

## E/10/0192/A

### **5m E/10/0192/A – Unauthorised conversion of the first floor of an agricultural barn to residential accommodation at Gabriels, Honey Farm, Widford Road, Much Hadham, SG10 6EZ**

---

**Parish: MUCH HADHAM CP.**

**Ward: MUCH HADHAM.**

### **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 barn.

Period for compliance: 6 months.

Reason why it is expedient to issue an enforcement notice:

1. 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. The development is prejudicial to the aims and objectives of this policy, as set out at policies GBC2, GBC3, GBC9 and GBC10 of the East Herts Local Plan Review April 2007.
2. The creation of a dwellinghouse, away from established settlements and key services and facilities, or from areas allocated for housing in the development plan does not represent a sustainable form of development and is contrary to national planning policy contained in PPS3, PPG13 and PPS7.

\_\_\_\_\_ (019210A.PD)

### **1.0 Background**

- 1.1 The site is shown on the attached Ordnance Survey extract and is located in an isolated position to the south of the village of Much Hadham. Access to the site is via a private road which leads to Gingercross Farm.
- 1.2 Concern was expressed to the Council on 27th May 2010 regarding the unauthorised conversion and use of part of an agricultural barn on the site as a residential dwelling.

## **E/10/0192/A**

- 1.3 On the 18<sup>th</sup> June 2010 a visit to the site, with the owner, confirmed that the first floor of the barn had been converted into residential use consisting of 3 bedrooms, a living room, kitchen, bathroom and office and storage rooms, without the benefit of planning permission.
- 1.4 It appears that the agricultural barn was built under agricultural 'permitted development' rights in or around 1991-1992 for use by the current owner in association with his bee keeping and honey production business at the site. According to the owner, works to convert the first floor of the barn into residential use started in 2005 with full time occupation sometime in 2006; however, officers are currently unable to confirm the precise date of residential occupation.
- 1.5 Members will be aware that sections 171B (1), (2) and (3) of the principal Act define periods of time after which unauthorised developments become lawful. In the case of a change of use of a building to a dwelling house, sub-section (2) is relevant and states that:-
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- 1.6 Therefore, the provisions of Section 171B (2) of the Act would grant a lawful use for the use of the building as a dwellinghouse if it can be shown 'on the balance of probabilities' that the building has been so used for a period in excess of four years.
- 1.7 Officers cannot currently determine if that period has elapsed. However, it would appear, from the limited information so far available, that the relevant four year period may expire sometime during 2010. In view of this, and the consequential need to take enforcement action as soon as possible, Officers consider it expedient to bring this matter to the committee as an urgent item of business.
- 1.8 Photographs of the site will be available at the committee meeting.

## **2.0 Planning History**

- 2.1 The recent relevant planning history is as follows: -

3/94/1751/FL      Stationing of mobile home for residential      Refused  
use.

## E/10/0192/A

3/95/1740/FL      Stationing of mobile home for a temporary period.      Refused – Dismissed at appeal.

### **3.0 Policy**

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

- GBC2 – The Rural Area beyond the Green Belt
- GBC3 – Appropriate Development in the Rural Area beyond the Green Belt
- GBC9 – Adaptation and Re-use of Rural Buildings
- GBC10 – Change of Use of an Agricultural Building

### **4.0 Considerations**

4.1 The main consideration in this matter is the residential use of a building within an isolated part of the Rural Area, wherein there is a presumption against inappropriate development. Policy GBC3 indicates that changes of use within the Rural Area will not be permitted except in certain specified circumstances. In this case, officers do not consider that the residential use of the building meets these specified criteria.

4.2 Whilst the adaptation and re-use of rural buildings can be considered appropriate in certain circumstances under policies GBC9 and GBC10 of the Local Plan, it is not considered that this development accords with those policies. Under policy GBC9 (II) the residential use of a building will be permitted only where the retention of the building is unable to be facilitated by conversion to a business use or part of a leisure, tourism, community or other use appropriate to a rural area. No evidence is available to indicate that other uses have been considered at the site or that residential re-use is the only means available to facilitate the retention of the building. Furthermore, there is no evidence that the building was erected for genuine agricultural purposes and therefore policy GBC10 would not apply in this case.

4.3 Officers therefore consider that the development is not in accordance with the Development Plan, nor are there any material considerations apparent which would indicate that planning permission should be granted in this case, contrary to the provisions of the Development Plan. The formation of an isolated dwelling in the Rural Area is contrary to the main development strategy of the Development Plan which is to concentrate and direct development to the main settlements within the District. This strategy is also

## **E/10/0192/A**

very much in accordance with national policy as expressed in PPS3 and PPS7.

- 4.4 The unauthorised dwelling is located within the countryside and therefore away from good access to key services and facilities. It is not therefore a sustainable location for new housing, the occupants of which would be almost totally reliant on the private car to access those key services and facilities.
- 4.5 If permitted, the erection of dwellings in the open countryside such as in this case, would cumulatively change the rural character of the District, both visually and in terms of the general level of activity, particularly as a result of additional traffic movements.
- 4.6 The owner has informed Officers that the residential use started in 2006. As outlined in paragraph 1.7 of this report, this use then may become immune from enforcement action during 2010. Whilst the owner has indicated that a certificate of lawfulness application will be submitted in the near future, Officers consider it necessary to safeguard the Council's position in this matter by issuing and serving an enforcement notice at the earliest opportunity in order to prevent the development becoming lawful over the coming months. Such action will of course be regularly reviewed if and when any further evidence relating to the use is received.

### **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 residential use of the barn.