

5k E/12/0277/A – Demolition of original dwelling and unauthorised construction works at The Red Lodge, Pigs Green, Little Hadham, Herts, SG11 2AH

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 section 172 of the Town and Country Planning Act 1990 and any further steps as may be required to secure the removal of the unauthorised development on the site and the reinstatement of land levels on the adjoining land by the removal of the dumped spoil.

Period for compliance: 3 months

Reasons 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 Second Review April 2007. The unauthorised works currently under construction on site (which appear to be for the erection of a replacement dwelling) are contrary to policies GBC3 and HSG8 of the East Herts Local Plan Second Review April 2007 and the policies of the NPPF. If permitted to remain without suitable planning control, the development could result in harm to the rural character and appearance of the surrounding area contrary also to policy ENV1 of the Local Plan. The dumped spoil has a harmful impact on the appearance of the area and the long term health of the trees affected. This element of the unauthorised development is therefore also contrary to policies ENV1, ENV2 and ENV11 of the Local Plan.

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1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extract. It lies on the northern side of Pigs Green and previously contained an extended detached bungalow and double garage sited in the north eastern corner of the plot.
- 1.2 In July 2011 the owner of the site sought pre-application advice in respect of a proposed replacement dwelling on the site. The Council responded that it did not consider that the existing dwelling was of poor

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- appearance or construction and that a proposal to demolish it and replace it with a new dwelling would therefore be contrary to policy HSG8 of the Local Plan and unlikely therefore to be permitted.
- 1.3 Following that advice, an application was submitted in February 2012 under reference 3/12/0270/FP for the extension and refurbishment of the existing dwelling involving the demolition of an annex and garage at the site.
 - 1.4 That proposal was granted planning permission in July 2012. Whilst fairly extensive works were proposed to the property the Council was satisfied, given the number of walls that were to be retained, that the proposal nevertheless constituted 'extensions and alterations' and would not be tantamount to a replacement dwelling. It was considered necessary and appropriate, however, to attach a planning condition which required detailed drawings to be submitted showing the extent of the existing dwelling that was to be retained.
 - 1.5 In accordance with that condition, plan reference 11/61/03 PL was submitted by the owner's agent. This clearly showed the retention of a substantial element of the existing structure – the entire southern flank wall for example together with the eastern, western and northern external walls to the southern 'wing' of the property.
 - 1.6 However, on 27 September 2012 concerns were raised that the development was not being built in accordance with the approved plans and during a subsequent site visit it was evident that all the outer walls, including those shown to be retained on drawing 11/61/03 PL had been demolished.
 - 1.7 It was also evident that spoil from the development had been dumped on adjoining land, raising its level and significantly covering the roots of the trees.
 - 1.8 Officers advised the agent and the owner that, as a result of the demolition of the original building, planning permission 3/12/0270/FP for the extension and refurbishment of the existing dwelling was not now capable of being implemented, as there was no dwelling on the site capable of being extended or altered. All parties were advised that all further work on site was carried out at the owners own risk.
 - 1.9 The applicant's agent advised the Council that, during the course of taking down the elements of the existing dwelling that had been agreed for demolition, it was discovered that the damp proof membrane of the remaining structure was in a very poor condition. The agent indicated that a building surveyor had required the replacement of this membrane

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and it could not be replaced with the walls in position so it had been necessary to remove all the walls.

- 1.10 No evidence of this 'requirement' has been submitted to the Council and officers have established that it was not required by this Council's Building Control Officers. In any event, the circumstances that led to this demolition do not alter the fact that the demolition works carried out were in breach of the condition imposed on permission 3/12/0270/FP. No contact was made with planning officers at any stage. Furthermore, the works have resulted in the complete demolition of the original dwelling and it cannot now be 'extended and altered' as originally proposed. Planning permission ref: 3/12/0270/FP cannot therefore be implemented.
- 1.11 Despite the owner and agent being made aware of this, unauthorised building works have continued on site. The owner's agent states that these works are only for the erection of retaining walls on the site and not for the erection of a replacement dwelling. However there is no planning permission for the erection of retaining walls on the site and, in any event, the works that are being undertaken are more extensive than simply retaining walls and appear to follow the foundation lines for a replacement dwelling. They are not therefore authorised, either under permission 3/12/0270/FP or otherwise.
- 1.12 Photographs of the site will be available at the committee meeting.

2.0 Planning History:

- 2.1 The planning history relevant to this site can be summarised as follows:-

3/77/1198/FP	Side extension	Granted
3/78/0167/FP	Double garage	Granted
3/87/0810/FP	Rear extension	Granted
3/92/1369/FP	Carport and conservatory	Granted
3/12/0270/FP	Extensions and alterations	Granted

3.0 Policy:

- 3.1 Policies GBC3, HSG8, ENV1, ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework (NPPF) are relevant to this matter.

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4.0 Considerations:

- 4.1 The site lies within the Rural Area beyond the Metropolitan Green Belt wherein proposals must accord with Policy GBC3 of the Local Plan. Policy GBC3 states that within the Rural Area limited extensions or alterations to existing dwellings will be permitted where they accord with policy ENV5. In this case, the extensions permitted under reference 3/12/0270/FP were considered to accord with this policy.
- 4.2 In respect of replacement dwellings, policy GBC3 indicates that these may be permitted where they accord with policy HSG8 of the Local Plan. That policy then states that replacement dwellings will only be permitted where the original dwelling is of poor appearance or construction not capable of retention and not contributing to the character or appearance of the surroundings.
- 4.3 It was against this policy that the applicant's pre-application request for a replacement dwelling was assessed in October 2011. That policy remains extant in accordance with paragraph 214 of the NPPF and indeed one of the core planning principles in the NPPF is to encourage the re-use of existing resources and the conversion of existing buildings.
- 4.4 Officers had previously considered the condition of the building and its appearance in accordance with policy HSG8 and had concluded that, whilst it was in need of modernisation to meet current building regulations and insulation standards, it was not of such poor construction or appearance that it couldn't be retained and improved. Indeed, the submission of an application for its extension and alteration indicates that it was possible to do so. The applicant's architects also quite clearly indicated that a significant part of the existing structure was capable of retention.
- 4.5 Officers do not therefore consider that the demolition of the original building was justified in this case. Furthermore, the building works currently underway on site do not have the benefit of planning permission. They cannot be considered as extensions and alterations to the original building as permitted under ref 3/12/0270/FP but appear instead to relate to the erection of a replacement dwelling which, as set out above, would not be in accordance with policy HSG8. In either case the works are unauthorised.
- 4.6 The owner's agent states that the replacement of the walls removed would result in a new development of the same size and design as would have resulted from the extension and alteration of the original

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dwelling. Officers acknowledge that this might be the case. However, the Council has no plans before it to show this new development and therefore no adequate planning control over the works being undertaken.

- 4.7 There are no submitted plans for a replacement dwelling on this site against which any works on site could be checked. Furthermore, if a replacement dwelling were constructed without planning permission it would not be subject to any conditions and the Council would have no control over its design, the materials of construction, fenestration; landscaping; or any further future development on the site.
- 4.8 For the owner, this would also result in a new dwelling on the site without the benefit of planning permission which may well result in difficulties for them in any future sale of the property.
- 5.0 Recommendation:**
- 5.1 It is therefore recommended that authorisation be given to issue and serve an enforcement notice requiring the demolition and removal of the current unauthorised works on the site (including the raising of ground levels where the spoil has been deposited). This action would have the effect of giving the Council the necessary control over the development in the event that the owner cannot be persuaded to submit an application for the unauthorised development. It would also enable, through the appeals process, the imposition of any necessary conditions.