.
- 4.3 On 16 July 2007 a Planning Contravention Notice (PCN) was served on the resident and land owner, however no response was received. The PCN was re-served on the land owner and resident on 19 March 2008 at which time it was noted that an additional 5 no. containers had also been brought onto the site.
- 4.4 A meeting took place on 11 April 2008 with the resident of the mobile at which time it was confirmed via the PCN that the previous mobile had been removed and a new unit brought onto the site to replace it. It was also stated that the resident lives on site full time. The resident also stated that the 5 storage containers were a temporary measure to store equipment from an office they had recently rented out. A further site visit took place in the presence of the resident on 9 June 2008 where the unauthorised development was measured and photographs taken (see Appendix E).
- 4.5 The new larger mobile home and storage containers are unauthorised as no planning permission has been sought. There is some ambiguity in planning law as to whether a mobile home constitutes a change of use or operational development. The determining factor is based on the size and scale of the structure and its permanence. If the new mobile home and containers constitute a change of use then they are not immune to enforcement action as the change happened less than 10 years ago. If the new mobile home constitutes operational development then it is not immune from enforcement as it occurred within the last 4 years.
- 4.6 The attached conservatory and decking are unauthorised as no planning permission has been sought. These operational developments have not been in place for more than 4 years and as such are not immune from formal enforcement action.
- 4.7 The mobiles on their own could be classed as easily moveable structures and constitute a material change of use. However, with the conservatory and decking currently attached, the whole structure is not easily moveable and therefore constitutes operational development. The whole structure including the conservatory and decking have not been in place for more

than 4 years and are not immune from enforcement action. The proposal is to seek enforcement action, in the alternative, to cover both arguments (material change of use and operational development) at any subsequent appeal.

- 4.8 As a result authority to institute enforcement action, to remove the unauthorised operational development and changes of use which have occurred within the site is sought.
5. Planning Considerations
- 5.1 Planning Policy Guidance Note 2: Green Belts (PPG2) advises that the statutory definition of development includes engineering and other operations, and the making of any material change in the use of the land. The carrying out of such operations and the making of any material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the green belt. This advice is echoed by saved policy GB1 in the adopted local plan which states that there will be a strong presumption against development that would conflict with the purposes of the Green Belt or adversely affect its open character.
- 5.2 The current mobile home on site is a self contained 2 bedroom dwelling. It would constitute an additional dwelling in the Green Belt. Paragraph 3.4 of PPG2 states that the construction of a new dwelling including the conservatory and decking in the Green Belt is inappropriate unless it complies with five criteria such as essential for outdoor sport and recreation, for agricultural or forestry purposes or a limited extension to an existing dwelling. The mobile home does not meet any of these criteria and is therefore inappropriate development in the Green Belt.
- 5.3 The 5 storage containers on site are also considered to represent inappropriate development as do the decking area and conservatory which have been added to the mobile home.
- 5.4 Inappropriate development is by definition harmful to the Green Belt. In such situations very special circumstances need to be demonstrated to overcome the harm to the Green Belt. In this case there does not appear to be any very special circumstances.
- 5.5 The mobile home, storage containers, decking and conservatory are therefore considered to be inappropriate development in the Green Belt which is detrimental to the openness of the Green Belt. The mobile home, storage containers, decking and conservatory are also considered to be detrimental to the visual amenities of the Green Belt. The mobile home and storage containers, decking and conservatory are therefore considered to be contrary to the relevant Local Plan Policies and PPG2.
- 5.6 This site also falls entirely within the 1 in 20 year flood extent of the River Thames. Planning Policy Statement 25 : Development and Flooding defines this area as Flood Zone 3b or 'functional floodplain'. The Environment Agency has been consulted about the unauthorised change of use and operational development and has objected to this type of development in this location as the development introduces additional residents into an area of functional floodplain, will reduce floodplain storage and has an adverse impact on floodwater flows.
- 5.7 The Environment Agency comments that mobile homes are classified as Highly Vulnerable Developments in PPS25. Highly Vulnerable Developments should not be permitted in Flood Zone 3b (Table D.3. of PPS25). A new dwelling in an area at risk of flooding results in an increased number of residents at risk and an added burden on the emergency services. As such a route of safe access would be required from any new buildings. It has not been demonstrated that such an access route can be provided. The proximity of this site to the Thames and its location in the 1 in 20 year flood extent suggests that this site and surrounding areas are likely to be impacted by high flows and high depths of flooding, particularly during larger flood events.
- 5.8 The Environment Agency also states that development in the floodplain displaces floodwaters. The displaced water will increase flood risk elsewhere. Any development at risk of flooding must not increase flood risk either on that site or elsewhere. A mobile home, conservatory, decking and large storage containers will take up floodplain storage on a site that has previously remained undeveloped and vacant. These structures have a total footprint of approximately 215 square metres. It is not possible to provide any form of

compensation as the site lies within Flood Zone 3b. The Environment Agency will support the Council should enforcement action be undertaken and an appeal lodged. However they state that given the scale of the development and the number of appeals they are experiencing, their support may be restricted to a written statement.

- 5.9 Planning Policy Guidance Note 18: 'Enforcing Planning Control' (PPG18) indicates that in considering any enforcement action, the decisive issue should be whether the breach would unacceptably affect public amenity or the existing use of the land meriting protection in the public interest.
- 5.10 The decision as to whether or not it is expedient to take formal enforcement action is at the Planning Authority's sole discretion but regard must be had to planning policies and the circumstances of the planning breach. The decision must not be unreasonable, i.e. based on irrational factors, taken without proper consideration of the relevant facts and planning issues, or based on non-planning grounds.
- 5.11 In this instance, Government Guidance stated in PPG2 : 'Green Belts' and reflected in the Development Plan policies, is clear and concise. The relevant PPG2 guidance and planning policies resist the creation of an additional self contained residential unit. For the reasons explained above the mobile home, storage containers, decking and conservatory are inappropriate development in the Green Belt. It is therefore considered expedient to take enforcement action to remove the mobile home, storage containers, decking and conservatory in order to protect the Green Belt.

6. Human Rights Act 1998 Considerations

- 6.1 The Committee is reminded of the European Convention on Human Rights Article 8, the right to respect for private and family life and the home and Article 1 of the First Protocol, the right to peaceful enjoyment of possessions. Any interference with those rights must be in accordance with the law, proportionate and necessary in a democratic society. The Committee must not act in a way, which is incompatible with convention rights. Members must balance the interference with the rights, which taking enforcement action would represent, and the interest of the public in protecting the openness of the Green Belt.
- 6.2 The taking of enforcement action can amount to an interference with a person's rights. Nonetheless, such measures can be taken if they:
- are in accordance with the law;
 - pursue the legitimate aim of protecting the rights of others through preservation of the environment; and
 - are necessary in a democratic society where the interference answers a pressing social need and in particular is proportionate to the legitimate aim.

7. Financial Considerations

- 7.1 If the Committee decides to take enforcement action and the applicant decides to exercise his right of appeal, this case is likely to be determined by a Public Inquiry. An Inquiry will incur costs which may require a supplementary estimate if the budgetary provision for such Inquiries is overspent.

OFFICERS' RECOMMENDATION that -

- i) the Director of Administration and Leisure be authorised to issue Enforcement Notice (s) under Section 172 of the Town and Country Planning Act 1990 (as amended) requiring:**
- **the demolition of the mobile home, conservatory and decking and removal from the site;**
 - **that the use of the site for the siting of a mobile home in residential use and 5 no. storage containers ceases;**

- **the mobile home in residential use and 5 no. storage containers be removed from the site;**
 - **the decking and conservatory be demolished and removed from the site;**
 - **the hard standing created for the siting of the mobile home in residential use be dug up and removed from the site; and**
 - **the removal of any resultant debris, rubble and materials from the site as a result of the removal of the mobile home, storage containers, decking, conservatory and hard standing.**
- ii) the Director of Administration and Leisure be authorised to take appropriate action in carrying out necessary works or prosecution under Sections 178 and 179 of the Town and Country Planning Act 1990 in the event that these notice (s) once effective are not complied with.**

Reason for Issuing Enforcement Notices

- 1. The mobile home in residential use, decking, conservatory and storage of 5 no. x containers represents an inappropriate and harmful development in the Green Belt which would be prominent and detrimental to the openness and the visual amenities of the Green Belt, contrary to saved Policy LO4 of the Surrey Structure Plan 2004, saved Policy GB1 of the Runnymede Borough Local Plan Second Alteration April 2001 and the advice in Planning Policy Guidance Note 2 : 'Green Belts'.**
- 2. The Planning Authority is not aware of any very special circumstances that exist to justify the granting of planning permission contrary to saved Policy LO4 of the Surrey Structure Plan 2004, saved Policy GB1 of the Runnymede Borough Local Plan Second Alteration April 2001 and advice contained in Planning Policy Guidance Note 2 : 'Green Belts'.**
- 3. The site falls entirely within the 1 in 20 year flood extent (functional floodplain) of the River Thames. The mobile home in residential use, storage of 5 no. containers, erection of a conservatory and decking introduces a highly vulnerable development and additional residents into an area of functional floodplain, will reduce floodplain storage and have an adverse impact on floodwater flows contrary to saved Policy SV2 of the Runnymede Borough Local Plan Second Alteration April 2001 and advice contained within Planning Policy Statement 25: Development & Flooding.**

(TO RESOLVE)

Background Papers

Planning Contravention Notices
Letters to the owner/occupant

9. PLANNING APPLICATIONS DETERMINED BY DIRECTOR OF TECHNICAL SERVICES (DTS)

A list of planning applications recently determined by the Director of Technical Services under his delegated powers is attached at Appendix 'F'. If Members have any particular matters they wish to raise, prior notice to the Chairman would be of assistance.

(FOR INFORMATION)

Background Papers

None

10. EXCLUSION OF PRESS AND PUBLIC

If Members are minded to consider any of the foregoing reports in private, it is the

OFFICERS' RECOMMENDATION that -

the press and public be excluded from the meeting during discussion of the following reports under Section 100A(4) of the Local Government Act 1972 on the grounds that the report in question would be likely to involve disclosure of exempt information of the description specified in appropriate paragraphs of Part I of Schedule 12A of the Act.

(TO RESOLVE)

PART II

Matters involving Exempt or Confidential information in respect of which reports have not been made available for public inspection.

a) Exempt Information

(No reports to be considered under this heading)

b) Confidential Information

(No reports to be considered under this heading)