

DELEGATED PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2012/00021

LOCATION: Land to the rear of Hillside, Holywell Road, Rhualt St Asaph, LL17 0AW

INFRINGEMENT: Unauthorised Engineering operation to create hard-standing, Erection of Portal Framed Building and storage of additional detached portable building.

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy GEN6 – Development Control Requirements
Policy GEN3 – Development Outside Development Boundaries

Government Guidance

Planning Policy Wales Edition 4 (2011)
Technical Advice Note (Wales) 9 – Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development, unauthorised use and other related matters.

In this particular instance, matters relate to the rights of an owner to carry out an engineering operation to create hard-standing and to erect a building on agricultural land and to store an additional portable building thereon, without planning permission

The rights of an owner in this situation do not outweigh the rights of the Local Planning Authority to ensure that breaches of planning control are addressed.

No human rights issues have been raised in this particular case.

1. BACKGROUND INFORMATION

- 1.1 The property known as Hillside is located on the south side of the B5429 to the west of and outside the main settlement limits of Rhualt.
- 1.2 Hard-standing has been created and a portal framed building erected on land to the rear and outside the residential curtilage of Hillside. In addition a portable building is being stored on the agricultural land.
- 1.3 The erection of the portal-framed building in this location was brought to the attention of the Planning Department on 21 January 2011. Subsequent investigation revealed that a hard-standing had also been created and that an additional detached portable building

was being stored; all on land previously in agricultural use; outside the residential curtilage of Hillside. Consequently, three breaches of planning control were identified.

- 1.4 Despite regular correspondence and conversations with both the owner and his Agent by telephone and at the site, no attempt has been made to regularise matters by the submission of retrospective application(s). Furthermore, the owner has made it clear that he has no intention of removing the buildings and hard-standing, nor to restoring the land to its agricultural use.
- 1.5 It is therefore considered that the removal of the buildings and hard-standing and the restoration of the land to its previous agricultural use would remedy the identified breaches.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The engineering operation to create the hard-standing and the erection of the portal-framed building have taken place within the last 4 years. The storage of the additional detached portable building on the land has occurred within the last 10 years.
- 2.2 No planning applications have been submitted.
- 2.3 The unauthorised development and use of the land is contrary to policies and advice contained within the adopted Denbighshire Unitary Development Plan and also to advice contained within the aforementioned government guidance in respect of :-

Policy GEN6 which aims to achieve minimum impact by ensuring that developments respect the site and surroundings in terms of scale, form, design, materials and intensity of land use and that there is no adverse impact neither on the amenity of adjacent occupiers nor on the form and character of the landscape.

Policy GEN3 which only allows development and use of land outside development boundaries in exceptional circumstances. In this case, the land is outside the owner's residential curtilage and outside any defined development boundary. An exceptional case has not been outlined to justify this unauthorised development and unauthorised use of the agricultural land, in order to overcome the conflict with these policies.

3. RECOMMENDATION

- 3.1 That the Planning Committee authorise the service of an Enforcement Notice with a 3 month compliance period, requiring
 - (i) Removal of the unauthorised portal-framed building from the agricultural land,
 - (ii) Removal of the unauthorised detached portable building stored on the agricultural land,
 - (iii) Removal of the unauthorised hard-standing and
 - (iv) The restoration of the land to its previous state as an agricultural field.
- 3.2 To instigate prosecution proceedings where any person on whom an Enforcement Notice has been served, fails or refuses to comply with the requirements thereof.