

**5i E/12/0314/B – Unauthorised use of land for the storage of motor vehicles at Monks Green Farm, Mangrove Lane, Hertford, SG13 8QL**

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**Parish: BRICKENDON LIBERTY**

**Ward: HERTFORD HEATH**

**RECOMMENDATION:**

That the Director of Neighbourhood Services, in consultation with the Director of Finance and Support 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 ensure the cessation of the use of the land for the siting and storage of motor vehicles.

Period for compliance: 1 month

Reasons why it is expedient to issue an enforcement notice:

1. The unauthorised use constitutes inappropriate development in the Metropolitan Green Belt which is harmful by definition. It also represents an unsustainable form of development and additional harm is caused to the openness, character and appearance of the surrounding countryside. No very special circumstances are apparent in this case that would clearly outweigh this harm. The proposal is thereby contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.
2. The use results in an increase in vehicular traffic on BOAT 8, a byway open to all traffic, and on the adjacent rural road system. This is detrimental to the character, appearance and enjoyment of the byway and the linking public footpaths and may result in conflict between vehicles and pedestrians to the detriment of highway safety. The proposal is thereby contrary to policy TR20 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 OS extract and comprises an area of land within the farm which is currently being used for the storage of motor vehicles. The farm is located in a rural location in the south east of the District and is accessed via Mangrove Lane. Members will note that, for the purposes of this report, the location of the use has been

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identified on the plan attached in approximate terms. The extent will be identified more accurately as would be sufficient for the purposes of the service of any subsequent enforcement notice.

- 1.2 The farm complex is crossed by several footpaths and bridleways, to include a byway open to all traffic (BOAT).
- 1.3 In October 2012, concerns were raised with the Council about a car operation being run from the site and an associated increase in vehicular traffic using the access road to the site. Officers were given the details of the company operating the car sales business from a live/work dwelling on the farm known as Longcroft.
- 1.4 An Officer visited the site on the 25<sup>th</sup> October 2012 and met with the owner of the site. The planning history of the site was discussed and this included planning permission, under reference 3/04/1564/FP, for the erection of the property known as Longcroft as a live-work unit.
- 1.5 The owner explained that the first floor of the detached garage and store building associated with Longcroft was being used by a car sales company for office accommodation. The Officer advised the owner that the garage building (which was approved under ref: 3/06/0604/FP) was subject to a condition which stated that the garage building should only be used for the housing of private vehicles and for purposes incidental to the enjoyment of the dwelling house and not for any living accommodation or commercial activity, without the prior written consent of the local planning authority.
- 1.6 Members may recall that a subsequent application was submitted for the removal of this condition under reference 3/13/1513/FO. However, that has since been withdrawn.
- 1.7 The Officer also met with the owner of the car sales business, and it was established that he and three employees operate from the first floor of the garage at Longcroft. A subsequent visit indicates higher occupancy. The business trades at the high end of the second hand vehicle market with 75% being sold to clients abroad via the internet; 25% of their sales are to clients in the UK, again via the internet, with the occasional visitor (approximately one per week), by appointment, at the office.
- 1.8 During this visit, the Officer was shown the area of the farm used by the company for the storage of cars.
- 1.9 The owner indicated that this area of land had been used for many

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years for both general agricultural storage and for parking/vehicle storage.

- 1.10 On 9 November 2012 an application for a Certificate of Lawfulness was received, under reference 3/12/1910/CL, for the use of the site for the storage of motor vehicles. That application sought to show that the area of land in question had been used for in excess of 10 years for the storage of vehicles. However, Officers expressed the view that the application contained insufficient evidence to show this, on the balance of probabilities, and the application was subsequently withdrawn.
- 1.11 On 15 January 2013, a revised application was received, under reference 3/13/0055/CL, for the use of the site for general storage purposes, including storage of motor vehicles, containers and pallets. Whilst additional supporting information was supplied with this application, Officers remained concerned that it was insufficient to justify the grant of a certificate and the application was withdrawn.
- 1.12 Following that, the owner advised Officers that he had asked the car sales operator to cease the use of the land for car storage and had been advised that the business was actively seeking alternative premises. In March 2013 he advised that the operator had been given 4 months notice to leave the site.
- 1.13 However, the owner was later advised by the car sales business that they were experiencing significant difficulty in locating suitable alternative premises and he therefore allowed them additional time, until 1<sup>st</sup> October 2013, to cease the use of the land at the farm.
- 1.14 Officers were kept informed of the situation and, in view of the efforts being made to remedy the breach of planning control, considered it expedient to allow the additional time for the business to be relocated. A period of six months is generally considered proportionate and appropriate, both by this Council and the Planning Inspectorate, to enable a business to relocate.
- 1.15 On 9 October 2013 Officers were advised, that the car sales operator had not complied with the owners request for the use to cease. Alternative sites, elsewhere in the District, remained under consideration.
- 1.16 On 15 October 2013 Officers wrote to the site owner to advise him that, unless the unauthorised use ceased by 30 November 2013, the matter would be reported to the Development Management Committee for authorisation to commence enforcement action.

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- 1.17 The site was visited on 2 December 2013 when it was evident that the unauthorised car storage on the site continues.
- 1.18 The site owner has advised Officers that numerous attempts have been made to reach an amicable solution to the unauthorised use of the land with the car operator. However, despite significant efforts, this has not proved possible and, accordingly, he has now resorted to formal legal action to ensure that the operator vacates the land.
- 1.19 Photographs of the site will be available at the committee meeting.

### **2.0 Planning History:**

- 2.1 The relevant planning history regarding this site is as follows:

3/12/1910/CL – Site used for the storage of motor vehicles and car sales. Submitted 9/11/12; Withdrawn 4/01/13

3/13/0055/CL – Site used for general storage purposes including storage of motor vehicles, containers and pallets. Submitted 15.01.13; Withdrawn 4/04/13.

### **3.0 Policy:**

- 3.1 Policies GBC1 and TR20 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework are applicable in this case.

### **4.0 Considerations:**

- 4.1 The site lies within the Metropolitan Green Belt wherein both local and national planning policy indicate that planning permission will not be granted, except in very special circumstances, for development for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area.
- 4.2 In this instance, the use of the land for the storage of motor vehicles, associated with a motor vehicle sales business, does not fall within any of the uses considered as appropriate within the Metropolitan Green Belt. As such, it constitutes inappropriate development which, in accordance with paragraph 87 of the NPPF is harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.3 Substantial weight must be given to any harm to the Green Belt,

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whether by reason of inappropriateness or any other harm. In this case, additional harm is considered to arise in terms of the impact of the development on openness of the Green Belt and on the character and appearance of the area.

- 4.4 At the time of the most recent site inspection, there were approximately 70 vehicles stored on the land and this has an adverse impact on the openness of the Green Belt. The vehicles are clearly visible from the public footpath and byway adjacent to the site and are, in officers opinion, out of keeping with and detrimental to the character and appearance of the surroundings.
- 4.5 It is also considered that this use of the land results in an intensification of traffic to and from the site which detracts from the use of the footpath and byway by walkers, horse riders and other users of these facilities. Furthermore, the additional traffic onto the BOAT and rural road network has the potential to impact on safety and amenity and is contrary to policy TR20 of the East Herts Local Plan Second Review April 2007.
- 4.6 In view of the above, Officers consider that the use does not represent a sustainable form of development in accordance with the key principles of the NPPF and should not therefore be permitted.
- 4.7 Officers appreciate that the site owner has made considerable efforts to rectify this breach of control in a timely manner. However, in view of the harm caused to the Green Belt in this case, it is considered appropriate to seek authority at this stage for enforcement action to be taken to secure the removal of the unauthorised use if necessary.
- 4.8 The location of the office referred to in this report is not captured by the Enforcement Notice that would be issued if Members support this matter. Members will recall that, when a report on the planning application which sought the lifting of the condition restricting the use of the garage first came before the committee, Officers recommended that it could be supported. With regard to the use that is currently taking place therefore, the view of Officers is that it is not a harmful one such that formal enforcement action in that respect is expedient. A further report can be submitted on this matter if Members require.

### **5.0 Recommendation:**

- 5.1 It is therefore recommended that, with regard to the vehicle storage use, authority is given to issue and serve an Enforcement Notice, under section 172 of the Town and Country Planning Act 1990 (as amended) on all interested parties and to take any further action necessary to

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ensure the cessation of the unauthorised storage of motor vehicles.