

E/14/0130/A – Unauthorised use of buildings for B2 (General Industry) purposes (Welding) at Little Samuels Farm, Widford Road, Hunsdon, Herts, SG12 8NN

Parish: HUNSDON CP

Ward: HUNSDON WARD

RECOMMENDATION:

That the Director of Neighbourhood Services, in consultation with the Director of Finance and Support Services, be authorised to take enforcement action under section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure the cessation of the unauthorised use.

Period for compliance: 1 month (following service in March 2015)

Reason why it is expedient to issue an enforcement notice:

1. The unauthorised use results in an unacceptable level of noise nuisance and disturbance to residents of nearby residential properties, and is not compatible with the rural character of the area, and is thereby contrary to Policies ENV1, ENV24 and GBC9 of the East Herts Local Plan Second Review April.

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1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. It is located within the Category 1 village of Hunsdon and comprises of former agricultural buildings with a range of B1 and B8 Uses.
- 1.2 In April 2014, Officers received concerns regarding the use of one of the buildings by a welding company. Welding operations generally fall within Class B2 of the Use Classes Order.
- 1.3 Officers visited the site and found unit 6 being used by Cws Welding Ltd. Their operations included delivery of large beams outside and the cutting of these into shorter sections.
- 1.4 Following the site visit, the owner, communicating through his planning agent, submitted a planning application to seek to regularise the use. The application was subsequently withdrawn, however, after it became apparent that Officers were minded to recommend refusal of the application.

2.0 Planning History

2.1 The relevant planning history is as follows;

3/08/2052/FP	Alterations to access and change of use of redundant farm buildings (B and C) to B8 (storage) in association with B1 workshop use of building D (part retrospective).	Approved
3/07/2674/FP	Change of use of buildings B and C to storage B8 ancillary to B1 workshop and storage use of D (retrospective) and proposed improvements to access.	Refused – Appeal Withdrawn
3/07/1759/FP	Change of use of Buildings B and C to storage (B8) ancillary to workshop (B1) use of Building D together with improvements to access.	Withdrawn
3/07/0753/FP	Change of use of Building B to B2 purposes and use of Buildings C and D for B8 purposes.	Withdrawn
3/06/2235/FP	Subdivision of building into 6 Units and change of building for B2 purposes.	Refused
3/05/1134/FP	Change of use of barn to workshop (B1) with stores and ancillary offices	Approved

2.2 An Enforcement Notice has also previously been served at the site under reference E/06/0354/A for the Material Change of Use of one of the units on the Farm site to a B2 use. The Enforcement Notice was appealed and the appeal was subsequently dismissed.

3.0 Policy

3.1 The relevant 'saved' policies of the East Herts Local Plan Second Review April 2007 in this case are:

- GBC2 – The Rural Area beyond the Green Belt
- GBC3 – Appropriate development in the Rural Area beyond the Green Belt
- GBC9 – Adaption and Re-use of Rural Buildings
- ENV1 – Design and Environmental Quality

ENV24 – Noise Generating Development

- 3.2 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are also material considerations in this matter.

4.0 Considerations

- 4.1 The determining issue in this case relates to whether the use is acceptable within a rural area and within close proximity to residential dwellings.
- 4.2 The existing building has an authorised B1/B8 use and Policy GBC9 encourages the re-use of agricultural buildings when appropriate to the rural area. However, Officers consider that the current welding use falls within Use Class B2, which is typified by heavier industrial uses, and are generally unsuitable for residential areas.
- 4.3 Officers have observed the business on site, and whilst the use of a laser cutter to cut large steel beams does mitigate some of the noise, the overall noise and disturbance created by the use is considered to be significantly detrimental to the amenity of nearby residents. This is exacerbated by the length of the steels delivered, which are too large to be worked on exclusively in the building, causing work to be carried out outside.
- 4.4 A significant number of third party representations were received on the withdrawn application from local residents. Many of the points raised referred to the detrimental impact the noise and disturbance was having on the enjoyment of their homes. Whilst this would only amount to anecdotal evidence, Officers consider that the comments should be afforded some weight in the decision making process.
- 4.5 Overall, Officers consider that whilst the principle of re-using agricultural buildings for commercial purposes is acceptable, the B2 use currently in operation is unsuitable for the rural area, especially given the close proximity of neighbouring properties. Whilst no decision was made on the planning application, Officers are satisfied that permission would be refused on the basis of the noise and disturbance, and the harm arising from the use justifies the expediency of taking enforcement action.
- 4.6 Since the planning application was withdrawn, Officers have received correspondence from the owner's planning agent, which states that formal notice to quit has been served by the owner on the business operators. Copies of the letters from a property agent have been

provided, with the minimum legal notice to quit given, which in this instance is 3 months. The agent has therefore requested that Officers withhold from serving an Enforcement Notice as the owner has co-operated with the Council.

- 4.7 However, the notice to quit falls outside of the planning system and does not offer any guarantee of the use ceasing. The Council must therefore consider enforcement action under the Planning Acts in the normal way and Officers consider it expedient to serve an enforcement notice to ensure that this breach is remedied within a reasonable timescale.
- 4.8 The Council should always set a compliance period that is appropriate to the severity of the breach and also a reasonable one within which a recipient can realistically achieve compliance. By withdrawing the application and promptly seeking the cessation of the use through the appropriate legal process, Officers consider that the owner has acted reasonably and quickly, once it was apparent that permission was likely to be refused, especially as an appeal of the refusal could have led to a very lengthy process. There is a real prospect therefore that this matter can be resolved without recourse to the service of a formal notice. Nevertheless, in the event that the actions of the owner do not remedy the situation by March 2015, the Council needs to ensure that the enforcement notice requires compliance as soon as possible afterwards.
- 4.9 Officers consider that an appropriate compliance period in this case would normally be in excess of 3 months which is, of course, longer than the period already given by the owner of the site for the tenants to quit. Given the actions of the owner set out above, Officers therefore consider it reasonable and appropriate to delay serving the Notice until March 2015 (the end of the 'notice to quit' period) but thereafter only giving a 1 month compliance period, which is the minimum legal period. In this way, compliance will be sought within much the same time as if a notice were issued immediately with a longer, say 4 month, compliance period.
- 4.10 Whilst the planning application was for the change of use of Unit 9, the use is currently operation in both Unit 6 and Unit 9. Authority is sought for enforcement action to be taken against both buildings accordingly.

5.0 Recommendation

- 5.1 For the above reasons it is recommended that authorisation be given to issue and serve an Enforcement Notice requiring the cessation of the

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unauthorised use.