

Eden District Council

**Planning Applications Committee
18 March 2010**

Dent Company, Unauthorised Haulage Depot, Greengill, Penrith

Enforcement Progress Report

Report of the Director of Technical Services

1 Purpose of Report

- 1.1 To note the latest planning situation with regard to the unauthorised haulage depot and to formally decide upon a clear direction with regards to any extension to the Enforcement Notice time period for compliance.

2 Recommendation:

It is recommended that:

- a) The Director of Technical services be authorised to grant an extension to the time period for compliance with the enforcement notice in the event that the Dent Co. show sufficient progress of an intention to relocate the business and require additional time in which to secure relocation for a maximum of six months
- b) The Director of Technical Services advise Dent Co. of the Council's approach to be taken and to offer assistance where possible.

3 Report Details

Background

- 3.1 Dent Company were refused planning permission by Planning Committee for a new haulage depot and associated operations on land adjacent to their current unauthorised depot at Greengill, Penrith dated 30 July 2009. Committee resolved after a site visit that the application be refused for the following reason.

"The proposed development is located in the undeveloped countryside. No need for the development to occupy this location has been established sufficient to outweigh the presumption against development in the undeveloped countryside afforded by saved Policy NE1 - Development in the countryside, and saved Policy EM11 Haulage Sites, of the Eden Local Plan and saved Policies ST5 - New development and key service centres

outside the Lake District National Park and Policy E37 Landscape character of the Cumbria and Lake District Joint Structure Plan. The development conflicts with these policies in that the scale and activities associated with the use would be unsympathetic to the rural character of the area and cause significant harm to the landscape character”.

Committee also resolved that the Director of Technical Services be authorised to extend the period within which the steps specified in the enforcement notice issued on 22 July 2008 must be taken, with the intention that the company be given reasonably sufficient time to relocate their existing unauthorised haulage depot use to an appropriate alternative site. The Council wrote to the agent of Dent Company advising of this authorisation and that Officers are happy to discuss the possibility of relocation.

- 3.2 Dent Company appealed the refusal of planning permission and a public inquiry was held. As previously reported in this agenda, the appeal was dismissed by the Planning Inspectorate dated 11 February 2010. The Inspector concluded that the harm to primarily the character but also to a lesser extent the appearance of the countryside was sufficient to justify refusal of the proposal and that the other considerations of this case were not sufficient to overcome the harm identified. The outcome of this appeal is that Dent Company will not be able to transfer their current unauthorised haulage operations to the appeal site.
- 3.3 Members will be aware that an extant Enforcement Notice remains in place against the current unauthorised haulage depot. Dent Company previously appealed the Enforcement Notice on the ground that the time given to comply with the notice was too short. Dent Company was given a two year compliance period in which to stop using any part of the land as a road haulage depot and remove from the land all vehicles and equipment brought on to the land for the purpose of that use. This appeal was dismissed dated 3 December 2008. The Inspector commented that the twenty-four months period allowed by the Council appeared generous and could see no justification for extending this further, especially in view of the harm to the locality. The Enforcement Notice must therefore be complied with by 3 December 2010 unless the Council grant an extension to this period. The discretionary power to extend the compliance period has been alluded to by both Inspectors.
- 3.4 It is pertinent to bring to Member’s attention that Inglewood Road, frequently used by Dent Company associated lorries, has recently been closed due to the road being declared unsafe. It is likely that the recent harsh weather conditions compounded with the use of heavy vehicles is accountable for this deterioration. There is not yet known to be a repair date by Cumbria County Council.
- 3.5 It is widely acknowledged that the current unauthorised operations make a positive contribution to the local economy. Therefore, if possible the Council would wish for Dent Company to relocate to an authorised site within the District. However, the Council must not lose sight of the ongoing harm caused by the unauthorised development. The extension of any time period for compliance must be carefully considered.

3.6 At the time of writing this report, Dent Company has yet to provide comment as to their intentions in regard to relocation. It is hoped that an update can be provided during the presentation of this report.

3.7 Circumstances where Enforcement Notice remains unchanged

It is considered expedient not to change the compliance period (3 December 2010) where Dent Company has failed to show intentions and sufficient progress of relocation.

3.8 Circumstances where Council grant extension to time period for compliance

Conversely, in the event Dent company show sufficient progress ie identifying and acquiring an authorised site to carry out their operations, but require extra time to carry out a move, then it is recommended that the Council grant an extension in the time period of compliance of no longer than six months. The exact time period for compliance is to be at the discretion of the Director of Technical Services.

3.9 It is also recommended that the Council write a letter to Dent Company advising of the Council's approach to be taken and to offer assistance where possible.

4 Policy Framework

4.1 The Council has four corporate priorities which are:

- Affordable Housing
- Quality Environment
- Economic Vitality
- Quality Council

Council on 7 February 2008 agreed fifteen strategic actions to achieve these priorities.

5 Implications

5.1 Legal

5.1.1 The Council retains the power as Local Planning Authority to extend the period of compliance with the enforcement notice under Section s173(1)(b) of the Town and Country Planning Act 1990.

5.2 Financial

5.2.1 The Council has agreed an action plan to carry through the Balancing the Budget exercise. A key part of this is the Resource Allocation Categorisation which is designed to ensure that resource allocation reflects the Council's

priorities. The full categorisation was agreed at Council on 7 February 2008 and the financial implications of any report must be consistent with this.

5.2.2 However, there are no financial implications as a result of this report.

5.3 Equality and Diversity

5.3.1 The Council has to have regard to the elimination of unlawful discrimination and harassment and the promotion of equality under the Equalities Act, 2006 and related statutes.

5.3.2 There are no equality and diversity contraventions as a result of this report.

5.4 Environmental

5.4.1 The Council has to have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act.

5.4.2 There is no interference with any bio-diversity issues as a result of this report.

5.5 Crime and Disorder

5.5.1 The Council has to have regard to the need to reduce crime and disorder in exercising its functions under the Crime and Disorder Act, 2004.

5.5.2 There are no relevant crime and disorder issues to report.

5.6 Children

5.6.1 The Council has to have regard to the need to safeguard and promote the welfare of children in the exercise of its functions under the Childrens Act, 2004.

5.6.2 There are no child welfare issues to report save those which may have already been identified in the body of the report.

5.7 Risk Management

5.7.1 In leaving the Enforcement Notice compliance period to stand there are risks associated with the potential of failing to secure compliance and risks of poor publicity if jobs are ultimately lost. However, there is less risk of public complaint.

5.7.2 In extending the Enforcement Notice compliance period, there is a risk of poor publicity as the Council may be seen to not properly stand by its decisions originally made. There is also a greater likelihood of public complaints, particularly from residents who live within the vicinity of the unauthorised site and who have already had to endure the harm caused for several years.

6 Reasons for Recommendation

- 6.1 It is considered appropriate, in the interests of all concerned, for the Council to adopt a clear and formal strategy to help enable satisfactory planning compliance.

S Huddart
Director of Technical Services

Governance Checks:

Checked by or on behalf of the Monitoring Officer	✓
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Background Papers: Planning enforcement file reference 04/5013 (enforcement file not available for public inspection)

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