

## Item No. 9

**Enforcement No:** E/08/0124

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<b>Type:</b>	Unauthorised Change of use	<b>Date of Complaint:</b>	22 <sup>nd</sup> May 2008
<b>Developer:</b>	Mr C. D. Mount		
<b>Breach:</b>	Unauthorised change of use from agricultural land to land for the siting of shipping containers for commercial storage and the construction of a bund and hardstanding.		
<b>Location:</b>	Hill Top Farm, 30 King Street, Barkby Thorpe, Leicestershire, LE7 3QE		
<b>Parish:</b>	Barkby Thorpe	<b>Ward:</b>	Queniborough Ward
<b>Case Officer:</b>	Mr J Short	<b>Extension:</b>	4736

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### Description of the Unauthorised Development

A hardstanding area has been created, a bund constructed and a number of blue shipping containers sited at Hill Top Farm. Approximately half of the development site is within the Barkby Conservation Area and the site is also within the High Leicestershire Area of Particularly Attractive Countryside.

The development can be clearly seen from King Street as the site occupies an elevated position. The containers are rented out for storage not related to the agricultural use of the site and are intended to be used permanently as a commercial venture. By this virtue, they can also be considered permanent structures.

Mr Moore's Agent has stated a desire to submit an application for change of use and retention of the containers and bunding. However, despite many assurances that an application was being prepared, nothing has been submitted to date.

- **Development Plan Policies**

#### Borough of Charnwood Local Plan (adopted 12<sup>th</sup> January 2004)

EV/1 – Design – The Borough Council will seek to ensure a high standard of design in all new developments. Planning permission will be granted for new development which:

CT/1 – General Principles for Areas of Countryside, Green Wedge and Local Separation – Land lying outside the defined Limits to Development is variously identified on the Proposals as Countryside, Green Wedge or Areas of Local Separation. Development within these areas of generally open land will be strictly controlled.

CT/2 – Development in the Countryside – In areas defined as Countryside, development(s) acceptable in principle will be permitted where it would not harm

the character and appearance of the countryside and provided it could safeguard its historic, nature conservation, amenity, and other local interest.

CT/7 – Areas of Particularly Attractive Countryside – Within the designated Areas of Particularly Attractive Countryside planning permission will be granted for uses where the proposal would not detract from the essentially undeveloped rural character of the landscape, damage natural features and landform or diminish the visual amenities afforded by important viewpoints.

CT/10 – Rural Diversification - Planning permission will be granted for proposals to diversify the rural economy in locations outside the Limits to Development defined on the Proposals Map provided all the required criteria are met.

TR/6 – Traffic Generation - Planning permission will not be granted for development on non-designated sites where there would be a detrimental impact caused by traffic generated by an individual proposal or the cumulative impact together

TR/17 – The Impact of Traffic on Minor Rural Roads - Planning permission will not be granted for development in locations where it would result in a significant change in the amount or type of traffic using rural roads or roads through villages.

- **Other Policies**

PPG 18, Enforcing Planning Control, gives advice about planning enforcement. It advises that the decisive issue in considering enforcement action should be whether the breach of control is unacceptably affecting public amenity or the existing use of land or buildings.

PPS 1, Delivering Sustainable development, sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. The Statement includes the advice that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by, amongst other things, protecting and enhancing the natural and historic environment, the quality and character of the countryside.

PPG 4, Industrial, Commercial Development and Small Firms, takes a positive approach to the location of new business developments and assisting small firms through the planning system. The main message is that economic growth and a high-quality environment have to be pursued together.

The locational demands of industry should be a key consideration in drawing up plans. Development plans should weigh the importance of industrial and commercial development with that of maintaining and improving environmental quality

PPS 7, Sustainable Development in Rural Areas, sets out the Government's planning policies for rural areas, which local authorities should have regard to when preparing local development documents, and when taking planning decisions.

PPG 15, Planning & the Historic Environment, provides a full statement of Government policies for the identification and protection of historic buildings, conservation areas and other elements of the historic environment. It explains the role played by the planning system in their protection.

- **Other Material Considerations**

The Crime and Disorder Act 1998 places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the authorisation of enforcement proceedings.

The issue of **human rights** is a material consideration in the determination of planning applications and enforcement issues. Article 8 of the Human Rights Act 2000 requires respect for private and family life and the home while Article 1 of the First Protocol provides an entitlement to peaceful enjoyment of possessions. However, these rights are “qualified”. It is necessary to consider whether refusing planning permission and/or issuing an enforcement notice would interfere with the developer’s human rights. If it would, the Committee must decide whether any interference is in accordance with the law, has a legitimate aim and is proportionate.

The impact on the human rights of the developer must be balanced against the public interest in terms of protecting the environment and the rights of other people living in the area. In this case, the development is unauthorised and enforcement action to remedy the breach of planning control and protect the character of the Conservation Area and High Leicestershire Area of Particularly Attractive Countryside would represent a proportionate response which can legitimately override the developer’s human rights under Article 8.

### **Relevant Planning History**

No planning application or application for a Certificate of Lawfulness has been received despite numerous reassurances that an application was imminent.

### **Responses of Statutory Consultees**

No comments have been sought from the Highways Agency.

### **Other Comments Received**

A complaint was received in relation to this development. The complainant considers the containers to be an eyesore.

### **Consideration of the Planning Issues**

The containers can be seen from King Street on the approach to the village of Barkby Thorpe from quite a distance. The siting of the containers appears as an incongruous and unattractive feature in the Barkby Conservation Area and High Leicestershire Area of Particularly Attractive Countryside. The containers are blue and appear as alien and intrusive features in the landscape and are more akin to an

industrial estate than a countryside environment. The bunds are an unnatural feature in the landscape and are not considered appropriate development in this location. The entire development detracts from the natural character and landscape of the area. In addition, the site is visually prominent and located partly in the conservation area. The storage of unsightly containers detracts from the character and appearance of this part of the conservation area.

The siting of such storage features in a rural location is not considered a sustainable use. Whilst diversification of rural enterprises is encouraged the activities should not result in a detrimental impact on the rural character of the area. The use is likely to generate traffic on rural road networks and as a consequence result in a detrimental effect on the local environment.

The development therefore conflicts with ; PPS 1, PPG 4, PPS 7, PPG 15 and the Saved Policies in the Borough of Charnwood Local Plan; EV/1, CT/1, CT/2, CT/7, CT/10, TR/6 and TR/17.

## **RECOMMENDATION:**

### **Authorise Enforcement Notice**

It is **RECOMMENDED** that the Committee:

authorise the Director of Development and the Director of Governance and Procurement to take enforcement action under the Town and Country Planning Act 1990 and the Director of Governance and Procurement to institute and conduct any legal proceedings necessary to secure compliance with the enforcement notice;

give the following reasons why it is expedient to authorise enforcement action:

- a) It appears to the Council that the above breach of planning control has occurred within the last 10 years.
- a) The use of the land for open storage of containers is considered unsuitable in this location in Barkby Conservation Area and High Leicestershire Area of Particularly Attractive Countryside and is an unacceptable and unwarranted development that has an adverse impact on the intrinsic character of the countryside.
- b) The development is considered contrary to PPS 1, PPG 4, PPS 7, PPG 15 and the Saved Policies in the Borough of Charnwood Local Plan; EV/1, CT/1, CT/2, CT/7, CT/10, TR/6 and TR/17.
- c) The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections.

confirm that the notice will require the following steps to be taken:

- a) Cease the use of the site for storage purposes
- b) Remove from the site all storage containers.
- c) Remove the bund from the South and West boundaries of the hardstanding and remove the hardstanding

- d) Remove from the site all resulting arisings
- e) Return the land to its condition prior to the unauthorised development.

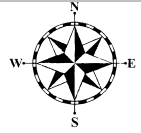
give the following period for compliance with the notice:

6 months

for the purposes of any appeal proceedings, resolve that, had a planning application been received in relation to the unauthorised development described above, permission would have been refused for the reasons set out in the preceding section of this report.



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**Location:** Hill Top Farm, 30 King Street, Barkby Thorpe, Leicester, LE7 3QE  
**Scale:** 1:1250

