

E/12/0320/B - Unauthorised residential use of The Studio, Churchfield Road, Tewin, AL60JW

Parish: TEWIN

Ward: HERTFORD RURAL SOUTH

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 the cessation of the unauthorised residential use of the property.

Period for compliance: 6 months

Reasons why it is expedient to issue an enforcement notice:

1. The unauthorised use of the building as a separate residential dwelling represents inappropriate development within the Metropolitan Green Belt and results in the provision of residential accommodation in an unsustainable location contrary to the main development strategy of the Local Plan which seeks to direct new development to the main settlements of the District where there is good access to key services and infrastructure. The development is thereby contrary to policies GBC1, GBC9 and SD2 of the East Herts Local Plan Second Review April 2007 and the principles of sustainable development set out in the National Planning Policy Framework.

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1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extract. It comprises a detached building situated to the north of The Farce and accessed from Churchfield Road to the west of the village of Tewin.
- 1.2 In November 2012 concerns were expressed to this local planning authority that the building was being used as a separate residential dwelling.
- 1.3 On further investigation, it was found that the building had been on site, within the ownership and curtilage of the main dwelling of The Farce for many years. It appears that the estate was split between a daughter and son when the owner of the property, known as The Farce, died. The main dwelling is now in the ownership of the daughter and the

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former outbuilding (now known as The Studio) is in the ownership of the brother. Prior to that, it appears that the outbuilding was occupied by a family member as an annexe to The Farce. However, it now appears that this building, now no longer associated or linked to the main dwelling, is let to tenants and is an independent separate dwellinghouse.

- 1.4 The owner of the Studio, who now lives in Canada, was invited to submit an application for a Certificate of Lawfulness to show that the building has been in permanent residential use for more than four years (in which case its use as a separate dwelling would be lawful in planning terms).
- 1.5 After chase up letters, an application for a Certificate of Lawfulness was submitted in November 2013. However, this application was incomplete and did not include any supporting documents to show, on the balance of probabilities, that the building has been used as a separate dwellinghouse for a period in excess of four years. As such, Officers were unable to determine the application and, despite numerous letter and emails asking for the evidence, insufficient documents have been submitted to enable the application to be validated. On the 14th April 2014, the application file was closed.
- 1.6 The use of the building as a separate residential dwelling continues however.

2.0 Planning History:

- 2.1 The only relevant planning history in this case is the submission of application ref: 3/13/2005/CL referred to above and this application is now closed as incomplete.

3.0 Policy:

- 3.1 The relevant saved policies of the adopted Local Plan include the following:
 - SD1 Settlement Hierarchy
 - GBC1 Appropriate Development in the Green Belt
 - GBC9 Adaptation and re-use of rural Buildings
- 3.2 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are also material considerations in the determination of this matter.

4.0 Considerations:

- 4.1 The site is located within the Metropolitan Green Belt and therefore policy GBC1 of the Local Plan and section 9 of the NPPF are applicable to this development.
- 4.2 The main consideration in this case is whether the development constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances that would justify the grant of permission. Consideration also needs to be given to the impact of the unauthorised development on the character and appearance of the area, neighbouring amenity, parking and access.
- 4.3 Policy GBC1 of the Local Plan sets out the forms of development that are considered to be appropriate in the Green Belt and these include the adaptation and re-use of non-residential rural buildings where that accords with Policies GBC9 and GBC10 of the Plan. However, this building is considered to be a residential building (formerly an annexe to the main house) and as such its change of use to a separate dwelling does not, in Officers view, fall to be considered under policy GBC9. Neither does the development meet any of the other criteria within policy GBC1 and therefore officers conclude that the use of the building as a separate dwelling house represents inappropriate development in the Green Belt.
- 4.4 Even if policy GBC9 were argued to be relevant in this case, that also states that residential use will only be permitted where, inter alia, the building is worthy of retention and where the use would not detract significantly from the rural character and appearance of the area.
- 4.5 It is reasonable therefore to consider the structural integrity and overall architectural merit of the building as well as the impact of the use on the character and appearance of the area. Furthermore, policy GBC9 indicates that residential conversion will only be permitted where the retention of the building is unable to be facilitated by other more appropriate uses in the rural area.
- 4.6 Whether a building is 'worthy of retention' requires a judgment that is often exercised by the Council. The building is of no historical significance. It does not feature as a historic group of buildings or exhibit any notable architectural merit. It is neither listed nor within a Conservation Area. It is considered therefore that it is not 'worthy of retention' within the meaning of the policy and therefore its conversion to residential use (under policy GBC9) would again comprise inappropriate development in the Green Belt.

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- 4.7 Officers are satisfied therefore that, whichever policy of the Local Plan is used to assess the unauthorised use against, it represents inappropriate development in the Green Belt.
- 4.8 In terms of the NPPF, national planning policy is arguably less restrictive than the Local Plan in that it indicates that the use of buildings in the Green Belt may be considered appropriate where they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. However, Officers consider that the re-use of this unremarkable building within the Green Belt has the potential to result in some, albeit limited, impact on the openness of the Green Belt (through increased parking provision, hard surfacing and domestic paraphernalia etc.) and it also conflicts with the purposes of including land in the Green Belt (in that it results in further residential encroachment of the countryside and does not assist urban regeneration by encouraging the use of urban land for development). Again, Officers consider the use in this case to be inappropriate development when considered against the policies of the NPPF.
- 4.9 Inappropriate development is, by definition, harmful to the Green Belt and Members will be aware that it should not be permitted except in very special circumstances. Furthermore, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is 'clearly outweighed' by other considerations.
- 4.10 In addition to general Green Belt considerations and the harm caused by inappropriateness, Officers also consider that the development fails to accord with the main development strategy of both the Local Plan (policy SD2) and the NPPF. That is to direct development to the most sustainable locations where there is good access to key facilities and infrastructure. The provision of an isolated additional dwelling in the Green Belt, where the occupiers would be heavily reliant on the use of private motor vehicle transport, would represent an unsustainable form of development that would be contrary to both policy SD2 of the Local Plan and the national planning policies of the NPPF. This weighs significantly against the development.
- 4.11 Some additional harm may also result from the use if permitted to remain, as mentioned above, in terms of the potential for additional domestic paraphernalia such as washing lines, play equipment, outdoor furniture and garaging that can further domesticate an otherwise rural setting. This also weighs against the development. Officers are however satisfied that, in terms of neighbour amenity, parking and access, the use does not appear to result in any harmful impacts.

5.0 Nevertheless, Officers do not consider that there are any very special circumstances in this case that would 'clearly outweigh' the harm to the Green Belt by inappropriateness, and the other harm identified, such that the approval of the inappropriate development would be justified. Whilst a single additional dwelling makes a contribution to the Councils five year housing land supply, this is considered to be a very limited contribution and not one that would clearly outweigh the harm identified.

6.0 Summary and Conclusion:

6.1 In summary, therefore, the use is considered to be inappropriate development in the Green Belt. It is not considered to meet the criteria of policy GBC9 and is contrary to policies GBC1 and SD2 of the Local Plan. It thereby results in the provision of a new dwelling within the Green Belt that does not accord with the main development strategy of the Local Plan and represents an unsustainable form of development in terms of the aims and objectives of the NPPF.

6.2 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised residential use of the building.