

REPORT TO: DEVELOPMENT CONTROL COMMITTEE **AGENDA ITEM:**

DATE OF MEETING: 16TH May 2006 **CATEGORY:** DELEGATED

REPORT FROM: Head of Planning Services **OPEN**

MEMBERS' CONTACT POINT: R. M. Shirley **DOC:**

SUBJECT: Non-compliance with Conditions relating to the use of the former Brandons Poultry Farm, Heath Top, Church Broughton, for B1/B8 light industry and warehouse use **REF:** RMS/E2005/488

WARD AFFECTED: North West **TERMS OF REFERENCE:** DC01

1.0 Reason for urgency

- 1.1 To deal with an ongoing highway safety issue

2.0 Recommendation

- 2.1 That the Committee authorises the issue of a Temporary Stop Notice to address the unauthorised use of the premises without complying with the outstanding Condition relating to highway works and at the same time authorises the issue of an appropriate Enforcement Notice should the ongoing circumstances require this.

3.0 Purpose of Report

- 3.1 To obtain the Committee's instructions.

4.0 Detail

- 4.1 Following receipt of complaints alleging non-compliance with Conditions and excessive HGV traffic at the above site, inspections were undertaken, with a full inspection being carried out on 27th April 2006 under the provisions of Section 196A of the Town & Country Planning Act 1990.
- 4.2 The premises are a former poultry farm consisting of six poultry houses and an associated storage building together with a bungalow providing worker accommodation. The premises benefit from two grants of planning permission (Copies attached at Annex A) neither of which includes the bungalow. The initial grant (9/2004/0877/U) authorised the use of the two poultry houses nearest the access to Heath Top and the agricultural storage building for B8 storage use.

4.3 The second grant of permission (9/2005/931) authorised the use of the entire premises for B1/B8 light industrial and storage use. There were a number of conditions imposed included a condition requiring, in the interests of highway safety, certain improvement works to be carried out the junction of Heath Top with Woodyard Lane/ Cotebottom Lane before the authorised uses were implemented. These works have yet to be actioned.

4.4 The site inspection carried out on 27th April 2006 revealed that five of the six buildings were in use, one being occupied by a plastics recycling company. This involves the external parking of HGV trailers for extended periods and requires the submission of a further planning application. The matter is being dealt with as a separate enforcement issue.

4.5 The use of more than the two northernmost poultry houses demonstrates that the second grant of permission has been implemented and that there is, accordingly, a clear breach of Condition 2 of permission 9/2005/0931/U.

4.6 At the time of the formal inspection, the non-implementation of the Condition was raised with the owner who provided advice that the County Highways Authority had been unable to provide design assistance with the highway alterations and that the matter was in the hands of a private firm of civil engineers for urgent action. It was understood that positive progress with respect to the submission of a final design was expected within 14 days.

5.0 Financial Implications

5.1 Should prosecution prove necessary, the Council may incur certain costs.

6.0 Conclusions

6.1 The application for the use of the site for storage/light industrial purposes has been successful. However, the Condition with respect to the junction alterations remains unimplemented although steps are in place to ensure its implementation as a matter of urgency. The County Highways Authority takes the view that the implementation of the Condition before the use commenced was essential and that the continuation of the use without the works taking place seriously prejudices highway safety.

6.2 The main complaint relates to the number of heavy goods vehicles accessing the site thereby passing close to residential property and to the junction of Heath Top and Boggy Lane. The storage use does attract regular access by HGVs and this is a necessary and inevitable consequence of such a use. Had the junction alterations required by the Condition been in place, this would not necessarily result in any diminution of traffic accessing the site.

6.3 It is open to the Committee to authorise the issue of a Temporary Stop Notice to address the situation on an immediate basis. Whilst progress is in hand for the required works, it may be viewed as prudent to issue such a Notice to secure a temporary cessation of the unauthorised use in the light of the concerns of the County Highways Authority.

7.0 Background Papers - Enforcement File E2005/488