

E/06/0186/B – Unauthorised erection of a barn building and entrance gates at Edgewood Farm, Cock Lane, Broxbourne, Herts.

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

RECOMMENDATION

That Members endorse this updated report and re-confirm that the Director of Neighbourhood Services, in conjunction with the Director of Internal Services, continues to take enforcement action under s.179 of the Town and Country Planning Act 1990 and any such further steps that may be required to secure the removal of the unauthorised developments.

Reasons why it is expedient to continue with enforcement action:

1. The site lies within the Metropolitan Green Belt as defined in the East Hertfordshire Local Plan, wherein permission will not be given except in very special circumstances for developments for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to the rural area. No such special circumstances are apparent in this case, and the developments are therefore contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007.
2. The unauthorised barn development results in a significant development on open grazing land which results in a loss of openness of this part of the Metropolitan Green Belt, contrary to national advice in PPG2: Green Belts and policy GBC1 of the East Herts Local Plan Second Review April 2007.
3. The unauthorised gates, by reason of their scale, siting and design, would be out of keeping with the rural lane the openness of the surrounding Green Belt. If permitted the development would be contrary to Policy BE2 of the East Herts Local Plan and Policy ENV1a of the Local Plan Second Review.

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1.0 Background

- 1.1 The site is shown on the OS extract attached to the proceeding planning application report. It lies on the western side of Cock Lane, a lane linking Pembridge Lane to White Stubbs Lane, Broxbourne.

E/06/0186/B

- 1.2 At the 20 December 2006 meeting of the Development Control Committee Members resolved to authorise the issue and service of an Enforcement Notice requiring the removal of an unauthorised barn and gates and walls at Edgewood Farm, Cock Lane, Broxbourne. That notice was served on 26 March 2007. An appeal against the notice was initially lodged but subsequently withdrawn.
- 1.3 The purpose of this report is to update Members with regard to enforcement action at the site and seek further endorsement of that action. The report that was submitted to the 2006 meeting is attached as an appendix to this report. The preceding report on the agenda relates to development proposals at this site. Members are asked also to take into account the information set out in both reports in relation to their decisions on this matter.

2.0 Site History

- 2.1 Site history details are set out in the preceding planning application report. Those details are also relevant in relation to this enforcement report. In addition to the information set out there, applications were also made with respect to the wall and gates at the front of the site. These were:
- 2.2 A retrospective application, reference 3/07/0066/FP, for planning permission relating to the wall and gates. This was refused on the 20th March 2007 for the following reason: -
 - The proposed entrance walls and gates, by reason of their scale, siting and design, would be out of keeping with the rural lane and the openness of the surrounding Green Belt. If permitted the development would be contrary to Policy BE2 of the East Herts Local Plan and Policy ENV1a of the Local Plan Second Review.
- 2.3 A Lawful Development Application, under reference 3/07/2175/CL was submitted in 2007. This claimed that the use of the access to Edgewood Farm, by virtue of the fact that the use has subsisted for a period of time in excess of 10 years prior to the date of the application, was lawful, that the replacement of a pair of 2.4 metre high gates fixed to piers was lawful being permitted under the General Permitted Development Order (GPDO) and that the construction of a 1 metre high wall adjacent to the highway forming the access to Edgewood Farm, was also lawful by virtue of the GPDO. The application was refused for the following reason: -
 - The existing piers and gates as edged red on drawing HS/2 submitted with this Certificate of Lawfulness application, and which forms the

E/06/0186/B

access to Edgewood Farm, do not constitute permitted development by reason of exceeding 1 metre in height adjacent to the highway in conflict with Schedule 2, Part 2 of Class A of the Town and Country Planning (General Permitted Development) Order 1995. A full planning application is therefore required.

- 2.4 There have been a number of other applications for planning permission between 1979 and 2002 relating to the site regarding caravans, retention of bungalow and other developments. They are not applicable to the enforcement issue being considered in this report.

3.0 Progress since December 2006

Prior to the service of the enforcement notice authorised at the December 2006 meeting of the committee, planning applications were submitted in relation to the wall and gates and the barn building at the site. These were both refused, as set out above and in the preceding report. The enforcement notice was subsequently served on 26 March 2007.

As indicated, an appeal against the notice was initially submitted, but subsequently withdrawn. As a result, the notice is now in force.

Separate Lawful Development certificate applications were then submitted in relation to the wall and gates at the site and the barn building. Both of these have also been refused. There have followed two further planning applications with regard to the barn building. The first of these (3/08/1248) was withdrawn and the second forms the subject of the preceding report on this agenda.

The applicant has indicated a view that the Council has acted unreasonably in this case and that the enforcement action is flawed. Your Officers view is that the appropriate route by which to advance such a case is through an appeal against the notice. However, as indicated, this has not been pursued.

Given that the right of appeal exists (although now forgone in this case) I would only advise that Members need to reconsider their position if significant changes in circumstances had taken place since the initial decision to pursue enforcement action. There have been no such significant changes in this case. However, in order to keep Members informed, I have canvassed some issues advanced by the applicant here.

One matter that has been raised is that, in the December 2006 report, Members were not explicitly informed with regard to the 1982 permission for a barn at the site. From the preceding planning application report Members

E/06/0186/B

will see that the 1982 permission has been fully taken into account in relation to decisions on the subsequent applications, most notably the Lawful Development Certificate application submitted in relation to the barn building at the site.

Officers have reached the view that, whilst development was commenced which implemented that 1982 permission, the resultant building cannot be considered to have been constructed in accordance with the plans submitted with that application and is therefore unlawful. As a result, your Officers view remains that enforcement action is appropriate in this case.

The applicant contends that numerous visits were made to the Councils Offices to retrieve a copy of the 1982 application plans. Those attempts were unsuccessful and therefore the development was continued in the absence of plans. This matter has been investigated and the appropriate file is readily available on microfilm at the Wallfield offices. The Customer Services team have an established procedure to ensure that, if the information a customer requires on their visit cannot be provided then, it is subsequently retrieved. Given the number of attempts claimed to retrieve the necessary information, there is no apparent explanation as to why the normal Customer Services procedure was not triggered in this case.

In any event, my response to the applicant on the matter has been that it was ill-advised to proceed with the development in the absence of plans, given that the applicant was clearly aware that they were necessary. Members should give this matter little weight in decision making on this matter as it relates to customer service standards and is not a pertinent planning issue.

Your Officers view then is that, taking full account of the 1982 permission, the building that is currently in place on the site remains unlawful and the enforcement notice is therefore soundly based.

Clearly, if the applicant takes steps to resolve the position at the site, Officers will take this into account in pursuing further action. Some steps have been taken with regard to the wall and gates at the site. The flank walls have been reduced in height and it is understood that further work is being undertaken to ensure compliance with regard to the gates. The latest position will be reported to Members at the meeting. Officers will continue to review the position, but their ability to do so is limited by the refusal of the applicant to allow access to the site.

E/06/0186/B

4.0 Policy

- 4.1 Members will be aware that the policy position has been updated since this matter was considered in December 2006. This was as a result of the adoption of the East Herts Local Plan Second Review in April 2007. Progress on the Local Plan review was at an advanced stage in December 2006 and the relevant policies of the reviewed Local Plan were taken into account then.
- 4.2 The relevant policy designations in the previous 1999 Local Plan were the Metropolitan Green Belt and Landscape Conservation Area.
- 4.3 The relevant policies at that time were RA2 (Metropolitan Green Belt) and RA11 (Landscape Conservation Areas). Policy RA2 stated that permission will not be given for construction of new buildings or for changes of use except in very special circumstances. Policy RA11 (iii) stated that permission will not be granted for development which will have a detrimental effect on the landscape, or detract from the visual quality of the landscape conservation areas.
- 4.4 However, the draft Inspectors Report into the local plan Inquiry for the Second review indicated a change in policy regarding landscape designations. The Inspector had recommended the deletion of Landscape Conservation Areas from the plan. In light of this it was considered that the location of the site within a Landscape conservation Area should not form the basis of a reason for taking enforcement action.
- 4.5 The current policies applicable in this case, in the reviewed 2007 Local Plan, are GBC1 and ENV1. The site remains within the Green Belt and policy GBC1 establishes the position in relation to development in this location. In accordance with national policy, development is inappropriate and harmful unless it falls within certain specified categories. It is not considered that the building is intended for one of those purposes or that separate very special circumstances have been advanced to justify it. As a result, taking into account the latest policy position, it remains your Officers view that the development is contrary to applicable policies.

5.0 Conclusion

- 5.1 It is recommended that the enforcement action authorised by the Development Control Committee on the 20th December 2006 continues and that the Director of Neighbourhood Services, in conjunction with the Director of Internal Services, takes further steps as necessary to secure the demolition of the unauthorised developments and the reinstatement of the land.

E/06/0186/B

- 5.2 In this case the appeal against the enforcement notice has been withdrawn. The only other planning related right of appeal will follow the decision on the proceeding planning application matter if members resolve to refuse that. The time limit for such an appeal is six months. However, given the period of time during which this matter has been under consideration, your officers recommend commencing legal proceedings in the Magistrates Court in advance of that timescale. Such proceedings can be held in abeyance if an appeal is subsequently submitted. Subject to any Members views to the contrary, the recommendation set out in this report, if resolved, is appropriate for Officers to proceed on that basis.