

**5k E/11/0229/A – Unauthorised conversion of garage into two studio flats at  
The Old Mission Hall, Chipping, Buntingford, SG9 0PQ**

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**Parish: BUCKLAND**

**Ward: BUNTINGFORD**

**RECOMMENDATION:**

That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under s172 of the Town and Country Planning Act 1990 and any such further steps as may be required to cease the unauthorised use of the garage as two studio flats.

Period for compliance: 6 Months

Reasons why it is expedient to issue an enforcement notice:

1. The site lies within the Rural Area beyond the Green Belt as defined in the East Herts Local Plan wherein there is a presumption against development other than required for agriculture, forestry, small scale community facilities or other uses appropriate to the rural area. The unauthorised conversion of the garage into two self-contained residential units is contrary to the development strategy of the Local Planning Authority as set out in the East Herts Local Plan Second Review April 2007, which seeks to concentrate and direct development to the main settlements. The development is contrary to policies SD2 and GBC3 of the adopted plan and the NPPF.

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**1.0 Background:**

- 1.1 The site is shown on the attached Ordnance Survey extract. It is situated on the eastern side of the A10 on the outskirts of Chipping.
- 1.2 The Old Mission Hall was converted to a residential dwelling with a detached double garage in 1982 under reference 3/82/0706/FP. A later application in 1985 to convert the first floor of the garage to residential accommodation was refused.
- 1.3 In July 2011, it was brought to the attention of the planning authority that the double garage on the site had been converted into residential accommodation in the form of two studio flats, one on the ground floor and one on the first floor.

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- 1.4 A letter, dated the 28<sup>th</sup> July 2011, was sent to the owner advising him of the concern that had been raised regarding the conversion and use of the site and requesting a site visit to discuss the matter further.
- 1.5 In August 2011, officers spoke by telephone with the owner of the site when he was advised that the conversion and current use of the garage as residential accommodation was not considered as ancillary to the main dwellinghouse; therefore, planning permission was required.
- 1.6 On the 24<sup>th</sup> October 2011 a retrospective planning application, reference 3/11/1866/FP, was submitted for the conversion of the garage into two studio flats. After due consideration the application was refused permission for the following reason:
1. The application site lies within the Rural Area beyond the Green Belt as defined in the East Herts 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 conversion of the garage into two residential units is contrary to the development strategy of the Local Planning Authority as set out in the East Herts Local Plan Second Review April 2007 which seeks to concentrate and direct development to the main settlements. As such, the development is contrary to policy GBC3 of the adopted local plan and national planning policy expressed in PPS3 and PPS7.
- 1.7 Following this refusal an application, under reference 3/12/0946/CL, was submitted seeking a Certificate of Lawful Use (Existing) confirming that the use of the garage building as two self-contained studio flats had existed continuously for a period in excess of 4 years preceding the making of the application.
- 1.8 After due consideration it was considered that the use was not lawful as the applicant had not provided sufficient evidence to prove, on the balance of probabilities, that the use described in the application had existed for a period in excess of 4 years.

## 2.0 **Planning History:**

- 2.1 The relevant planning history is as follows:

3/78/1467/FP	Conversion of Mission Hall to dwelling	Approved
3/82/0706/FP	Change of use of Mission Hall to residential dwelling with single storey	Approved

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	side extension, detached double garage and boundary wall.	
3/85/0820/FP	Conversion of store above garage to flat to be used as a Granny annexe.	Refused
3/04/1664/FP	First floor bedroom extension.	Approved
3/05/2094/FP	Proposed single storey conservatory	Approved
3/11/1866/FP	Conversion of garage into two studio flats (retrospective)	Refused
3/12/0946/CL	Use of the garage building as two self contained studio flats	Refused

### 3.0 Policy:

3.1 The relevant saved policy of the East Herts Local Plan Second Review April 2007 is:

- SD2 – Settlement Hierarchy
- GBC3 – Appropriate Development in the Rural Area beyond the Green Belt.

3.2 The National Planning Policy Framework (NPPF) is also of relevance in this case.

### 4.0 Considerations:

4.1 As mentioned above, the Old Mission Hall was converted to a residential dwelling with a single storey side extension and detached double garage in 1982, under planning reference 3/82/0706/FP. It was shown to have a front boundary wall enclosing a front garden, shingled and part paved drive area in front of the garage. The northern boundary is delineated by railings with views across open countryside. To the rear of the Hall is a private amenity space with wooden shed enclosed with boundary fencing. To the southern shared boundary is a pair of semi-detached cottages with landscaped boundaries.

4.2 In 1985 a planning application for the change of use and conversion of the storage area above the double garage to provide a flat as accommodation as a 'granny annexe', reference 3/85/0820/FP, was submitted, and at that time it was apparent that works to partition the garage storage area were already under construction. The application was, however, refused as contrary to the Rural Area policies of the then adopted East Hertfordshire District Plan November 1981 and no further action was taken at that time.

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- 4.3 However, it is now apparent that the garage building has been converted into two separate self-contained residential units, with garage doors retained at ground floor.
- 4.4 The accommodation provided on the ground floor comprises a bed-sit room with bathroom, kitchen, lobby, entrance door with adjacent window on the southern elevation, and a single window on the eastern elevation for the bathroom. A second door on the southern elevation leads via internal stairs to a small first floor bed-sit of 15sqm floor space, with a kitchen, bathroom, landing and central living/sleeping area. Fenestration for the unit is limited to a single front and rear window with a usable area of internal floor space with headroom of at least 1.8m limited to approximately 10.5sqm.
- 4.5 The development strategy for the District is set out in policy SD2 of the adopted Local Plan. This seeks to direct development to the towns and larger settlements within the District. However, this particular site falls outside any of the identified settlements within the Local Plan and is located within the Rural Area.
- 4.6 Policy GBC3 of the Local Plan applies in the Rural Area wherein “permission will not be given for the construction of new buildings or changes of use for purposes other than those as set in the criteria (a) to (l) of the policy statement. In this instance the conversion of a modern double garage to provide two units of bed-sit accommodation in the Rural Area does not fall within any of the policy criteria and, as such, the conversion of the garage is inappropriate development, contrary to policy.
- 4.7 It is unclear when this conversion took place. The applicant indicated, within the retrospective application (3/11/1866/FP), that the two units were in existence at the time he purchased the property in 1988. However, that could not be satisfactorily substantiated within the recent application for a certificate of lawfulness under ref 3/12/0946/CL which Members will note was refused.
- 4.8 Members will also be aware that a change of use that results in the creation of a dwellinghouse, including a self-contained flat, would become lawful after a period of 4 years if the local planning authority has not taken enforcement action to require its cessation during that time. However, it is for the owner or applicant to show, on the balance of probabilities, that the property has been in use for such residential purposes continuously over that period of time. In this case, however, the site owner was not able to submit satisfactory evidence to show that this is the situation here, and in the absence of any such evidence,

officers cannot conclude that the use has become lawful through the passage of time.

- 4.9 The applicant failed to lodge an appeal against the refusal of planning permission in January 2012, but the use of the garage appears to continue. In these circumstances, and given the lack of evidence regarding the time when the use commenced, officers consider that a breach of planning control has occurred that is detrimental to the sustainable development strategy set out in the Local Plan and the guidance given in the NPPF.

**5.0 Recommendation:**

- 5.1 For the above reasons it is recommended that authorisation be given to issue and serve an Enforcement Notice requiring the cessation of the unauthorised use and the removal of the residential features inside the garage.