

Report of	Meeting	Date
Director of Partnerships, Planning and Policy	Development Control Committee	3 November 2011

## ENFORCEMENT ITEM

**TITLE: CHANGE OF USE OF LAND FROM AGRICULTURE TO STORAGE;  
ERECTION OF THREE NO. STORAGE / INDUSTRIAL UNITS; AND SITING ON LAND  
OF 4 NO. METAL STORAGE CONTAINERS, ON LAND AT TOWNGATE WORKS,  
DARK LANE MAWDSLEY**

### PURPOSE OF REPORT

1. To consider whether it is expedient to serve an enforcement notice in respect of the above matters.

### RECOMMENDATION(S)

2. That it is expedient to issue an Enforcement Notice in respect of the following breaches of planning control:

### Alleged Breach A

2.1. Without planning permission the material change of use of the land from agriculture to use of the land for storage purposes and as a builders yard.

### ii Remedy for Breach

1. Cease the use of the land for storage purposes by removing all building materials including bricks, concrete blocks, gravel, sand, tiles,
2. Remove all vehicles, heavy plant, machinery from the land hatched black.
3. Remove the timber building; vehicle shelters, concrete block enclosures; storage containers; former lorry body, timber crates from the land.
4. Remove the areas of hard standing comprising tarmac, hardcore material, plantings/chippings in the area hatched black on the attached plan.
5. Reinstate the land by sowing grass seed in the area hatched black.

### iii (a). Period for Compliance

Six Months.

### iv (b). Reason.

The use of the land for open storage purposes would be inappropriate development within

the Green Belt, which by definition is harmful to the Green Belt. In addition no very special circumstances exist that would outweigh the harm caused to the Green Belt by a of its inappropriateness. Furthermore, the development by way of the extent of area used, the nature of storage use, the type of items stored on the land and the associated hardstanding and buildings and the loss of an open field, causes significant harm to the character and openness of the Green Belt and countryside. The unauthorised development is contrary to policies DC1, and EM5 of the Chorley Borough Local Plan Review Adopted Edition and policy of the North West Of England Plan Regional Spatial Strategy (RSS) to 2021, and provisions within PPS1: Delivering Sustainable Development PPG2: Green Belt; PPS4: Planning for sustainable Economic Growth and PPS7: Sustainable Development within Rural Areas.

### **Alleged Breach B**

2.2. Without planning permission the erection of three no. industrial / storage units.

#### **ii Remedy for Breach**

1. Demolish the three industrial / storage buildings, and return land to its previous state.

#### **iii (a). Period for Compliance**

Three Months.

#### **iv (b). Reason.**

The three no. storage / industrial units erected at the site are located within the designated Lancashire Green Belt wherein only limited forms of development are considered appropriate. The provision of additional industrial / storage units at the industrial estate is inappropriate development in the Green Belt. Inappropriate development is by definition is harmful to the Green Belt. It is considered that no very special circumstances exist that would outweigh the harm caused to the Green Belt by way of its inappropriateness. Therefore, the unauthorised units are contrary to policies DC1, and EM5 of the Chorley Borough Local Plan Review Adopted Edition and policy of the North West Of England Plan Regional Spatial Strategy (RSS) to 2021, and provisions within PPS1: Delivering Sustainable Development; PPG2: Green Belt; PPS4: Planning for Sustainable Economic Growth and PPS7: Sustainable Development within Rural Areas.

### **Alleged Breach C**

2.3. Without planning permission the siting of four no. industrial / storage containers on the land.

#### **ii Remedy for Breach**

1. Remove the four no. metal storage containers from the land.

#### **iii (a). Period for Compliance**

Two Months.

#### **iv (b). Reason.**

The four no. storage containers sited on the land are located within the designated Lancashire Green Belt wherein only limited forms of development are considered appropriate. The provision of additional storage containers at the industrial estate is inappropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt. It is considered that no very special circumstances exist that would outweigh the harm caused to the Green Belt by way of its inappropriateness. Therefore, the unauthorised units are contrary to policies DC1, and EM5 of the Chorley Borough Local Plan Review Adopted Edition and policy of the North West Of England Plan Regional Spatial Strategy (RSS) to 2021, and provisions within PPS1: Delivering Sustainable Development; PPG2: Green Belt; PPS4: Planning for Sustainable Economic Growth and PPS7: Sustainable Development within Rural Areas.

## **EXECUTIVE SUMMARY OF REPORT**

3. The land comprises the Towngate Works site which is an existing industrial estate comprising a variety of single and two storey industrial and business units located in the Lancashire Green Belt. Policy RDF4 of the North West of England Plan RSS to 2021, seeks to retain the boundaries of the Green Belt within the north-west region. Policy DC1 of the Chorley Borough Local Plan reinforces national planning policy set out in PPG2: Green Belt and sets out that only limited forms of development would be appropriate development in the Green Belt. In addition, that inappropriate development is by definition harmful to the Green Belt and would only be acceptable in very special circumstances.
4. Policy EM5 of the Local Plan further states that extensions to industrial and business premises located beyond a defined settlement or established employment area would only be acceptable in a number of criteria, and in the Green Belt, where very special circumstances exist. PPS4 and PPS7 further seek to protect the intrinsic character and beauty of the countryside and strictly control economic development in such locations.
5. The issue for consideration in this case is whether the unauthorised development carried out constitutes inappropriate development within the Green Belt, and whether there are any very special circumstances that would outweigh the harm caused to the Green Belt by reason of its inappropriateness and the impact on its character and openness. Therefore, whether the unauthorised development conforms to the requirements detailed in Policies DC1 and EM5 of the Chorley Borough Local Plan Review Adopted Edition, Policies RDF4, W3 of the RSS, and provisions within PPG2, PPS4, and PPS7.

## **REASONS FOR RECOMMENDATION(S)**

### **(If the recommendations are accepted)**

6. The site is located within the Lancashire Green Belt wherein only limited forms of development are considered to be appropriate, including (a) agriculture and forestry;; (b) essential facilities for outdoor sport and outdoor recreation, for cemeteries or other uses of land which preserve the openness of the Green Belt and do not conflict with its purposes; (c) limited extension, alteration or replacement of existing dwellings providing it is in accordance with Policy DC8A; (d) the re-use of existing buildings providing it is in accordance with Policy DC7A; (e) limited infilling in accordance with Policy DC4; (f) to provide affordable housing for local needs in accordance with Policy DC5; (g) the re-use, infilling or development of Major Developed Sites in

accordance with policy DC6.

7. The unauthorised change of use of the land is not for any of the above purposes set out in policy DC1 or PPG2 and therefore constitutes inappropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt and would only be considered acceptable in very special circumstances. The Council is not aware of any very special circumstances that would outweigh the harm caused by way of its inappropriateness.
8. Furthermore, it is considered that by way of the extent of the use; the nature and characteristics of the use as a builders yard and for open storage; the extent of the area of hardstanding; and the number of buildings, structure and enclosures subsequently erected on the land; the unauthorised change of use causes significant harm to the character and openness of the Green Belt and surrounding countryside. In addition the use and associated operational development encroaches into the open countryside to the detriment of the character of the surrounding area. Therefore, it is considered to be contrary to Policies DC1 and EM5 of the Chorley Borough Local Plan Review Adopted Edition, Policies RDF4 and W3 of the North West of England Plan RSS to 2021 and provisions within PPG2 and PPS7.
9. With regards to the unauthorised storage / industrial buildings, it is noted these are located within the established industrial estate site in an area previously identified for landscaping and planting. The four unauthorised metal storage containers are also located on an area of hardstanding within the established industrial estate site. It is noted that one of these unauthorised storage units (P6A) is used by an existing business Fox Construction who occupy other adjacent units (Units D, C4, C5) on the estate to the northeast. Nevertheless, from a site visit undertaken in August 2011 it was noted that there were in excess of 20 units that were either vacant or to let. These were of a variety of size, type and location within the business / industrial estate.
10. All these other existing vacant units are within the Towngate Works site and within a distance of approximately 100 metres from the existing Fox Construction units on site. Therefore it is considered that there is currently an existing supply of vacant units on site within reasonable distance offering a variety of size, and form. Therefore, it is considered that there is no over-riding need for the additional three storage / industrial units on site, and four no. metal storage containers. Furthermore, due to the number of units that are currently vacant, there is a demonstrable lack of demand for these further units on the site.
11. With regards to policy EM5 of the Local Plan, it is noted that the three no. additional units would respect the design and materials of other buildings on the estate. Whilst the four storage containers would not respect the design and appearance of other buildings on site, given their location in the site, screening to the side and rear and the surrounding context of the industrial estate, it is not considered that their design and appearance would be inappropriate. In addition, it is considered that the unauthorised storage units and metal containers would not result in significant additional traffic over the present position; nor would harm the amenity of nearby residents, or harm any archaeological, historical or ecological asset. it is not considered
12. However, the site is located within the Green Belt, wherein its most important aspect is its openness. It is considered that by their very nature and size and scale the

additional buildings would detract from the openness of the Green Belt. Furthermore, having regard to the above, it is considered that there are no very special circumstances for these additional 3 industrial / storage units that would outweigh the harm caused to the Green Belt. Subsequently, the retention of the units on site would be contrary to policies DC1 and EM5 of the Local Plan.

## ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

13. None

## CORPORATE PRIORITIES

14. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	X
Safe Respectful Communities		Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			

## BACKGROUND

15. The site comprises the Towngate Works site, Dark Lane, Mawdesley, which is an existing industrial estate comprising a variety of business, storage and light industrial uses within use classes B1, B2 and B8 of the Town and Country Planning Use Classes Order. The site is located within the Lancashire Green Belt, and whilst a previously developed site it is not allocated as a major developed site within the Green Belt.
16. The various units and buildings at the Towngate Works site have built up sporadically over a period of time of which some have been granted planning permission, and some becoming lawful through the passage of time.
17. With regards to the outstanding breaches of planning control, the land now used for open storage was previously an open grassed field last used for grazing. The present use of the land for the storage of building materials, heavy plant and machinery, vehicles, concrete mixers, scaffolding equipment, and storage containers for use associated with building firm is clearly a material change of use.
18. The three no. storage / industrial units comprise brick walls, corrugated metal sheet roof with metal doors. As such it is considered that the storage / industrial units would clearly constitute a building operation. Therefore, it is considered that development as defined within Section 55 of the Town and Country Planning Act 1990 (As Amended) has taken place for which planning permission is required.
19. With regards to the four no. green metal storage containers placed on the land, there are various legal authorities that have set out the principles to be used in assessing whether a structure is a building. These authorities suggest that three primary factors are relevant in that assessment: size, permanence and attachment to the ground. In terms of size, the individual metal containers are approximately 5 metres in length, by

2 metres in width by 3 metres in height. They are therefore of substantial size individually and the three containers sited adjacent to each other form a large presence. It is noted that the container is not directly fixed to the grassed area of ground but uses its weight to rest upon metal legs.

20. With regards to permanence, each container is designed to be carried on a vehicle and placed upon the land using a crane. A crane was not observed to be present on site, and therefore it is unlikely that they could be moved frequently or easily. In addition, as noted by their siting in a row and in the corner of the site, doors opening on to the access road and the various items stored around the it is unlikely they will be moved frequently.
21. Taking all three elements into consideration it is concluded that the combination of size, its weight, the transportation of the containers to the land and the limitation of mobility, the likelihood that it will remain in situ is of significance and it is considered that the metal containers are buildings in a similar manner to other buildings and other containers converted to buildings on site. Therefore, it is considered that operational development as defined within Section 55 of the Town and Country Planning Act 1990 (As Amended) has taken place for which planning permission is required.
22. Planning permission has not been granted for the use of the land and operational development undertaken on it by way of an application. On balance of the evidence, the use of the land for storage purposes appears to have commenced within the preceding 10 years. With regards to the operational development to form the three no. units, n the balance of the evidence it appears this has occurred within the preceding 4 years. Therefore, the development carried out is unauthorised and in breach of planning control.

### IMPLICATIONS OF REPORT

23. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		No significant implications in this area	x

### COMMENTS OF THE DIRECTOR OF PARTNERSHIPS, PLANNING & POLICY

24. None

Lesley-Ann Fenton  
 Director of Partnerships, Planning & Policy

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Christopher Hobson	5229	13/10/11	***