

MAIDENHEAD DEVELOPMENT CONTROL PANEL

Part I

Title: **Kings Coppice Farm, Grubwood Lane, Cookham, SL6 9UB**

Date: **7 January 2009**

Contact Officer: **Graham Stallwood, Development Control Manager**

Ward Affected: **Bisham & Cookham**

1. SUMMARY

- 1.1 The Copas family owned farm is home to around 50,000 turkeys and is an award-winning brand associated with Cookham. The turkey business has been operating since the 1960s and has a strong customer base, including for free range turkeys. In order to minimise the avian flu risk to the free range turkeys the farm has purchased tunnels which can house them in the event of an outbreak.
- 1.2 Four sets of tunnels have been provided, each about 24m x 24m and rising to a height of 4m. They remain open allowing the birds to roam when there is no flu outbreak. They are located on the side of a slope, at the bottom of which is a public footpath.
- 1.3 The planning enforcement team received a complaint about three tunnels in the summer of 2007 and following investigations at the time it was advised planning permission was not required for the works. In summer 2008 a further tunnel was added and this was subject of a further enforcement complaint. The complaint also referred to the laying of material to create a firm surface for the footpath. Following further investigations it was advised planning permission was not required for the works.
- 1.4 The complainant challenged this view and the matter has been reviewed. The conclusion is that the decisions in both cases were correct: that planning permission was not required. Even if permission were required, your Officers are of the view that the works would be consistent with the Local Plan. Enforcement action is therefore not appropriate for both reasons.

2. RECOMMENDATION:

The Panel notes the content of this report.

What will be different for residents as a result of this decision?
The Council's position is known publicly and there is no doubt for residents of either the farm or the nearby area as to the status of the tunnels and the footpath works.

3. SUPPORTING INFORMATION

The absence of need for planning permission

- 3.1 The planning system controls "development" as defined in the Planning Act and works beyond this definition are generally not within its control. When an enforcement complaint is received it must first therefore be established whether "development" has occurred.

- 3.2 This is a complex area where case law has developed over many years and takes into account a wide range of matters such a degree of permanence, physical attachment and method of construction.
- 3.3 In this case the tunnels are delivered in pieces and put together on site, with a forklift sometimes used to help lift items off the ground. Typically four people were used to construct each set of three tunnels and the farm reports it took two days to construct each set. The farm reports each three section tunnel weighs 800kg. The bottoms of the poles are below ground level and are screwed in, but they are not permanently fixed to the ground through the use of concrete or a similar material. No specialist skills are needed to put the tunnels together other than an understanding of how they fit together. To move the tunnels, they can be unscrewed from the ground and carried by a team of people to their new position.
- 3.4 In terms of their structure the tunnels are not hugely dissimilar to a large marquee but for part of them being below ground level to give some stability. The way they are put together benefits from the use of a forklift or similar to the lift items high, but could be put together without one if one were not available. The farm has confirmed that a forklift was not used in all cases. The time taken to put them together even for unskilled workers is also not long, nor are the constituent parts of the tunnels heavy. Whilst they have been on site for well over a year and therefore are beginning to acquire a degree of permanence, this does not in itself indicate a permanence which would imply they constitute “development”.
- 3.5 Although gravel was brought to the site to improve the quality of the public footpath surfacing, again this does not necessarily constitute “development” and mean that planning permission is required.
- 3.6 The conclusion of Officers is that neither the tunnels nor the pathway works require planning permission and enforcement action under the Planning Acts to secure their removal is therefore not a route reasonably available to the Council.

Enforcement action under the Planning Acts

- 3.7 Advice to Councils on enforcing planning control is contained within Planning Policy Guidance note 18 *Enforcing Planning Control* (PPG18). The Panel will be aware that enforcement action cannot be taken simply to rectify a breach of planning control (even if one had taken place) and assessments of expediency and public interest must be made before enforcement action can be taken.
- 3.8 In this case, even if planning permission were required (which it is not), your Officers are of the view that the works would be consistent with the Local Plan and therefore enforcement action would not be expedient in the public interest.
- 3.9 Although the site is in the Green Belt, works in connection with agriculture constitute appropriate development under the terms of Policy GB1. The tunnels are clearly functionally related to the agricultural use of the site and farmers must also respond to the dangers to the agricultural industry and the wider economy from avian flu. In terms of Green Belt openness and Policy GB2, the existence of the tunnels affects openness in some way. However their siting on the inside slope of the hill appropriately minimises their visual impact and the impact on openness, particularly in the context of the nearby farm complex.
- 3.10 The tunnels do not themselves affect living conditions of neighbours to any great degree in the context of the long-standing farming operations in the area and the position of the tunnels themselves on the slope. The improvement works to the footpath are minor, appropriate in appearance and appropriately improve the surfacing of the footpath as it passes through the active area of the farm.