

**WEST OXFORDSHIRE DISTRICT COUNCIL**

**UPLANDS AREA PLANNING SUB-COMMITTEE:**

**MONDAY 3 DECEMBER 2018**

**ORCHARD COTTAGE, OLD LONDON ROAD, CHURCHILL:**

**NON-COMPLIANCE WITH ENFORCEMENT NOTICES 358 AND 359**

**REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING**

**(Contact: Kim Smith, Tel: (01993) 861676)**

**1. PURPOSE**

To enable Members formally to consider whether it is expedient to authorise further action to resolve the breach of planning control at the above site.

**2. RECOMMENDATIONS**

- (a) That new Enforcement Notices be issued to address both the unauthorised residential occupation of the site and to require the removal of the structures including the mobile home, all outbuildings and chattels, from the land; and
- (b) That the Head of Planning and Strategic Housing be authorised to approve the Enforcement Notices, and to specify the compliance period(s) prior to issue.

**3. BACKGROUND**

3.1. Members will recall that at the October meeting of the Uplands Area Planning Sub Committee that Officers updated the Sub-Committee on the outcome of three Enforcement Notice appeals relating to Orchard Cottage. In all three of the appeals the Notices were found to be nullities as they did not comply with the requirements of the Town and Country Planning Act 1990 in that the Notices did not specify what was to be done and within what period it was to be done. The Notices simply gave a set date, as yet unknown, on which the requirements were to be complied with. Members indicated that they did wish to continue with enforcement action but given that a report on the matter was not included on the agenda, meaning that no notice was available as to any intended decision, and nor did the minutes record what specific actions were to be taken, it is necessary to bring a formal report to this meeting for consideration.

3.2. In light of the above when considering how to action the ongoing breach of planning control which Members are already very familiar with there are three possible options which are set out in the following paragraphs.

**Option One: Take no further action**

3.3. Given the open countryside location of the site and the fact that consideration for a permanent dwelling/residential use of the site has been refused and dismissed at appeal consistently over time, your Officers consider that taking no further action in respect of the breach is not appropriate. The policy context both nationally and locally has not 'materially' changed in respect of dwellings in unsustainable open countryside locations.

## **Option Two: Proceed to prosecution for breaching the terms of EN 358 and 359**

- 3.4. Your Officers have taken legal advice on this and have been advised that, given the age of the original Enforcement Notice (issued in January 1997), the wording of the Enforcement Notice (personal to Mrs Lambert only), Human Rights issues pertaining to the contraveners connection with the land since 1972 when she lived there with her mother and her present personal circumstances, it cannot be said with any certainty that a prosecution would be successful, particularly on public interest grounds.

## **Option Three: Issue a new Enforcement Notice/s to address both the unauthorised residential occupation of the site and requiring removal of the structures from the land**

- 3.5. Your Officers consider that given the policy concerns in respect of this breach it is expedient to serve fresh Enforcement Notices which will seek to address the defects in the Notices the subject of the recent appeals and have regard to the contravener's long term connections with the land and any human rights issues that arise from these connections.
- 3.6. Whilst it is recognised that historically the Council under-enforced EN359 which required removal of the mobile home and other structures, under enforcement has resulted in the site being reoccupied for residential purposes. Bearing this in mind Officers consider that it is expedient not only to enforce in respect of the residential use but also in respect the mobile home, buildings and chattels that serve the use.

## **4. ALTERNATIVES/OPTIONS**

The alternative courses are as set out in the preceding section of this report.

## **5. RISKS AND FINANCIAL IMPLICATIONS**

There are no risks or financial implications arising from this report.

Giles Hughes

Head of Planning and Strategic Housing

(Author: Kim Smith, Tel: (01993) 861676; EMail: kim.smith@westoxon.gov.uk)

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Background Papers:

None