

E/08/0392/B - The unauthorised change of use from public house with ancillary residential accommodation to a dwelling house at The Sun and Harrow, Fanhams Road, Ware, SG12 7DQ.

Parish: WARE

Ward: WARE - TRINITY

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 use of site as a dwelling house.

Period for compliance: 4 months

Reason why it is expedient to issue an enforcement notice:

1. The development involves the loss of an employment and community facility in this local centre, without the provision of sufficient evidence to show that the existing public house use is no longer commercially viable, or that alternative uses have been fully explored, contrary to the provisions of policies EDE2 and STC8 of the East Herts Local Plan Second Review April 2007. Its loss would be detrimental to the local community and a significant reduction in the level of such provision locally available.

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1.0 Background

- 1.1 The site is shown on the attached OS extract. The property is a two-storey detached public house that has operated variously as The Sun and Harrow and The Old Harrow.
- 1.2 The property is situated at a corner location on the junction of Fanhams Road and King George Road. The plot is approximately 1,000 square metres in size, with a paved area to the front of the public house for customer parking, and a garden to the rear. A picket style fence has recently enclosed this front area.
- 1.3 In August 2008, concerns were expressed that there were changes being made to the ground floor of the public house, with the removal of the bar, bar fittings and seating and the erection of a fence to enclose the car park area.

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- 1.4 During the initial investigations, the authority was informed by an agent for the owner that an application had been submitted for the demolition of the existing public house and the erection of a replacement three-storey residential block of twelve two-bed flats, under reference 3/08/1340/FP.
- 1.5 Officers advised the agent that an application should be submitted for the change of use of the property from public house to a residential property. Their view was however, that there was little point as the change was temporary and the site would be sold when the authority had granted planning permission for the above proposed development. This view was contrary to that of officers who considered that there would a significant time delay before the proposed application was determined.
- 1.6 On the 29th October 2008 officers advised the owner and the agent that the application, reference 3/08/1340/FP, had been refused and the unauthorised residential use continued. They were invited again to submit an application for permission for this unauthorised use; however, the agent had been instructed to lodge an appeal against the refusal to grant planning permission for the proposed re-development and considered that enforcement should be held in abeyance until the appeal process was complete.
- 1.7 On the 26th March 2009 the Planning Inspectorate dismissed the appeal in respect of the proposed re-development of the site for residential purposes. The unauthorised use of the building as a dwellinghouse continues.

2.0 Site History

- 2.1 3/08/1340/FP - the demolition of the existing public house and the erection of a replacement three-storey residential block of twelve two-bed flats. Refused by the local planning authority and dismissed on appeal.

3.0 Policy

- 3.1 The relevant policies in this matter are: -
 - EDE2 Loss of Employment Sites
 - STC8 Local Centres and Rural Provision

4.0 Considerations

- 4.1 The applicant, within the application for permission for the re-development of the site, stated that the running of the public house is no longer profitable.

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However, as the Inspector noted during the recent appeal, no audited figures are available to substantiate this assertion and no evidence was provided that the site had been marketed for alternative uses.

- 4.2 Policy STC8 of the East Herts Local Plan allows for the loss of a community facility such as this public house, only where alternative facilities exist or if there is clear evidence that the use cannot continue as a viable business.
- 4.3 Policy EDE2 states that the loss of an employment use outside of the designated Employment Areas will only be permitted where the retention of the premises for employment use has been explored fully, without success, and where evidence of this exploration is submitted with the application.
- 4.4 The appeal Inspector, in dismissing the appeal in respect of the redevelopment of the site, stated that prior to the closure of the public house premises may have only been providing employment on site for the landlady. If thriving however he believed that it would have or could provide employment for additional staff as well as those employed in servicing and maintaining it.
- 4.5 A number of the responses submitted in opposition to the above mentioned application have stated that the public house is a valuable facility in the local community, and while there are a number of public houses within walking distance of the neighbourhood, policy STC8 recognises the importance that a local facility such as a public house can possess in a local centre.

5.0 Conclusion

- 5.1 The applicant has failed to provide sufficient evidence that the existing public house use is no longer commercially viable as an ongoing business, or that it has been marketed for any alternative community or employment uses and therefore the development is contrary to the provisions of policies EDE2 and STC8 of the East Herts Local Plan Second Review April 2007.

6.0 Recommendation

- 6.1 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised residential use of the ground floor of the property and the reinstatement of the building to a public house.