



Meeting:	Development Control Meeting
Date:	9th February 2005
Subject:	Pinner Park Farm, George V Ave, Hatch End.
Responsible Officer:	Chief Planning Officer and Head of Legal Services
Contact Officer:	Glen More
Portfolio Holder:	Planning, Development and Housing
Key Decision:	No

Section 1 : Summary

This report relates to the unauthorised change of use of land at Pinner Park Farm. The site lies within the Green Belt and has been used for agricultural purposes since at least 1935. A complaint was received in May 2004 that the use of part of the site had changed to a highway contractors depot with offices, the storage/tipping of materials and engineering works in the construction of a raised track.

The development prejudices the openness of the Green Belt and as such it constitutes inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. It is therefore recommended that an enforcement notice be served.

Decision Required

Recommended (for decision by the Development Control Committee)

The Director of Legal Services be authorised to:

- (a) Issue Enforcement Notices pursuant to Section 172 of the Town and Country Planning Act 1990 requiring:
- (b)
 - (i) Cease the use of the land as a highway contractors depot.
 - (ii) Cease the use of the land for storage (Class B8).
 - (iii) Cease the use of the land for tipping.

- (iv) Permanently remove the stored/tipped material, including cold planings, stone, pavings, concrete rubble, asphalt, grit, various forms of timber and general builders rubble from the land.
 - (v) Permanently remove all highway contractor's machinery, road signs and traffic cones from the land.
 - (vi) Permanently remove the concrete bastions erected to extend the enclosed yard area to the south of the farm building complex. Permanently remove the material used to form the raised track (marked on the plan) from the land.
- (c) [(b)] (i) and (v) should be complied with within a period of three (3) months from the date on which the Notice takes effect.
- (d) [(b)] (ii) (iii), (iv), (vi) and (vii) should be complied with within a period of one (1) month from the date on which the Notice takes effect.
- (e) Issue Notices under Section 330 of the Town and Country Planning Act 1990 (as amended) as necessary in relation to the above alleged breach of planning control.
- (f) Institute legal proceedings in event of failure to:
- (i) supply the information required by the Head of Legal Services through the issue of Notices under Section 330 of the Town and Country Planning Act 1990;
- and/or
- (ii) comply with the Enforcement Notice

Reason for Report

To ensure the alleged breach of planning control is ceased, to protect the integrity of the Green Belt.

Benefits

To enhance the environment of the borough.

Cost of Proposals

None at this stage.

Risks

Any enforcement notice may be appealed to the Planning Inspectorate.

Implications if recommendations rejected

The detriment to the Green Belt will continue.

Section 2 : Report

Site Description

The appeal site comprises a farm located on George V Avenue.

The main farm complex is close to the public highway, and comprises a considerable number of buildings including the original farmhouse, listed barns, a now defunct dairy and more modern agricultural buildings.

Towards the south of the main group of buildings lies a row of 3 terraced dwellings, Pinner Park Farm Cottages, and to their south lies a large, modern agricultural building with a yard surrounded by concrete bastions.

The site lies within the Green Belt

Relevance to Corporate Priorities

This report addresses the Council's stated priority of enhancing the environment of the borough.

The Change in the Use of the Land

The land is owned by Harrow Council, and let on an agricultural tenancy.

Following a complaint from a member of the public several visits have been made to the site by members of the Planning Enforcement Team. At the site they have found:-

- The movement of existing concrete bastions around the extended yard.
- The refitting of the large agricultural building to the south of the site, including the provision of offices.

- The storage of plant and equipment in this yard and building, and in the vicinity of the old dairy building.
- the storage and tipping of considerable amounts of material including cold planings, stone, paving stones, concrete rubble, asphalt, grit, various forms of timber and general builders rubble.
- An engineering operation in the creation of a raised track adjacent to the rugby football ground to the northern boundary of the site.

Government Advice

Planning Policy Guidance Note 2 (Green Belts)

There is a general presumption against inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

With regard to the re-use of buildings PPG2 indicates:-

With suitable safeguards, the re-use of buildings should not prejudice the openness of Green Belts, since the buildings are already there. It can help to secure the continuing stewardship of land, especially by assisting farmers in diversifying their enterprises, and may contribute to the objectives for the use of land in Green Belts. The alternative to re-use may be a building that is left vacant and prone to vandalism and dereliction.

The re-use of buildings inside a Green Belt is not inappropriate development providing:

- (a) it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it;

- (b) strict control is exercised over the extension of re-used buildings, and over any associated uses of land surrounding the building which might conflict with the openness of the Green Belt and the purposes of including land in it (e.g. because they involve extensive external storage, or extensive hardstanding, car parking, boundary walling or fencing);
- (c) the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction; and
- (d) the form, bulk and general design of the buildings are in keeping with their surroundings. (Conversion proposals may be more acceptable if they respect local building styles and materials, though the use of equivalent natural materials that are not local should not be ruled out).

If a proposal for the re-use of a building in the Green Belt does not meet the criteria or there are other specific and convincing planning reasons for refusal (for example on environmental or traffic grounds), the local planning authority should not reject the proposal without considering whether, by imposing reasonable conditions, any objections could be overcome. It should not normally be necessary to consider whether the building is no longer needed for its present agricultural or other purposes. Evidence that the building is not redundant in its present use is not by itself sufficient grounds for refusing permission for a proposed new use.

With regard to visual amenity in the Green Belt PPG2 indicates:-

The visual amenities of the Green Belt should not be injured by the proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design.

Planning Policy Guidance Note 4 (Industrial and Commercial Development and Small Firms)

Guidance on the acceptability of new commercial development is given in PPG4, it indicates:-

The characteristics of industry and commerce are evolving continuously, and many businesses can be carried on in rural and residential areas without causing unacceptable disturbance through increased traffic, noise, pollution or other adverse effects. Individual planning decisions will of course depend on such factors as the scale of the development, the nature of the use of the site and its location.

It is now generally recognised that it may not be appropriate to separate industry and commerce-especially small-scale developments from the residential communities for whom they are a source of employment and services. In areas which are primarily residential, development plan policies should not seek unreasonably to restrict commercial and industrial activities of an appropriate scale – particularly in existing buildings – which would not adversely affect residential amenity. Planning permission should normally be granted unless there are specific and significant objections, such as a relevant development plan policy, unacceptable noise, smell, safety and health impacts or excessive traffic generation. The fact that an activity differs from the predominant land use in any locality is not a sufficient reason, in itself, for refusing planning permission.

Planning Policy Guidance Note 18, Enforcement

Guidance is given on the approach that should be taken to the enforcement of planning control. It indicates that Local Planning Authorities have a general discretion to take enforcement action, where they regard it as expedient. They should be guided by the following considerations:-

- (1) Parliament has given LPAs the primary responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative area (the private citizen cannot initiate planning enforcement action);
- (2) the Commissioner for Local Administration (the local ombudsman) has held, in a number of investigated cases, that there is “maladministration” if the authority fail to take effective enforcement action which was plainly necessary and has occasionally recommended a compensatory payment to the complainant for the consequent injustice;

- (3) in considering any enforcement action, the decisive issue for the LPA should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest;
- (4) enforcement action should always be commensurate with the breach of planning control to which it relates (for example, it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site); and
- (5) where the LPA's initial attempt to persuade the owner or occupier of the site voluntarily to remedy the harmful effects of unauthorised development fails, negotiations should not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or to compel it to stop (LPAs should bear in mind the statutory time limits for taking enforcement action).

Development Plan Policies

The Harrow Council Unitary Development Plan 2004 has several relevant policies that relate towards this type of development and particularly development in the Green Belt.

Policy SEP6 relates to Areas of Special Character, Green Belt and Metropolitan Open Land, it states:-

SEP6 The Council will identify appropriate uses on land designated as an Area of Special Character, Green Belt or Metropolitan Open Land, in considering development proposals in these areas, the Council will ensure that such developments have no significant adverse impact on the integrity, character, appearance, amenity and nature conservation value of the site and the surrounding area, or on public access and enjoyment of the countryside.

A number of more specific policies relate to this development:-

- EP33 Planning applications for development in the Green Belt will be assessed in relation to whether:
- A) The proposal is appropriate to its Green Belt location
 - B) The proposal is well designed in relation to the size and shape of the site and in particular, whether sufficient space exists within the site and its surroundings;
 - C) The proposal retains the openness and character of the Green Belt;
 - D) Existing trees and natural features are retained, and a high standard of landscaping could be achieved;
 - E) Any proposed structure would conflict with the purposes and the proper functioning of the Green Belt;
 - F) Any aspect of the proposal would have an adverse visual impact on the skyline and adjacent areas; and
 - G) In the case of replacement dwellings there would be any material increase in site coverage, bulk and height of buildings.
- EP34 Proposals to extend building as, including residential units, in the Green Belt should:-
- A) Minimise adverse environmental impact on the Green Belt character and be appropriate in terms of bulk, height and site coverage in relation to total site area;
 - B) In the case of extensions to dwellings, not result in disproportionate additions over and above the size of the original dwelling; and
 - C) Contribute to the reduction of any existing environmental problems on the site.
- EP36 The Council will encourage the retention of existing farm land in the Green Belt in order to protect the rural character and features which have evolved over a number of years. Development will only be allowed if it can be shown to the satisfaction of the Council that:-

- A) Other significant Green Belt advantages such as improved landscaping and facilities for public access will result;
- B) It will be developed in conjunction with an appropriate Green Belt use;
- C) It will not result in the loss of good quality agricultural land; and
- D) Other criteria for development in the Green Belt as set out in Policies EP32 and EP33 are met.

The Council will seek to ensure that improvements to the appearance and character of the land, and its value for nature conservation, will be secured by the implementation of appropriate land management.

EP37 The Council will consider applications for planning permission for the re-use of existing buildings in the Green Belt by reference to the criteria set out under Policy EP34 and the following additional criteria:-

- A) Whether any of the buildings have been erected under the General Permitted Development Order within four years prior to the application;
- B) Whether the proposed use has a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it.
- C) Whether the buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction; and
- D) Whether there is a need to withdraw Permitted Development Rights for any subsequent development.

The Development Plan refers to the enforcement of planning control in Policy I4, which states:-

The Council will take enforcement action in the following situations:-

- 1) Where there has been a breach of planning control giving rise to harm to an interest of acknowledged importance and where the Council considers it expedient to do so; and
- 2) Where the condition of a site is detrimental to the amenities of the area in which it is located.

Options Considered

The re-use of buildings within the countryside, including Green Belt areas may in some circumstances be acceptable. Planning Policy Guidance Note 2 and UDP Policy EP37 reflect a clear attitude that such development is only acceptable subject to provisos, in particular the question of whether or not the new use has a materially greater impact than the present use on the openness of the Green Belt.

The yard to the south of the built-up area of the farm has been extended across the previous silage pit and an area of open farmland, with the deposit of a considerable amount of material, to raise the level of the land. This may have taken place over 4 years ago, but more recently that a section of the yard was surrounded by tall concrete bastions and that these have been re-sited to surround the new extended yard.

Within the yard highway contractors machinery is stored, though to a greater degree this machinery cannot be seen from outside the yard as it is behind the high concrete bastions.

The large modern agricultural building facing this yard has undergone alteration works, including the installation of an office. However, this office is within an existing building, and as such does not add an additional impact onto the Green Belt in its own right.

Part of the site comprises a previous dairy building. A number of highway signs and traffic cones are stored near the main dairy building. These appear alien in the context of the agricultural use of the land and out of character with the previous dairy use.

A considerable amount of storage/tipping has taken place in open areas around the land. With the exception of a raised track to the north of the land, this tipping/storage is concentrated in areas close to existing buildings in the farm complex.

The alleged breaches of planning control are significant, and detrimental to visual amenity by reason of their siting, materials and design and the openness of the Green Belt. Should a planning application be submitted for the retention of the unauthorised uses of this land, the imposition of reasonable conditions could not overcome these objections.

In PPG4 the Government give advice on the acceptability of new commercial development. They indicate that the fact that an activity differs from a predominant land use is not sufficient reason in itself, for refusing planning permission. However, in such cases planning permission should not be granted where there are specific and significant objections, such as a relevant development plan policy.

In addition to the above mentioned Policy EP37, other Policies relate to the following relevant issues:-

1. Development should not have a significant adverse impact on the character, appearance or amenity of the Green Belt.
2. Development should retain the openness of the Green Belt.
3. Existing features should be retained and a high level of landscaping attained.
4. Subject to some provisos the Council will encourage the retention of existing farmland within the Green Belt.

This development fails to comply with those relevant issues. As such, it is recommended that a planning enforcement notice be issued.

The Alleged Breach of Planning Control

1) Making a material change in the use of the land from agriculture to a mixed use of agriculture, highway contractors yard (including offices), storage (Class B8) and tipping, and

2) the extension of an existing yard area with the erection of concrete bastions around the perimeter, and

3) engineering works on the land comprising the construction of a raised track (shown on the attached plan, and hereinafter referred to as “the track”).

Reasons for issuing the notice

It appears to the Council that the above breaches of planning control 2 and 3 have occurred within the last four years, and alleged breach of planning control 1 has occurred within the last 10 years.

The movement of the concrete bastions, the engineering operation and making of a material change in the use of the land to agriculture, highway contractors depot, storage / tipping has resulted in additional development detrimental to visual amenity and the openness of the Green Belt, contrary to policies SEP6, EP33, EP34, EP36 and EP37 of the Harrow Council Unitary Development Plan 2004.

The Council do not consider that planning permission should be granted because planning conditions cannot overcome these problems.

Consultation with Ward Councillors

Not applicable.

Financial Implications

None.

Legal Implications

Included in the report.

Equalities Impact

None.

Section 3 : Supporting Information/Background Documents

None.