

DEVELOPMENT MANAGEMENT COMMITTEE – 6 JANUARY 2016

Application Number	E/14/0229/B
Proposal	Unauthorised separate residential use of annex
Location	Waterbridge, Frogmore Hill, Watton at Stone, Herts, SG14 3RR
Parish	ASTON CP
Ward	DATCHWORTH and ASTON

RECOMMENDATION:

That enforcement action be authorised as set out at the end of this report.

1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract and is located to the north west of Watton at Stone in a rural location. The building in question is situated within the curtilage of the main dwelling which is Grade II* listed and within the Metropolitan Green Belt.
- 1.2 In July 2014, a concern was expressed to the Council that a building in the garden of the property was being occupied as a separate residential dwelling.
- 1.3 Following discussions with the owner, it appears that the building was originally converted and used as an ancillary accommodation for an ageing dependant of the owner. However, when the dependant passed away in June 2012 the owners of the property advertised the letting of the annexe through an agent. In December 2012, the annexe was rented out as a separate residential dwelling.
- 1.4 The owners were advised that if they could provide sufficient evidence to show that the annexe had been used as a separate residential dwelling for a period of 4 years or more, they could apply for a Certificate of Lawful use and, in September 2015, an application for a Certificate was submitted (Ref: 3/15/1922/CLE).
- 1.5 However, it was established through this application that the use of the property as a dwellinghouse, occupied separately from the main house, did not commence until 1 December 2012. Prior to that, it had been used for ancillary accommodation only and there had not been a material change of use of the property until December 2012. As 4 years continuous use could not therefore be demonstrated, the application for a Certificate of Lawfulness was refused for the following reason:

The Local Planning Authority is not satisfied that the change of use of the outbuilding as a self-contained unit has occurred for a continuous period exceeding 4 years in accordance with Section 171(B)(2) of the Town and Country Planning Act 1990 – as amended. For this reason the development is not exempt from enforcement action.

- 1.6 The unauthorised use of the building as a separate dwellinghouse has however continued.

2.0 Planning History

- 2.1 The most recent and relevant planning history for the premises can be summarised as follows:

3/15/1922/CLE	Use of annex as a separate dwellinghouse	Refused
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3.0 Key Policy Issues

- 3.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy
Appropriateness in the Green Belt and Development Strategy of the Local Plan and NPPF	Section 9, paragraphs 7 and 17	GBC1; SD2

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

4.0 Consideration of Relevant Issues

- 4.1 The site is located within the Metropolitan Green Belt and therefore policy GBC1 of the Local Plan and section 9 of the NPPF are applicable to this development.
- 4.2 The main consideration in this case is whether the development constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances that would justify the grant of permission. Consideration also needs to be given to the impact of the unauthorised development on the character and appearance of the area, neighbouring amenity, parking and access.

- 4.3 Policy GBC1 of the Local Plan sets out the forms of development that are considered to be appropriate in the Green Belt and these include the adaptation and re-use of non-residential/domestic rural buildings where that accords with Policies GBC9 and GBC10 of the Plan. However, this building is considered to be a residential/domestic building (formerly an annex to the main house) and as such its change of use to a separate dwelling does not, in Officers view, fall to be considered under policy GBC9. Neither does the development meet any of the other criteria within policy GBC1, and therefore Officers conclude that the use of the building as a separate dwelling house represents inappropriate development in the Green Belt.
- 4.4 Even if policy GBC9 were argued to be relevant in this case, that also states that residential use will only be permitted where, inter alia, the building is worthy of retention and where the retention of the building is unable to be facilitated by conversion to other purposes compatible with the rural area. The new use should also not detract significantly from the rural character and appearance of the area.
- 4.5 Whether a building is 'worthy of retention' requires a judgment that is often exercised by the Council. In this case, the building is considered to be curtilage listed since it was in existence prior to 1 July 1948 and has therefore some historical significance. It is considered therefore that it would be 'worthy of retention' within the meaning of policy GBC9.
- 4.6 However, Officers consider that the re-use of this building within the Green Belt has the potential to result in some, albeit limited, impact on the openness of the Green Belt (through increased parking provision, hard surfacing and domestic paraphernalia etc.) and it also conflicts with the purposes of including land in the Green Belt (in that it results in further residential encroachment of the countryside and does not assist urban regeneration by encouraging the use of urban land for development). Furthermore, the retention of the building can be, and has been in the past, facilitated by other means – specifically as ancillary accommodation to the main house. This is considered to be more appropriate since it does not result in the creation of a separate dwelling in an unsustainable location and would have less impact on openness through increased parking and the provision of additional domestic paraphernalia.
- 4.7 Officers therefore consider the use in this case to be contrary to policies GBC1 (and GBC9) of the Local Plan, constituting inappropriate development when considered against either those policies or national planning policy contained in the NPPF.

- 4.8 Inappropriate development is, by definition, harmful to the Green Belt and Members will be aware that it should not be permitted except in very special circumstances. Furthermore, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is 'clearly outweighed' by other considerations.
- 4.9 In addition to general Green Belt considerations and the harm caused by inappropriateness, Officers also consider that the development fails to accord with the main development strategy of both the Local Plan (policy SD2) and the NPPF. That is to direct development to the most sustainable locations where there is good access to key facilities and infrastructure. The provision of an isolated additional dwelling in the Green Belt, where the occupiers would be heavily reliant on the use of private motor vehicle transport, would represent an unsustainable form of development that would be contrary to both policy SD2 of the Local Plan and the national planning policies of the NPPF. This weighs significantly against the development.
- 4.10 Some additional harm may also result from the use if permitted to remain, as mentioned above, in terms of the potential for additional domestic paraphernalia such as washing lines, play equipment, outdoor furniture and garaging that can further domesticate an otherwise rural setting. This also weighs against the development. Officers are however satisfied that, in terms of neighbour amenity, parking and access, the use does not appear to result in any harmful impacts.
- 4.11 Nevertheless, Officers do not consider that there are any very special circumstances in this case that would 'clearly outweigh' the harm to the Green Belt by inappropriateness, and the other harm identified, such that the approval of the inappropriate development would be justified. Whilst a single additional dwelling makes a contribution to the Councils five year housing land supply, this is considered to be a very limited contribution and not one that would clearly outweigh the harm identified.
- 4.12 In summary, therefore, the use is considered to be inappropriate development in the Green Belt. It is not considered to meet the criteria of policy GBC9 and is contrary to policies GBC1 and SD2 of the Local Plan. It thereby results in the provision of a new dwelling within the Green Belt that does not accord with the main development strategy of the Local Plan and represents an unsustainable form of development in terms of the aims and objectives of the NPPF.

5.0 Recommendation

- 5.1 For the above reasons it is recommended that the Director of Neighbourhood Services, in consultation with the Director of Finance and Support Services, be authorised to take enforcement action under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and/or under section 172 of the Town and Country Planning Act 1990 and also to take any such further steps as may be required to secure the cessation of the unauthorised use.

Period for compliance: 6 Months

Reasons why it is expedient to issue an Enforcement Notice:

1. The unauthorised use of the building as a separate residential dwelling represents inappropriate development within the Metropolitan Green Belt and results in the provision of residential accommodation in an unsustainable location contrary to the main development strategy of the Local Plan which seeks to direct new development to the main settlements of the District where there is good access to key services and infrastructure. The development is thereby contrary to policies GBC1, GBC9 and SD2 of the East Herts Local Plan Second Review April 2007 and the principles of sustainable development set out in the National Planning Policy Framework.