

ENFORCEMENT REPORT

Recommendation to panel

ISSUE AN ENFORCEMENT NOTICE - ACTION BE TAKEN:

Enforcement Notice requirements

- i. Cease the use of land as a Stud Farm and Commercial Livery**
- ii. Cease the use of land for residential purposes**
- iii. Remove all good and chattels from the land used in connection with the unauthorised use, including, but not limited to, horse boxes and the metal container.**
- iv. Remove all horses from the land that are kept in connection with the Stud Farm and Commercial Livery**
- v. Remove the caravan / mobile home from the land**

The period of compliance shall be 2 months from the date of this Notice

Reference and Site:

16/50097 – Land at Fairview Stables, Darlings Lane, Maidenhead, SL6 6PB

Contravention:

Without planning permission the material change of use of the land from the keeping of horses for recreational use, including stabling and grazing of horses, and training and exercising of horses in the approved ménage

to

A commercial stud farm and livery with residential occupation

Person(s) responsible:

- Ms Marjolein Russnak-Johnston – Fairview Stables, Darlings Lane, Maidenhead, SL6 6PB
- Mr Robert Johnston - Fairview Stables, Darlings Lane, Maidenhead, SL6 6PB

Relevant Planning History:

Application 425297 – Retention of internal access road and replacement of lean-to to existing stables. Approved 4 December 1991.

11/00231/FULL - Restoration and enlargement of existing manege with post and rail fencing and a step jump. Approved 18 March 2011

Site and Surroundings:

The site is located on the western side of Darlings Lane with the land further west of the site is open countryside. The site has the benefit of planning permission for a ménage and a stable building conditioned that no commercial activity takes place and no more than six stables. On the eastern side of Darlings Lane are residential units. The land is within the Green Belt.

History:

In 2012 the Enforcement Team investigated an unauthorised business use taking place on the land. The investigating officer noted the following:

I visited the site and met the owner, Minnie, for a prearranged meeting to discuss the office use in one of the barns. I met the owner and she directed me inside the barn next to the access track. She lead me into a tack room and through a door which leads into a small office. I noted two desks, a PC, a phone and a printer. I asked the owner what the office was used for. She stated that it was used in connection with the running of the site, which is a livery, to take bookings, keep records, order supplies and to carry out horse riding analysis with horse riding students. I stated that we had been advised that a recruitment agency called Go Partnership was operating from the office. She stated that she works part time for Go Partnership on a free lance basis. I asked if this involved clients coming to her office. She stated that the only people who came to her office were horse riding students. She explained that most of her time is spent on running the livery and she does her recruitment work in a number of locations including her home.

No enforcement action was recommended and the file closed.

In 2014 the Enforcement Team investigated an alleged breach of planning control for the siting of horseboxes and a shipping container, being used for storage of residential items. Following a site visit and discussions with the occupant it was noted by the investigating officer that the owner identified 2 of the structures as being mobile horse shelters and the container was being used for the storage of household items. Officers notes:

Fairview stables did no appear to have an electric gate, new stable, storage container or other works occurring on site. The adjacent stable did have electric gates, a storage container and new stables so I moved across to this site. I met the owner who refers to herself as Minnie and her partner. She claims that the electric gates are approved and that the stable blocks brought on to the land are temporary structures as they are on sleds. A storage container is located to the rear of the site which contains their household belongings. The reason given for this is that they spend 6 months of the year in France and have decided to rent out their property. The temporary stables have been provided both for the purposes of housing the horses whilst the main stables is rebuilt as it has become structurally unsound and then to provide room to expand at a later date.

No enforcement action was recommended and the file closed.

Following a planning application for re-development of the site in the spring of 2016 it was apparent that the temporary horse shelters (boxes) and shipping container remained on the land. It was also alleged a mobile home was being used for residential purposes.

The Council served a Planning Contravention Notice on 30 March 2016 and a further Planning Contravention Notice on 14 July 2016. The response to the notices identifies that the loose boxes

and caravan (mobile home) remain on the land as does the storage container, however, the storage container is now used (allegedly) to store horse feed. The structures were stated to have been brought on to the land in 2014 and the container in 2012. The notice also stated that the current use of land was a Stud Farm and Livery.

Following discussions with the planning agent it has since transpired that the information that has been supplied in the Planning Contravention Notice dated 14 July 2016 is contradictory to the new evidence supplied, namely the two structures and when these were brought on to the land. It is now alleged that these were brought on the land in 2011 and would be immune from enforcement action, if they were considered operational development.

Officers must now conclude that the information in the Planning Contravention Notice is misleading. Paragraph 2 within the warning section of the notice states that it is an offence, knowingly or recklessly, to give information in response to the notice which is false or misleading in a material particular. It is officer opinion the information supplied was done so knowingly and the Council now may invite the land owner to the Council Offices for an interview under PACE conditions for an alleged offence under Section 171D (5).

It has been alleged in the Planning Contravention Notice that the land has been used as a Stud Farm and Livery with occupation since 2009 by the current owners and the use since 1995. This information is contrary to that supplied as part of the planning application submitted in 2011 (11/00231) and refers to the period of time covered by the questions within the PCN. As such the information supplied within the PCN is unreliable. It is the Council’s view that the last authorised use of the land was that detailed in the 2011 application i.e *“equestrian land for the stabling , grazing and training of exercise horses”* This use would not include a stud farm and livery nor the siting of a caravan for residential purposes. Furthermore, the introduction of the caravan for residential use in 2016 constitutes a material change of use of the site. The effect of this is that there has been a material change of the use of the planning unit within the past year. As such the current use as a Stud Farm and Livery and siting of a caravan for residential occupation is unauthorised.

Assessment of expediency

The reasons for taking formal enforcement action are set out below.

In deciding if the matter is expedient to take enforcement the Local Planning Authority has considered The Royal Borough of Windsor and Maidenhead Planning Enforcement Policy (Adopted April 2016), the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations adopted June 2003) and the National Planning Policy Framework (NPPF).

The main strategic planning considerations applying to the site and the associated policies are:

<i>Issue</i>	<i>Local Plan Policy</i>	<i>Compliance</i>	
Acceptable impact on Green Belt	GB1, GB2 and GB7		No

The change of use and the siting of goods and chattels have an impact on the openness of the green belt. The land benefits from a stable block to facilitate the lawful recreational use and the proliferation of mobile temporary structures is deemed inappropriate use of land within the Green Belt and it is the Local Planning Authority's opinion that the use is by definition an inappropriate use in the green belt. It is therefore the Local Planning Authority's opinion that taking enforcement action is the only way to remedy the breach of planning control and thereby the harm to the Green Belt. Any lesser steps would result in the harm to the Green Belt continuing. It is therefore right and proportional for the Authority to take such action as recommended.

REPORT PREPARED BY:

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