

Report No.
DRR/14/003

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: DEVELOPMENT CONTROL COMMITTEE

Date: 7th January 2014

Decision Type: Non-urgent Non-Executive Non-Key

Title: LAND AT SNAG LANE, CUDHAM PROPOSED ARTICLE 4 DIRECTION

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Chief Officer: Chief Planner

Ward: Darwin

1. Reason for report

- 1.1 An area of land to the east of Cudham Lane North and bounded to the east by Snag Lane has recently been purchased by a development company based in Bahrain who have made enquiries regarding the long term possibility of releasing the land for residential development.
- 1.2 The land comprises approx. 25 acres of agricultural land which has in recent years been used as pasture for grazing. The land is within the Green Belt where there is a presumption against inappropriate development unrelated to agriculture or other uses appropriate to the Green Belt. Although the land is considered to have no development potential in the foreseeable future there is concern that it may be fragmented and sold in the form of small 'leisure plots'. In this way its open, rural character could be eroded by uncontrolled development which would normally not require planning permission.
- 1.3 It is therefore considered expedient to make an Article 4 Direction to remove certain classes of 'permitted development' as there is concern that sub-division of the land into small plots could undermine the open character and visual amenities of the area due to indiscriminate development including fencing, structures, temporary uses of land, and stationing of caravans.

2. RECOMMENDATION(S)

- 2.1 To the Portfolio Holder that an Article 4 Direction be made on land Between Cudham Lane North and Snag Lane as indicated on the attached plan (Appendix 1) to remove permitted development rights for the following classes of development:
- (i) erection or construction of gates, fences, walls or other means of enclosure (Class A of Part 2);
 - (ii) formation, laying out and construction of means of access ... (Class B of Part 2);
 - (iii) provision of temporary buildings, etc. (Class A of Part 4);
 - (iv) temporary uses of land for any purpose for not more than 28 days per year (Class B of Part 4);
 - (v) use of land as a caravan site (Class A of Part 5)

Corporate Policy

1. Existing Policy
 2. BBB Priority: Quality Environment
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Financial

1. Cost of proposal: Cannot be quantified at this moment in time
 2. Ongoing costs: Non-Recurring Cost
 3. Budget head/performance centre: Planning and Renewal
 4. Total current budget for this head: £2.618m
 5. Source of funding: existing revenue budget 2013/14
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Staff

1. Number of staff (current and additional): 64 ftes
 2. If from existing staff resources, number of staff hours: 5
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Legal

1. Non-Statutory - Government Guidance
 2. Call-in: Not Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): approx..500
householders in surrounding area
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? The Report follows concerns raised by the Ward Member
2. Summary of Ward Councillors comments: n/a

3. COMMENTARY

- 3.1 The land at Snag Lane comprises 25 acres of pasture on the east side of Cudham Lane North as indicated on the attached plan (Appendix 1). The land is within the Green Belt and retains its open, rural character. The small residential enclave around Hazelwood lies to the west of Cudham Lane but the character of the surrounding area is otherwise open countryside predominantly in agricultural use.
- 3.2 In early 2013 part of the land was offered for sale and purchased by a development holding company based in Bahrain. It acquired the land as a long term property investment and enquired about the possibility of residential development. Given the location within the Green belt and the general presumption against inappropriate development the company were advised that there was very little prospect of the land being released for development in the medium to long term.
- 3.3 As the land has very limited potential for new development there are local concerns that a development company may decide to sell the land as small 'leisure plots' for a variety of inappropriate uses or forms of development which do not require planning permission. In other parts of the Borough where similar threats have arisen – such as Shire lane and Keston Fruit Farm - Directions have been made under Article 4 of the GPDO to remove permitted development rights for certain classes of development which would otherwise not require permission but could erode the rural character and openness of the countryside. Article 4 Directions have also been in place at Walden's Farm and Layhams Road for many years and have had some positive impact in preventing the erosion of amenity.
- 3.4 The land at Snag Lane forms part of an extensive area of open countryside within the Green Belt, which serves an important Green Belt function in maintaining its open character and preventing the coalescence of adjoining settlements. It has considerable landscape value and is at present largely devoid of urban intrusion, other than several isolated dwellings and farm buildings. The land has in the past been used for grazing and generally retains its open character.
- 3.5 Sub-division into small plots threatens to undermine the character and appearance of the landscape by the erection of fencing, structures, temporary uses of land and other forms of development which would otherwise be permitted development under the General Permitted Development Order, over which the Council would otherwise have no control.
- 3.6 The land is visible from the wide surrounding area including Cudham Lane North and Snag Lane. It makes a significant contribution to the openness of the Green Belt and its appearance and character could be materially harmed by unrestricted development which would normally fall beyond the scope of planning control. Although some uses such as grazing or allotments may not involve development and would be appropriate in the Green Belt, any form of residential development on the land would be contrary to the policies of the adopted UDP. There are no proposals to release this Green Belt land for development.
- 3.7 The specified classes of permitted development for which it would be appropriate to bring within planning control at Snag Lane are considered to be:
- (i) Erection or construction of gates, fences walls or other means of enclosure (Class A of Part 2);
 - (ii) Formation, laying out and construction of a means of access ... (Class B of Part 2);
 - (iii) Provision of temporary buildings, etc. (Class A of Part 4);
 - (iv) Use of land for any purpose for not more than 28 days per year (Class B of Part 4);

(v) Use of land as a caravan site ... (Class A of Part 5).

3.8 Development which would normally be permitted under Part 6 (“agricultural permitted development”) may also potentially threaten the protection of the land. This would include the erection of agricultural buildings, engineering operations, excavations and provision of hard surfaces for the purposes of agriculture. However, as the lawful use of the land remains agriculture which is an appropriate Green Belt use, it is considered that the provisions for prior notification for agricultural buildings and related development provide sufficient control.

4. COMPENSATION

4.1 Local Planning authorities are liable to pay compensation to landowners who would have been able to develop under the PD rights that an Article 4 Direction withdraws, if they:

- Refuse planning permission for development which would have been permitted development if it were not for an Article 4 Direction; or
- Grant planning permission subject to more limiting conditions than the GPDO would normally allow, as a result of an Article 4 Direction being in place.

4.2 Compensation may be claimed for *abortive expenditure* or other loss or damage *directly* attributable to the withdrawal of PD rights.

4.3 ‘Abortive expenditure’ includes works out under the PD rights before they were removed, as well as the preparation of plans for the purposes of any work. The amounts involved under this may be modest but could accumulate over time and become burdensome

4.4 Loss or damage directly attributable to the withdrawal of permitted development rights would include the depreciation in the value of land or a building(s), when its value with the permitted development right is compared to its value without the right.

4.5 In this case, the immediate withdrawal of permitted development rights could attract claims. The risk of numerous claims is not assessed as high, based on the minimal amount of development to date. The Direction with immediate effect is recommended so as to prevent damage to the landscape and Green Belt objectives, in response to a specific incident. It is difficult to be precise about the scale of possible compensation but it is in proportion to the type of Permitted Development rights that are withdrawn. In this instance, these are the rights set out in paragraph 3.10 above, which we can indicate are relatively low in value when compared with other forms of development. This risk should also be considered against the possible damage to the planning objectives for the landscape and Green Belt.

5. POLICY IMPLICATIONS

5.1 The strategic objectives of the UDP, adopted in July 2006, include: “To protect, promote, enhance and actively manage the natural environment, landscape and biodiversity of the Borough. Also: “To protect the Green Belt, ... from inappropriate development ...”. The making of an Article 4(1) direction is consistent with those objectives.

6. FINANCIAL IMPLICATIONS

- 6.1 As referred to above, the withdrawal of permitted development rights for certain classes of development as a result of issuing an immediate Article 4 Direction, may give rise to claims for compensation by land owners in certain circumstances, for example in the event of planning permission being refused for development which would otherwise not require permission. To attract a claim for compensation the application for permission must be made before the end of 12 months beginning with the date on which the Direction takes effect.
- 6.2 At this moment in time, it is not possible to quantify the number or value of claims that may be submitted for compensation, however planning officers consider there to be a low risk of numerous claims being submitted based on the minimal amount of development to date.
- 6.3 It is possible to avoid a claim for compensation by giving the prescribed notice of not less than 12 months of the withdrawal of the permitted development rights.

7. LEGAL IMPLICATIONS

- 7.1 There are two categories of Article 4 directions which are relevant in this case.
- 7.2 The first category is for directions which are able to take effect from the time they are made by the local planning authority but which lapse after six months if not confirmed by the Council. This category extends to directions relating only to development permitted by any of Parts 1 to 4 or Part 31 of Schedule 2, if the local planning authority consider the development would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area. Therefore this direction only relates to para 3.7 (i) – (iv).
- 7.3 The second relevant Article 4 category is for directions which can only take effect after notice has been given of the making of the direction and the Council has considered any representations received.. This direction relates to para 3.7 (v)

8. PERSONNEL IMPLICATIONS

- 8.1 Making an Article 4 Direction is likely to give rise to the submission of additional planning applications and appeals, having regard to the potential number of plots and the way in which they are marketed. The workload implications are difficult to predict but it is anticipated that the additional work involved may amount to 2-3 additional applications and 1-2 appeals per year which could be accommodated within existing staffing levels.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	