

E/08/0052/B - The unauthorised use of an outbuilding as a dog hydrotherapy centre at Eastview, Nasty, SG11 1HP

Parish: GREAT MUNDEN

Ward: MUNDENS and COTTERED

RECOMMENDATION

That the Director of Neighbourhood Services, in consultation with the Director of Internal 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: 6 months.

Reason why it is expedient to issue an enforcement notice:

The site lies within the Rural Area as defined in the East Hertfordshire Local Plan wherein there is a presumption against development other than required for agriculture, forestry, small scale local community facilities or other uses appropriate to a rural area. This development is prejudicial to this policy, set out at policies GBC2 & GBC3 within the East Herts Local Plan Review April 2007.

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1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. It is located on the east side of the main (un-named) road through Nasty village and is the last property on the left when leaving the village in a northbound direction. Photographs of the site will be available at the meeting.
- 1.2 In February 2006 a concern was expressed to the Authority regarding the use of an outbuilding, apparently being used as a canine hydrotherapy centre, at the rear of the above site.
- 1.3 The enforcement officer visited the site in May 2006 following correspondence with the owner. He found that a single storey blockwork building had been sited behind the double garage and former stables. The blockwork building housed a canine hydrotherapy pool with associated entry ramp, hoist, dog dryer and other associated equipment. There was a doorway through to the former stable building that had been largely converted to an office, waiting room and other facilities for customers.

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- 1.4 These outbuildings, although sited on a strip of land to the rear of a neighbouring property known as 'The Willows', were within the use and ownership of Eastview. At the time of the enforcement officer's visit the owner stated that he was in the process of moving out of the district and that it was his intention to relocate the business to his new property in Cambridgeshire.
- 1.5 The enforcement officer wrote to the owner in May 2006 requiring that he either cease the business use of the site, submit a planning application or provide a letter from his solicitors confirming that contracts had been exchanged for the sale of the property.
- 1.6 The owner forwarded such a letter from his solicitors, dated 6th July 2006, confirming that contracts had been exchanged in respect of Eastview. Accordingly the enforcement file was closed.
- 1.7 A further concern was expressed to the Authority that the unauthorised use of the site had continued and the enforcement officer again wrote to the owner in February 2008. The owner replied that he had instructed planning consultants to submit an application.
- 1.8 On 15th September 2008 the enforcement Officer again wrote to the owner informing him that the matter would be referred to the Development Control Committee as no application had been received. This elicited a response from planning consultants confirming their instructions and intention to submit a planning application.
- 1.9 No further communication was received and on 27th January the enforcement officer again wrote to the owner informing him that the matter would be referred to the Development Control Committee.
- 1.10 A planning contravention notice was issued on 23rd March 2009 requiring information in writing with regard to the use of the site. In a response dated 13th April 2009 the owner's agent stated that the land was in use as a 'physio/hydrotherapy centre' and was occupied as tenants of the property owner. He further stated that this use had been taking place since approximately October 2001 and that about 30 visiting members of the public came to the site for that purpose per week.
- 1.11 In his response the agent stated that his client intended to cease the use and move to new premises within three months. Officers consider that given the time that has been passed, the possibility of the use becoming lawful and the lack of clarity in the owner's previous communications with them that it is expedient to take formal action at this time.

2.0 Planning History

2.1 The recent planning history is as follows: -

3/03/0197/FP Alterations and extensions including new pitched roof to form attic bedrooms. – Granted

3/06/1474/FP Rear ground floor extension – Granted

3.0 Policy

3.1 The relevant policies in this matter are:-

GBC2 – The Rural Area Beyond the Green Belt

GBC3 – Appropriate Development in the Rural Area Beyond the Green Belt

4.0 Considerations

4.1 In this matter, the main issue to be considered is the appropriateness of the development within the Rural Area Beyond the Green Belt as defined within the East Herts Local Plan Second Review April 2007.

4.2 The site lies within the Rural Area Beyond the Green Belt as defined on the Proposals Map wherein there is a presumption against development other than required for agriculture, forestry, small scale local community facilities or other uses appropriate to a rural area. Other development is deemed to be inappropriate within this area and is therefore contrary to Policy GBC2 of the East Herts Local Plan Second Review April 2007.

4.3 Appropriate development within the Rural Area Beyond the Green Belt is defined within the twelve categories contained within Policy GBC3 of the East Herts Local Plan Second Review April 2007. Use as a dog physio/hydrotherapy centre does not fall within any of these categories and is therefore also contrary to Policy GBC3 of the East Herts Local Plan Second Review April 2007.

4.4 Officers lack sufficient information regarding the issue of the additional traffic generation and car parking caused by the development to enable them to properly consider the development against Policies TR7, Car Parking – Standards, and TR20, Development Generating Traffic on Rural Roads, of the East Herts Local Plan Second Review April 2007. However, it is clear from the information received from the applicant that there are a significant number of customers visiting the site each week and this level of

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activity has the potential to cause disturbance to nearby residential occupiers and result in unacceptable traffic generation to and from the site. The applicants have been unwilling to submit a planning application and officers are, therefore, unable to control this level of activity by condition. If no enforcement action is taken, the use could become lawful through the passage of time and the Authority would then be unable to control such matters as number of customers; hours of use etc. it is therefore considered that formal action should be taken at this stage.

5.0 Recommendation

- 5.1 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised use.