

Report for Resolution

Report to Planning Applications Committee
22 October 2009

Report of Head of Planning Services

Subject Enforcement Action : Land at Bartram Mowers, Bluebell
Road, Norwich, NR4 7QG

Item

6

Purpose

This report relates to the unauthorised use of launching hot air balloons at the above address and seeks authority to pursue enforcement action in this matter.

Recommendations

It is recommended that Members authorise enforcement action under Section 172 of the Town and Country Planning Act 1990 (as amended) to secure the cessation of use of the land as a launch site for hot air balloons beyond the 28 days permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

Financial Consequences

There are no financial consequences of this report.

Corporate Objective/Service Plan Priority

The report helps to achieve the corporate objective to protect and enhance the special qualities of the built environment and the service plan priority to ensure compliance with permissions and to take enforcement action against unauthorised development as necessary whilst having regard to the Council's Enforcement Concordat.

Contact Officers

Steve Kenny, Enforcement Officer 01603 212514

Background Documents

Relevant correspondence - Enforcement file ref: 09/00085/UCU/ENF

The Site

1. This report relates to a site on the west side of Bluebell Road. The entrance to the site is opposite numbers 52-54 Bluebell Road. The field currently is use is the most southern in a strip of fields that are part of Bartram Mowers site running parallel to Bluebell Road.

Planning History

2. There is no planning history on this particular site, although it is included in Policies NE1 - River Valleys and Other Environmental Assets and SR3 - Retention of Existing Sports Grounds and Public Open Space of the City of Norwich Replacement Local Plan Adopted Version, November 2004.
3. A complaint from an anonymous local resident concerning disturbance caused by the launching of hot air balloons was receiving in June 2009. Schedule 2, Part 4, Class B of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) allows the use of any land for any purpose for 28 days in a calendar year.
4. On consulting the website of Broadland Balloons it was found that a diary of flights this year confirmed that the site has been used for more than 28 days this year. There is also a section dedicated to proposed flights and this showed that an additional 45 flights had been scheduled until the end of July. During discussion with the operator, it was found that the scheduled flights are only provisional dates as the launching of the balloons depends entirely on the weather and consequently not all proposed dates are expected to be used.

Unauthorised Development

5. The following is unauthorised development:-

The use of the site for launching of hot air balloons for more than 28 days in 2009.

Human Rights Implications

5. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as its provisions are relevant: -

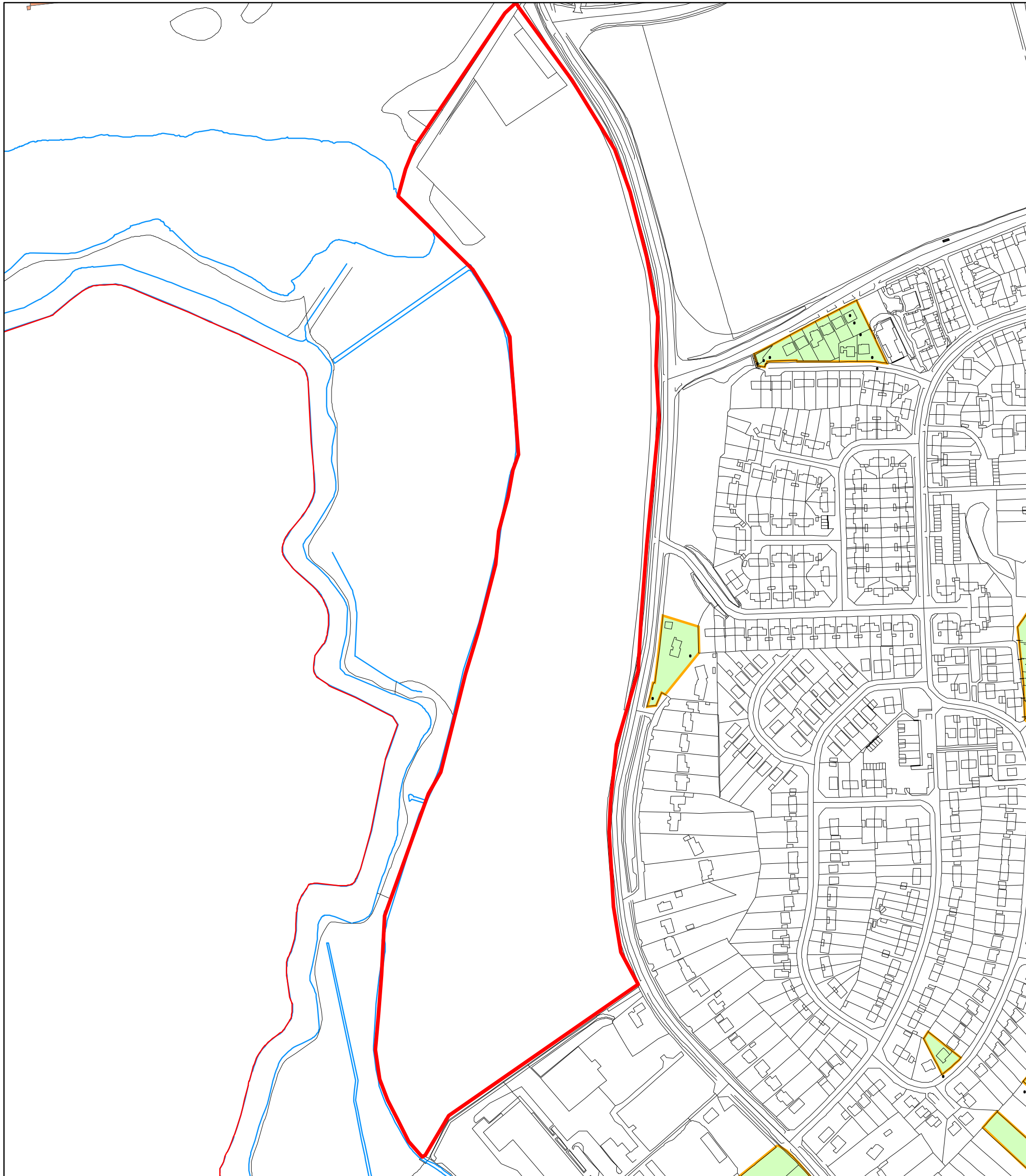
* Article 1 of the First Protocol (the peaceful enjoyment of ones possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure the reinstatement of the paddock and to cease the unauthorised use is in the interests of amenity proportionate to the breach in question.

* Article 6: the right to a fair hearing is relevant to the extent that the recipient of the enforcement notice and any other interested party ought to be allowed to address the Committee as necessary. This could be in person, through a

representative or in writing.

Planning Considerations

6. Although confirmation has been received from the operator that they will restrict the future use to 28 days per annum, the site has been used for approximately 9 years. If the unauthorised use of the site continues for 10 years, the use may become lawful and exempt from enforcement action under Section 171b of the 1990 Planning Act. Therefore, it is considered expedient to serve an enforcement notice to restrict the use to 28 days in future years.
7. The possibility of the use becoming established and lawful through lack of action may result in a intensification of the use. This would alter the character and appearance of the site, to an unacceptable level in this area.
8. The use of the site for a commercial operation for periods outside the permitted 28 days per annum; such as the launching of hot air balloon is considered to be contrary to Policies NE1 and SR3 of the City of Norwich Replacement Local Plan Adopted Version, November 2004.



© Crown Copyright. All rights reserved. Licence No. 100019747 2009

Enforcement Reference - 09/00085/UCU/ENF
Site Address - Bartram Mowers, Bluebell Road, Norwich
Scale - 1:3,000



NORWICH
City Council
DIRECTORATE OF PLANNING
AND REGENERATION

