

5k E/12/0105/A – Unauthorised building operations to enclose an open ground floor area, the installation of windows and doors and the untidy condition of the land at Valleyfields, Westland Green, Little Hadham, SG11 2AE

Parish: LITTLE HADHAM

Ward: LITTLE HADHAM

RECOMMENDATION:

That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under Sections 172 and 215 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure the removal of the unauthorised building works and waste deposited on the site.

Period for compliance: 3 months.

Reason why it is expedient to issue an enforcement notice:

1. The site lies within the Rural Area 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 unauthorised alterations to the building are detrimental to its rural character and appearance and appear to facilitate its unauthorised use for residential purposes which is the subject of an extant enforcement notice. The unauthorised works to the building are therefore inappropriate in the Rural Area and detrimental to the character and appearance of the building and the locality, contrary to policies GBC3 and GBC9 of the East Herts Local Plan Second Review April 2007.

Reason why it is expedient to issue a s.215 notice:

1. The condition of the land is detrimental to the amenity of the surrounding area, by reason of the deposited waste. It is thereby contrary to policy ENV1 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 is situated about 160 metres along a bridleway, accessed from Chapel

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Lane about 900 metres from its junction with The Ford, Little Hadham.

- 1.2 Members may recall that the unauthorised erection of this building and its immediate use as a dwellinghouse was referred to Committee on 25th May 2011. The Committee authorised Officers to take action to secure the cessation of the unauthorised residential use and for the removal of the physical elements of the development that formed part and parcel of, and an integral part of, that residential use.
- 1.3 The building itself, which was of a barn like appearance, had been constructed without planning permission and served two functions. The ground floor contained a tack room, hay store and storage associated with the equine use of the site as well as a substantial open yard area. The first floor, which oversailed the open yard and storage areas, was constructed as a dwellinghouse complete with kitchen, bedrooms, bathroom and lounge. Photographs of the building at this time will be available at the meeting.
- 1.4 On 7th July 2011 a planning enforcement notice was served on the site and on the owner, requiring the cessation of the use of the property for residential purposes and the removal of the features of residential use including the kitchen and bathroom together with associated furniture, fixtures and fittings and bedroom furniture and fittings.” with an effective date of 7th August 2011. The compliance period was six months, requiring compliance by 7th February 2012. No appeal against this notice was made.
- 1.5 On 12th November 2011 a new owner of the site sent an e-mail to the Council stating that the “barn” was empty and was unfit for residential use. He corresponded with the Enforcement Officer and asked what he could lawfully use the building and land for. He was informed that without planning permission the land and building could only be used for agriculture or forestry purposes. Agriculture could include the grazing of animals (including horses).
- 1.6 On 21st November 2012 the Enforcement Officer met the new owner on site and inspected the building. The ground floor was completely empty with a concrete floor, exposed steel joist and studding construction. Ceilings and walls were not clad and the steel frame and upper level floor joists were exposed. The staircase was crudely constructed from Dexion angle iron with wooden treads and handrail. The upper floor had been stripped of kitchen and bathroom paraphernalia as well as the flimsy partitions that divided the bedrooms.
- 1.7 The Enforcement Officer then further discussed the implications of the

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ongoing effect of the enforcement notice on the property and explained that any future breach of that notice would be a criminal offence. The new owner then asked whether he could use the site for purposes connected with his landscaping and dog businesses and was advised to seek advice through the Council's pre-application process or an independent planning consultant. He was further advised that there were no permitted rights available to extend or alter the building or construct new ones.

- 1.8 There being no ongoing breach of planning control the planning enforcement file was then closed.
- 1.9 In April 2012, however, a concern was raised with the Authority that there was a renewed residential use of the site and that the barn structure had been altered. The Enforcement Officer visited the site, which was gated and locked, on 10th April 2012 and noted that the building had been re-roofed, the ground floor open yard area had been enclosed, incorporating it into the building using feather edge weatherboarding into which had been inserted a residential style front door and window. The building had been painted black and on the rear elevation a new soil stack and boiler flue were apparent.
- 1.10 The Enforcement Officer wrote to the new owner on 11th April 2012 further reminding him of the requirements of the extant enforcement notice and requiring him to meet the Officer on site.
- 1.11 On 14th May 2012 the Enforcement Officer visited the site and met the planning agent employed by the owner. Whilst there did not appear to be a current residential use of the building, extensive works to convert the building to a high class residential standard had taken, and were taking, place.
- 1.12 In addition to the residential door and window, visible from outside the site, inserted in the north and east elevations there was a further residential style front door and window inserted in the south elevation.
- 1.13 Inside the property the interior walls and ceilings had been plaster boarded, plastered and painted, one of the interior walls concealing the exterior barn and hay store 'doors'. A hard wood floor had been laid throughout the building and a fully fitted kitchen installed downstairs. A gas boiler had been installed and central heating radiators piped and fitted throughout the building. Recessed low voltage spotlights had been installed in the ceilings and a new white painted residential style staircase installed to access the first floor. There was a pool table sited on the ground floor where the covered yard area used to be.

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- 1.14 On the first floor works were taking place to construct studding walls to form bedrooms and a new bathroom suite was in the process of being installed. Notwithstanding these works, the planning agent stated that there was currently no water or electricity on site.
- 1.15 The agent appreciated that his client was in breach of the current enforcement notice and that works had taken place to the exterior of the building that required planning permission. He asked for an opportunity to seek the formal views of Officers under the pre-application process with regard to possible commercial, residential or live/work uses for the site.
- 1.16 A request for pre-application advice was received and considered by Officers who formed the view that all these proposed uses were contrary to policy and, therefore, inappropriate. A detailed response was sent to the agent.
- 1.17 In August 2012 a further concern was expressed to the Council that waste was being deposited on the land adjacent to the bridleway access to the property. The Enforcement Officer visited the site on 8th August 2012 and noted that a considerable amount of waste had been deposited on the land. It appeared to mainly comprise cut branches, open wooden crates and pallets, soil and old flowerpots.
- 1.18 The Enforcement Officer wrote to the agent requiring the removal of the waste and compliance with the extant enforcement notice. On 28th August 2012 the agent forwarded an e-mail from the owner stating that he would remove the waste, kitchen and bathroom within 14 days. However a further site visit by the Enforcement Officer on 3rd October 2012, when the site was again securely locked, showed that the waste had not been cleared nor was there any external evidence of any further works to the building.
- 1.19 Officers consider that the condition of the land is now adversely affecting the amenity of a part of the Council's area.
- 1.20 Photographs of the site will be available at the meeting.

2.0 Planning History:

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

3/02/2136/FP	Horse shelter/haybarn/tractor store	Approved.
3/09/1143/CL	Application for certificate of	Refused.

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lawfulness for the construction and completion of a building in excess of 4 years ago and its continued occupation as a dwellinghouse since July 2005

3/10/1328/CL	Application for a Certificate of Lawfulness for the construction and completion of a building in excess of 4 years ago and its continued occupation as a dwellinghouse since July 2005	Withdrawn by applicant/agent
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3.0 Policy:

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

GBC2 The Rural Area Beyond the Green Belt

GBC3 Appropriate Development in the Rural Area Beyond the Green Belt

SD2 Settlement Hierarchy

GBC9 Adaption and Re-use of Rural Buildings

3.2 The National Planning Policy Framework is also of relevance to the consideration of this development.

4.0 Legislation:

4.1 Section 215 of the Town and Country Planning Act 1990 - Power to require proper maintenance of land – is of relevance in this case.

5.0 Considerations:

5.1 There is an extant enforcement notice on this site which prevents the use of the building for residential purposes and any such use would be a criminal offence. The owner has been advised of this on more than one occasion.

5.2 However, since the service of that Notice, the building has been altered in a manner that is detrimental to its original barn style appearance and which is out of keeping with the rural character of the surrounding area. It is these physical alterations to the property that are the subject of this report, together with the loss of amenity caused by the deposit of waste on land adjacent to a public bridleway.

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- 5.3 The main considerations in this matter therefore relate to the acceptability of the development within the Rural Area; whether the adaptations to the building are appropriate to the character and appearance of the building and the surrounding area; whether they are required to facilitate an appropriate use of the building, and the impact on the amenity of the area caused by the deposit of waste on land adjacent to a public bridleway.
- 5.4 The site is located within the Rural Area beyond the Green Belt wherein there is a presumption against inappropriate development. Having regard to the scale and nature of the development Officers' do not consider that the alterations to the building accord with policies GBC3 and GBC9 and are therefore inappropriate in the Rural Area.
- 5.5 The original building, with its open sided covered horse yard had an appearance which was rural in character. The entrance to the building was through barn sized doors and there were no ground floor windows or other doors. The extensive alterations to the building, including the enclosure of the open yard and the insertion of two further doors and windows, are out of keeping with the character of the area and inappropriate for a rural building. They are therefore, contrary to Policy GBC9 of the Local Plan.
- 5.6 The altered building now has a residential appearance and fails to be sympathetic to the rural character and appearance of its surroundings. The original building had no historic or architectural merit and would not be considered by Officers to be worthy of retention. Accordingly the adaption and re-use of the building for residential purposes would be contrary to the provisions of Policy GBC9 (and is in any event prevented by the extant enforcement notice). The alterations that have been carried out are not therefore required for any lawful use of the building; are inappropriate and detrimental to its character and appearance and to that of the surrounding area as a whole.
- 5.7 In respect of the condition of the site, the depositing of waste on the land adjacent to, and visible from, the public bridleway alongside the site has led to a loss of amenity to the surrounding area. The Council have powers granted under Section 215 of the Town and Country Planning Act 1990 to require the proper maintenance of land where such a situation exists. It is the view of Officers that the condition of this site warrants the service of such a notice.

6.0 Recommendation:

- 6.1 In accordance with the above considerations, Officers are of the opinion

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that the external alterations to this building represent an inappropriate form of development within the Rural Area and result in an unacceptable degree of harm to the site and its surroundings, contrary to both national and local planning policy. Officers further consider that the deposit of waste on the land adjacent to, and visible from, a public place has created a loss of amenity to the area. It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the removal of the unauthorised external works and to issue and serve a further notice under the provisions of Section 215 of the Town and Country Planning Act 1990.