



## **BRECKLAND COUNCIL**

### **DELEGATED DECISION RECORD**

This records a key or other decision taken by an Executive Member or the Cabinet in accordance with the Council's scheme of Delegations (as set out in Section D of Part 3 of the Council's Constitution).

Unless the Leader and the Chairman of the Overview and Scrutiny Commission certify that the matter is so urgent that the normal five-day scrutiny delay on action should not apply, then this decision will come into force and may then be implemented on the expiry of five working days after the publication of the decision, unless called in under the call-in procedures as set out in Section D of Part 3 of the Council's Constitution.

<b>Portfolio/Cabinet</b>	Cabinet
<b>Report Title (&amp; Reference No.)</b>	Watton Horse Fair
<b>Summary Background</b>	<p>In accordance with the meeting of full Council on 7<sup>th</sup> August 2008, to provide a comprehensive summary of the present legal position concerning the Watton Horse Fair.</p> <p>To consider the evidence of a potential offence of stationing of caravans on land for human habitation in contravention of the provisions of the Caravan Sites and Control of Development Act 1960 on 3<sup>rd</sup> and 4<sup>th</sup> May 2008.</p> <p>To consider whether or not the Council should commence prosecution proceedings.</p>
<b>Author/Contact Officer</b>	Gordon Partridge (Principal Environmental Health Officer)
<b>Ward(s) Affected</b>	
<b>Urgent?</b>	No
<b>Key Decision?</b>	No
<b>In Forward Plan?</b>	Yes
<b>Date Decision Taken</b>	Tuesday, 9 September 2008
<b>Date Published</b>	Thursday, 11 September 2008
<b>Call-In Expiry</b>	Thursday, 18 September 2008
<b>Exempt Information?</b>	No
<b>Decision (Action Agreed)</b>	That:

	<ol style="list-style-type: none"> <li>1) the present legal position concerning the Watton Horse Fair be noted;</li> <li>2) Officers should further continue to monitor the site to ensure that any future changes in the nature, extent and use of the site be acted upon, where relevant; and</li> <li>3) No further action be taken in respect of the stationing of caravans on land at Thetford Road, Watton on 3<sup>rd</sup> and 4<sup>th</sup> May 2008.</li> </ol>
<p><b>Reasons(s)</b></p>	<p>There was a conflict between two pieces of legislation preventing the granting of a licence under the 1960 Act. Whilst a potential way forward would be for the occupier of the land to apply for a Certificate of Lawful Use, thereby regularising the use of the land in planning terms, there was absolutely no requirement for the occupier to make such an application.</p> <p>Given the present extremely limited use of the land for the stationing of caravans, ( 4 nights per year ), if a licence were able to be granted, any conditions attached to such a license would apply, no greater requirements or constraints than those which currently were adhered to voluntarily, i.e. provision of sanitary accommodation and a supply of potable water. A licence would offer no further control of any event occurring beyond the site boundaries than those which currently existed through applicable legislation. This all being the case, it was difficult to see what practically the actual issue of a licence would achieve over and above what was on site already - the current practices presently being satisfactory.</p> <p>There was a considerable risk, given that the Fairs could continue and that a prosecution might lead to the withdrawal of the use of the land for the stationing of caravans, whilst between 30 and 50 caravans could still arrive in the vicinity at the time of the Fairs. These would then locate onto any available pieces of land with potential for trespass, road safety issues and anti-social behaviour. There was no doubt that considerable officer and constabulary time would be required in attempting to resolve those issues. It was the view of both the Norfolk Constabulary and Officers of this Authority that the use of the field for the stationing of caravans was the most satisfactory solution in the circumstances to the very short term nature of the event and accordingly, it was not seen by Officers to be in the public interest to prosecute.</p> <p>Even if the Council was to commence prosecution proceedings against the owner of the site - as it was highly arguable by the Defendant that if he had continued with his application to the Council for a CLEUD, his application would ultimately have been granted - it was quite possible</p>

	<p>that these prosecution proceedings would result in an absolute discharge of the Defendant.</p>
<p><b>Options</b></p>	<p>1) Prosecution for the offence of use of land for the stationing of caravans for human habitation without a licence under Section 1 Caravan Sites and Control of Development Act 1960.</p> <p>Prosecution proceedings could be taken for the offence but, even if successful, this would not per se secure the cessation of the use of the land. There was no continuing offence under the legislation and, should such use recur (as seemed likely), it would require further gathering of evidence and further prosecutions, potentially culminating in the application by the Council to Court for an injunction. But to what ends? In this regard, please see paragraphs 3.4.2, 3.4.3 and 3.4.4 of the report.</p> <p>2) no further action to be taken in respect of the use of the land for the stationing of caravans for human habitation.</p> <p>The use was concurrent to the holding of the Horse Fair which as stated above was, and presently remains, a legal, non-licensable event occurring on two occasions per annum. The land was not used for the stationing of caravans at other times of the year. It was considered that such use would remain at historical levels. This would be monitored.</p>
<p><b>Further Information</b></p>	<p>Watton Horse Fair Report</p>