

E/09/0510/B - Unauthorised residential use of the land; the unauthorised erection of a Yurt style residential structure; the construction of a subterranean, or partly subterranean, building and the failure to comply with the requirements of a planning contravention notice at 17 Coltsfoot Lane, Bulls Green, Knebworth, SG9 0LN

Parish: DATCHWORTH

Ward: DATCHWORTH and ASTON

RECOMMENDATION

- a) 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 removal of the unauthorised structures from the land and the cessation of the unauthorised residential use of the land.
- b) That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to commence action under Section 171D of the Town and Country Planning Act 1990 (as amended) to prosecute the offender in respect of the failure to comply with the requirements of a Planning Contravention Notice

Period for compliance: 6 Months.

Reasons why it is expedient to issue an enforcement notice:-

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 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 very special circumstances are apparent in this case, and the buildings are therefore contrary to saved policy GBC1 of the East Herts Local Plan Second Review April 2007 and the requirements of national planning policy in PPG2 – Green Belts and PPS7 ‘Sustainable Development in Rural Areas’.
2. The Yurt and its associated developments and the subterranean, or partly subterranean, building by reason of their scale, bulk, design and appearance are detrimental to the openness and character of the surrounding countryside. They are therefore contrary to saved policy ENV1 of the East Herts Local Plan Second Review April 2007 and national planning policy in PPS1 'Delivering Sustainable Development' paragraph 34.

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Reason why it is expedient to commence legal proceedings:-

1. The failure to respond to the Planning Contravention Notice, issued with regard to both the use of the land and the unauthorised operational development on it, is an offence under the provisions of Section 171D of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). The lack of adequate response to the PCN has impeded the proper investigation of the activities on the site and it is considered that prosecution proceedings are necessary, appropriate and proportionate in this case.

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1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. It is situated on the south side of Coltsfoot Lane about 175 metres west of the junction with Bramfield Road, within the Metropolitan Green Belt as designated within the East Herts Local Plan Second Review April 2007. The land is not registered with the Land Registry.
- 1.2 In December 2009 a concern was expressed to the Council that a permanent residential use was being made of the above land. This concern was in the form of a letter with the names and addresses of six local residents appended to it. However when the letter was acknowledged the individuals whose details were on it contacted officers stating that they had no knowledge of the letter.
- 1.3 Officers were aware that the owner of the land, Mr Nigel Howitt, had written to the Chief Executive on 17th August 2009. In that letter he expressed the desire to be referred to as Nigel-Peter: Howitt and the 109 statements contained in that letter effectively claimed that he considered himself to be a "Freeman-on-the-Land". He contends that this means that he is not bound by any statute, or other law.
- 1.4 It is the view of the Solicitor to the Council that this claim has no basis in law.
- 1.5 Two enforcement officers visited the site in March 2010 and noted that there were substantial earthworks taking place at the site within which a blockwork building was under construction. The bricklayer stated that it was the owner's intention to construct a storage building for vegetables. Officers also noted a flagged path further into the site and followed it through a hedge.

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- 1.6 At the end of the path was a structure which comprised a three module Yurt style structure with a boarded tower and chimney. There were polished wooden doors in two of these Yurt modules. When the door was opened it was apparent that the interior of the building had a raised floor and was carpeted and furnished.
- 1.7 Officers were not invited into the building but the owner insisted that they read a notice attached to a tree within the site. That notice, erected by him, stated that any individual from this Council entering the land would be required to pay one million pounds in gold coin to the owner and each of his immediate neighbours. There were further substantial charges indicated for taking photographs.
- 1.8 Despite requests to discuss the structures and his use of the land, the owner declined to speak to officers requesting them to put all questions in writing.
- 1.9 On 8th March 2010 a Planning Contravention Notice was issued to the owner requiring the answers to a number of questions regarding the use of the land and structures and regarding the ownership of the land. The only correspondence received was on the 26th March 2010 addressed to the Chief Executive, the Director of Neighbourhood Services, the Head of Planning and Building Control, the Principal Planning Enforcement Officer and the Planning Enforcement Officer and others. This letter did not include the required details but sort evidence of the authority of the council and other information which, on taking legal advice, was felt inappropriate to respond to.
- 1.10 On 29th March 2010 the Principal Planning Enforcement Officer wrote to the owner pointing out that no response had been received to the notice and inviting such a response by Tuesday 6th April 2010. To date those details have not been provided.
- 1.11 Whilst the failure to comply with the PCN means that officers lack full details of the use(s) of the land at the site it is apparent that residential use is being made of it. Members will recall that Section 172 of the principal Act is worded in such a way that the local planning authority may issue an enforcement notice "where it appears to them" that there has been a breach of planning control.
- 1.12 Photographs of the site will be available at the meeting.

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2.0 Planning History

2.1 The most recent planning history for the site can be summarised as follows:-

3/92/0714/OP	Erection of a 3 bedroomed house with facilities for the disabled.	Refused
3/08/1996/FP	Erection of a poly-tunnel (retrospective)	Withdrawn incomplete

3.0 Policy

3.1 The relevant 'saved' policies from the EHLP April 2007 in this case are:
GBC1 – Appropriate Development in the Green Belt
ENV1 – Design and Environmental quality
SD2 – Settlement Hierarchy

3.2 In addition, the following National planning policy is relevant:-
PPS1 'Delivering Sustainable Development'
PPS7 'Sustainable Development in Rural Areas'
PPG18 'Enforcing Planning Control'
PPG2 – Green Belts

4.0 Considerations

4.1 In this matter, the main issues to be considered relate to policy and the impact of the unauthorised development upon the designated Green Belt countryside in which the site lies.

4.2 Officers' consider that the residential use of the site is inappropriate in the Green Belt and harmful in planning terms as there are no very special circumstances apparent to overcome the presumption against development within the Green Belt contained in both National and local policy.

4.3 Officers further consider that the buildings themselves are detrimental to the openness and character of the surrounding countryside; and are of a poor standard of design which is unsympathetic to the character and appearance of the site and its surroundings.

5.0 Recommendations

- 5.1 It is therefore recommended that authorisation be given to issue and serve Planning Enforcement Notices requiring the removal of the unauthorised structures and the cessation of the unauthorised residential use.
- 5.2 It is further recommended that authorisation be given to prosecute the owner for failing to comply with the requirements of a Planning Contravention Notice.