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| Agenda Item No: | Agenda Item 9 |  |
| Committee: | Planning | |
| Date: | 16th July 2018 | |
| Report Title: | Planning Enforcement Update - New Bridge Lane Wisbech | |

1 Purpose / Summary

To update the Committee with regard to the enforcement action being taken to control against the change of the use of land

2 Key issues

- Following injunctive action by the Council a legal undertaking has been secured in respect of the change of the use of the land.

3 Recommendations

- That the update report be noted.

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| Wards Affected | Elm & Christchurch |
| Forward Plan Reference | Not applicable |
| Portfolio Holder(s) | Cllr Mrs Dee Laws - Neighbourhood Planning |
| Report Originator(s) | Nick Harding - Head of Planning Tel 07920 160161 |
| Contact Officer(s) | Lee Walsh - Senior Planning Enforcement Officer Tel |
| Background Paper(s) | Report to Planning Committee 28 March 2018 |

Report:

1.1 Members may recall from the March Committee meeting that officers reported that injunction proceedings had been commenced (with the Chairman's approval) to restrain a potential breach of planning control, comprising works associated with the creation of a residential caravan site. Members were advised that the Court had granted an interim injunction, with the full hearing set for 13th June 2018.

1.2 A copy of the previous report is attached for information in Appendix 1.

1.3 The matter was heard before the High Court on 13th June 2018.

1.4 The defendant gave a formal undertaking to the Court not to use the land or permit its use for stationing or occupation of caravans, or for any residential purpose, nor will she carry out any associated works such as construction of hard standings etc. Any breach of such undertaking could lead to committal for contempt of Court.

1.5 In addition, the Court ordered that a full permanent injunction be issued against person or persons unknown to prevent any residential use or associated works. A costs award was also made in favour of the Council (£3000).

1.6 In the event that a subsequent planning permission is issued, the defendant can apply for the undertaking/injunction to be lifted.

Head of Planning

Fenland District Council & Peterborough City Council

July 2018

Appendix 1 - Copy of report to Fenland District Council Planning Committee 28th March 2018

Section 3 Table 4 Para 90 (x) of the Council's Constitution gives a Corporate Director the power (in cases of urgency in consultation with the Chairman of the Planning Committee) to issue injunction proceedings, such actions to be notified to the next scheduled meeting of the Planning Committee. The purpose of this report is to notify and update the Committee of proceedings which have been issued on behalf of the Council.

In May 2017 planning application F/YR17/0443/F was submitted for the change of use of the land at New Bridge Lane, Wisbech, to a 8 no. pitched travellers site, involving the siting of 8 x mobile homes and 8 x touring caravans with associated works. The application was refused planning permission on the 13th October 2017 by the Planning Committee and no appeal has been submitted.

During February 2018 enforcement officers visited the site and found evidence of working on the land, and in particular found that an excavator was working on the land, and an access had been cleared and fly-tipping pushed to one side to clear the road. Prior to this visit a Temporary Stop Notice had been served preventing works of preparation to establish a residential site. The Temporary stop Notice was due to expire on 19th March, and could not be renewed.

On 12th March 2018 the Chairman of Planning Committee approved commencement of injunction proceedings to seek to prevent further unauthorised works, and proceedings were issued in the High Court on 13th March 2018. Proceedings

The application was heard by the High Court on 20th March 2018, and the Court ordered the issue of an interim injunction. Having read the evidence of both sides, and heard submissions from the Council, the Judge noted that different explanations had been given as to why work was carried out on site. Although the defendant had offered an undertaking not to carry out any further works, the Judge felt that an interim injunction should be granted; the application was also made against Persons Unknown and, the defendant would not be prejudiced by having an injunction made against her in the same terms as any undertaking she might offer. Given that there was a dispute of fact about what had happened, the Judge was not prepared to make a permanent injunction, and after some discussion, a date for the a full hearing of the Injunction was set for 13th June 2018. The question of costs was reserved for consideration at that hearing. We have arranged for a copy of the interim injunction to be served on the defendant and posted on the site.