

PI/2006/00194 Land on the south-east side of Newtown Lane, Romsley

RECOMMENDATION: that authority be granted for the issue of a Breach of Condition Notice for failure to comply with Condition 3 of planning permission B/2005/0777.

Purpose of Report

To advise Members of a breach of planning control and to seek authority for the issue of a Breach of Condition Notice.

Consultations

Liaison has taken place with the Senior Solicitor (Legal Services) and with the Area Planning Manager.

The site and its surroundings

The site is a rectangular parcel of land extending to 0.92 hectares sited at the junction of Newtown Lane and Woodfield Lane, Romsley.

Human Rights

This has been considered but is not felt to be relevant.

Relevant Policies

WMSS QE1, QE3, QE6, T1
WCSP D.38, D.39, T.1, CTC.1, CTC.2, CT.4
BDLP DS2, DS13, RAT2, RAT16, RAT17, TR11
Others PPS1, PPG2, PPS7

Relevant Planning History

B16805 Change of use from covered exercise yard to riding school
B/1991/1736 Formation of outdoor riding area with all weather surface
B/2004/0264 Outdoor riding arena

Notes

Planning permission was granted under planning application B/2004/0264 for an outdoor riding arena. The provision of parking as shown on the approved plan received 16.04.2005 for this application included the provision of 10 parking spaces and condition 3 required that this area be provided prior to the use of the facility. The plan indicated parking running parallel to the east boundary of the outdoor school in two banks of five.

Planning permission subsequently granted under planning application B/2005/0777 included an amended parking layout. The re-siting includes siting five spaces along the

hedge line fronting Newtown Lane and the minor re-siting of the other bank of five spaces. Condition 3 states that:

The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surface, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority and these areas shall thereafter be retained and kept available for those uses at all times.

On 9th June 2006, a complaint was registered by the Enforcement Section with regard to the discharge of the above planning condition. A site visit was made and it was established that the condition had not been complied with. A letter dated 05.10.2006 was sent to the applicant outlining the breach and requesting a date for compliance. No response has been received. A further site visit was made and the condition has not been complied with.

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Section 187A of The Town and Country Planning Act 1990 empowers a Local Planning Authority to serve a breach of condition notice. This requires any person who is carrying out or has carried out a development under a planning permission where conditions were imposed and have not been complied with, to do so. The notice, which may be withdrawn, must specify what is to happen.

There is no right of appeal against the procedure to the Secretary of State, because the merits of the conditions are not in issue, although Judicial Review may be sought if the notice is issued outside statutory powers. If the recipient does not comply with the notice a criminal prosecution in the magistrates court for being in breach should follow. All the elements in the offence will have to be proved at this point and there is a defence that the recipient took all reasonable measures to secure compliance or that the person served no longer has control of the land.