

5L E/11/0365/B – Unauthorised use of an extended barn to create a residential unit at Mayville, Cottered, Buntingford, SG9 9QB

Parish: COTTERED

Ward: MUNDENS AND COTTERED

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 use and the removal of the physical elements of the development that form an integral part of the unauthorised residential use.

Period for compliance: 6 months.

Reasons why it is expedient to issue an enforcement notice:

1. The District Council does not consider that the barn extension, which was built without planning permission, met a genuine agricultural need nor that it is worthy of retention. Furthermore, the unauthorised residential use adversely affects the simple agricultural form and design of the building and its curtilage. The development is thereby contrary to policies GBC3, GBC9 and GBC10 of the East Herts Local Plan Second Review April 2007.
2. The District Council is not satisfied that the building cannot be used for alternative, less intensive purposes, or that there is an essential need for permanent accommodation on the site. The proposal is therefore contrary to policies GBC3 and GBC9 of the East Herts Local Plan Second Review April 2007 and the considerations of the National Planning Policy Framework.

_____ (036512A.GRD)

1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extracts. The building is situated about 80 metres along an access track off the B1037, Cottered to Walkern road, about half a mile from the heart of Cottered village.
- 1.2 Concerns were expressed to this local planning authority in November 2011 that the barn was in residential use. During a site visit, the owners explained that the barn was built as per planning permission reference

3/99/0399/FP in 2000. An extension to this building was added in 2005 without planning permission and became used for primary residential accommodation in 2010.

- 1.3 The area of land (9.5 acres) including and surrounding the barn has been in agricultural use since 1999 when the original agricultural barn was approved under ref 3/99/0399/FP and the owner commenced the breeding of rare pedigree Longhorn cattle for conservation grazing. They also have another 5 acres of grazing land within their ownership. The site has been managed for the breeding of the pedigree cattle for the past 12 years and is still a going concern.
- 1.6 The extension to the original barn was used initially to store feed and equipment with provision for the owners to make tea and to shelter in while visiting the site. The original barn still has the characteristics of a functional agricultural barn, used in connection with the management of the rare breed cattle. A grassed area for the parking of two cars and a horsebox is located some 40m to the north west of the building. Some modest planting is provided around the building of a domestic nature, but there is no garden curtilage provided for the dwelling.
- 1.7 Planning permission for the temporary siting of a mobile home on the site, located at the front of the narrow field close to the road, was refused in 2001, and dismissed on appeal. The reasons for the dismissal related to:
 - the intensification of the use of the access being detrimental to highway safety
 - the proposed development was contrary to policy RA3 (GBC3) and did not satisfy the agricultural tests of PPG7
 - The proposed building would detract from the character and appearance of the Landscape Conservation Area.

The site operated at the time with a limited cattle / calving unit and a vermiculture (wormery) business.

- 1.8 Since then, the site (including the use of the barn) has functioned only for the breeding of the rare breed Longhorn cattle, which are bred and sold for conservation grazing on various sites throughout the UK.
- 1.9 The unauthorised extension to the barn, as mentioned above, was constructed in 2005. It is some 10m in length on the southern flank elevation, continuing the barn form in the same materials and height and construction. The extension is now in use as a residential dwelling with a kitchen, bathroom, and lounge area, and a bedroom at first floor level within the roof space.

- 1.10 Part of the first floor accommodation of the dwelling extends over part of the floor area of the original barn, although at ground floor the barn is still used for agricultural purposes and has not been changed internally. Externally the original barn has remained with its weatherboard external finish and does not show evidence of domestication. However, the extended element does, with new shuttered windows, doors, and a Juliet balcony etc.
- 1.11 The extended part of the barn was originally used only when the owners visited the site, but became their primary residential accommodation, and in planning terms a separate dwelling, approximately 18 months ago (since 2010).
- 1.12 An application was submitted in May 2012 seeking retrospective permission for the use of the extended part of the barn as a residential unit of accommodation (ref: 3/12/0860/FP). After due consideration, however, the application was refused on 8 August 212 for the following reasons:
1. The District Council does not consider that the barn extension, which was built without planning permission, met a genuine agricultural need nor that it is worthy of retention. Furthermore, the unauthorised residential use adversely affects the simple agricultural form and design of the building and its curtilage. The development is thereby contrary to policies GBC3, GBC9 and GBC10 of the East Herts Local Plan Second Review April 2007.
 2. The District Council is not satisfied that the building cannot be used for alternative, less intensive purposes, or that there is an essential need for permanent accommodation on the site. The proposal is therefore contrary to policies GBC3 and GBC9 of the East Herts Local Plan Second Review April 2007 and the considerations of the National Planning Policy Framework.
- 1.13 No appeal has, as yet, been lodged against this decision.

2.0 Planning History:

2.1 The planning history of the site can be summarised as follows:

| | | |
|--------------|--|------------------------------|
| 3/99/0399/FP | Erection of agricultural barn | Granted |
| 3/01/0590/FL | Mobile accommodation for new agricultural enterprise | Refused. Appeal dismissed |
| 3/12/9860/FP | Change of use of extended barn to | Refused. |

create a new residential unit.

3.0 Policy:

3.1 The relevant policies of the adopted Local Plan in this matter are:-

- GBC3 - Rural Area beyond the Green Belt
- GBC9 - Adaptation and Re-use of Rural Buildings.
- GBC10 - Change of Use of an Agricultural Building.

3.2 The NPPF is also of relevance to the development.

4.0 Considerations:

4.1 In terms of planning legislation, the physical extension to the barn was carried out more than 4 years ago and as such is considered immune from enforcement action under Section 192 of the Town & Country Planning Act 1990.

4.2 However, the change of use of the extension to a residential dwelling has not existed for a period in excess of 4 years and is not therefore immune. The recent retrospective planning application considered the unauthorised use against the relevant policies of the Local Plan and the NPPF but concluded that it was not an appropriate form of development in the Rural Area and that permission should not be granted for the retention of the use.

4.3 Policy GBC3 of the Local Plan indicates that the adaptation and re-use of rural buildings may be permitted where it accords with policies GBC9 and GBC10.

4.4 Policy GBC9 (II) states, inter alia, that proposals for the adaptation and re-use of agricultural and other non-residential domestic rural buildings for residential use will only be permitted where the building is worthy of retention; is unable to be used for business, leisure, tourism or other use compatible with the rural area; and where the introduction of the residential use would not detract significantly from the rural character and appearance of the area.

4.5 In this case the extended building, although complementary in height and form to the barn, is not considered worthy of retention, as it has no architectural merit and there would be no planning harm if it were lost. Its character is domestic unlike simple barn structures found in the rural area. As it was built without planning permission shortly after an appeal was dismissed for a mobile home at the site, it could arguably seem perverse to state in these circumstances that it is 'worthy of retention',

even if it is now lawful in planning terms.

- 4.6 Furthermore, even if it were considered worthy of retention under GBC9 (II) (b) there is no relevant evidence submitted by the applicants to show that the building is unable to be used for business, leisure or tourism, community or other purposes. The planning statement submitted at the time of the recent retrospective application identifies that the business is small and that the applicants had previously lived six miles away from the site, prior to moving into the extension. Officers consider therefore that there is no demonstrable agricultural justification for accommodation on the site.
- 4.7 Officers also consider that the extension itself could be satisfactorily adapted to provide continued agricultural use or low key ancillary facilities (such as storage or tea making for example) to support the agricultural use of the land. The proposal is therefore contrary to the provisions of policy GBC9.
- 4.8 Policy GBC10 is also relevant where a change of use of an agricultural building is proposed. The original barn was erected to serve a genuine agricultural need and still functions in that capacity. It does not appear, however, that the extension was erected to serve a genuine agricultural need. The new use does not relate to the diversification of the agricultural business of which it forms part, and the building is not necessarily important to the holding.
- 4.9 The cattle are housed adequately in the rear paddocks of the land surrounding the building and although they are 'rare breed' stock they do not in the view of officers require 24 hour on-site monitoring and therefore a presence on-site is not required and the provision of a residential use on the site is not justified. The 2002 appeal decision found against the viability of the enterprise at that time and there is no evidence to show that this has changed since then.
- 4.10 The applicant's supporting planning statement listed personal and financial circumstances to support the application but these were not considered to justify the change of use of the extension building to residential use.
- 4.12 The unauthorised use therefore conflicts with policies GBC3; GBC9 and GBC10 of the Local Plan and there are no material considerations which would justify permitting the inappropriate development.

5.0 Recommendation:

- 5.1 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the

unauthorised use and any works necessary to remove the physical elements of the development that form an integral part of the use.