

E/08/0051/B – Unauthorised change of use of land for residential purposes and siting of caravans for residential purposes at Calves Grove Wood, White Stubbs Lane, Bayford, Herts, SG13 8QA

Parish: BAYFORD

Ward: HERTFORD – RURAL SOUTH

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 residential use of the land and caravans and the removal of the caravans from the site.

Period for compliance: 6 months

Reason why it is expedient to issue an enforcement notice:

The application 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 development for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. No such special circumstances are apparent in this case, and the proposal would therefore be contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007.

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1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. It lies on the southern edge of the District's boundary with the entrance off a single track from White Stubbs Lane, Bayford. The site lies within the Metropolitan Green Belt and a Wildlife Site as defined in the adopted Local Plan 2007.
- 1.2 It was brought to the attention of the Council in April 2008 that the owner of the land had 3 mobile homes on the site without the benefit of planning permission.
- 1.3 A site visit on the 8th May 2008 with the owner of the land and it was apparent to officers that the caravans were not being used for residential purposes at that time, being either empty or containing various items of

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rubbish/storage. The owner gave his address at the time as one outside the District.

- 1.4 The owner also stated that the caravans were used to house seasonal workers. A letter was sent on the 27th May 2008 advising him that the General Permitted Development Order permits the temporary occupation of caravans only where it relates to operations being carried out by seasonal workers on the land in question, but does not permit any permanent residential occupation. Additional information was sought from the owner as to the precise nature of the use of the land and the caravans.
- 1.5 The owner's agent responded, confirming that the caravans were occupied by workers employed in relation to a charcoal enterprise during the winter and by horticultural workers during the spring and summer.
- 1.6 Following a conversation with the owner, he was advised that either a planning application or a Certificate of Lawfulness was required to be submitted for the 3 caravans to remain on site.
- 1.7 On the 15th June 2008, it was reported that an arson attack took place at the site wherein the 3 caravans were destroyed along with most of the owner's paperwork relating to the site.
- 1.8 Following the fire, the owner stated that he wished to replace the 3 destroyed caravans with 2 new ones. He was advised that planning permission was required, or a Certificate of Lawfulness should be submitted if he could provide evidence that the land had been used for the siting of residential caravans for 10 years or more.
- 1.9 The owner was given a number of extensions of time in order to submit the required application due to the fire and loss of paperwork. On the 16th April 2009 an application was submitted for a Certificate of Lawfulness relating to the 2 caravans and 12 storage containers under reference 3/09/0575/CL. However, this application was subsequently withdrawn by the owner's agent on the 9th June 2009.
- 1.10 A further application was submitted on the 10th December 2009 under reference 3/09/1837/CL for a Certificate of Lawfulness for the residential use of the land and caravans. After due consideration this application was refused for the following reason:-

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1. The applicant has not provided sufficient evidence or appropriate evidence to show on the balance of probabilities, that the use described in the schedule hereto (the occupation of two caravans) has existed continuously for a period in excess of 10 years preceding the making of the application.

1.11 The two caravans remain on site, one being occupied by the owner of the land and the other for permanent workers accommodation

2.0 Planning History

2.1 The recent relevant planning history is as follows: -

3/09/0575/CL	Certificate of Lawfulness for 2 caravans and 12 containers	Withdrawn by agent
3/09/1052/CL	Certificate of Lawfulness for the retention of 12 containers	Granted
3/09/1837/CL	Change of use of land for 2 mobile homes	Refused

3.0 Policy

3.1 The relevant policies of the East Herts Local Plan Second Review April 2007 are:-

- GBC1 – Appropriate Development in the Green Belt

4.0 Considerations

4.1 The site is situated within the Metropolitan Green Belt wherein policy GBC1 applies. The policy states that development will not be permitted in the Green Belt except in certain specified circumstances such as for agriculture or forestry. Permanent residential accommodation is not one of those specified circumstances and therefore represents inappropriate development.

4.2 Policy GBC1 states that inappropriate development will not be permitted unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness and any other harm. This accords with government guidance in Planning Policy Guidance 2;

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Green Belts, wherein it also states that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 4.3 The owners of the site have 2 caravans stationed on the land that are being used for residential purposes, one for the owner and his wife and the other for workers at the site. The General Permitted Development Order Part 4, Schedule 2, allows for the temporary occupation of the caravans where it relates to operations being carried out by seasonal workers, but does not provide for long term occupation. Such caravans as are used for seasonal workers are required to be removed at the end of each season. However these two caravans remain on site permanently and do not therefore constitute “permitted development”. In contrast, their permanent residential use constitutes a material change of use of the land which is inappropriate in the Green Belt.
- 4.4 It does not appear to officers that there are any very special circumstances in this case to justify the need for two caravans to be occupied all year round in connection with any activities that may be taking place on the site.
- 4.5 The recent certificate of lawfulness application failed to provide the necessary evidence to show, on the balance of probabilities, that the land on which the caravans are sited has been used for permanent residential purposes for a period of 10 years or more even though the caravans may have been sited on the land for that period.

5.0 Recommendation

- 5.1 For the above reasons it is recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised use of the land and caravans, and the removal of the caravans from the land.