

DEVELOPMENT MANAGEMENT COMMITTEE – 23 MARCH 2016

Reference Number	E/08/0021/A
Development	The erection of an unauthorised industrial style link building between a Grade II listed barn and a further agricultural building, and the unauthorised material change of use from agriculture to a cricket school
Location	Tharbies Barns, Rook End, High Wych, Herts, CM21 0LL
Parish	High Wych
Ward	Much Hadham

RECOMMENDATION

That a revised listed building enforcement notice be issued, and legal proceedings taken, as set out at the end of this report to secure the removal of the unauthorised structure.

1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. It is located on a track to the east of Tharbies Farmhouse on the un-named road through Rooks End.
- 1.2 A concern was originally expressed to the Authority in 2008 regarding the use of the site as an indoor cricket school which had involved construction of an industrial style link building between two barns on the site, one of which is Grade II listed.
- 1.3 This matter was originally brought to the Committee in March 2009 when authority was sought to serve both listed building and planning enforcement notices requiring the cessation of the cricket school use and the demolition of the link extension (the Committee report is attached as **Essential Reference Paper 'A'** to this report). Authority was granted by the committee and the notices were subsequently served on the property in April 2009.
- 1.4 Following the service of the Notices, the owners appealed to the Planning Inspectorate. In February 2010 the Inspectorate published its decision (attached as **Essential Reference Paper 'B'**) which concluded that both the Operational Development and Material Change of Use notices were upheld and the appeals dismissed. However, the Listed Building Notice was quashed as the Inspectorate considered that the requirements of the Notice were not sufficiently clear.

- 1.5 Following the appeal decision, the Council prosecuted the owners of the site for non-compliance with the enforcement notices in June 2011 when they pleaded guilty.
- 1.6 Subsequently, the applicants sought to rectify the breach of planning control by submitting various alternative design proposals to Officers and this culminated in the submission of two applications (full planning and listed building consent) in 2011 for alterations to the unauthorised link extension to allow the retention of the cricket school use. These applications were reported to the Committee in November 2012 when it was resolved that the benefits associated with the retention of the cricket school would outweigh the harm of allowing the link building to remain (in the proposed amended form). Planning permission was granted under reference 3/11/1093/FP and it was also resolved to grant listed building consent under 3/11/1094/LB, subject to a Section 106 agreement requiring the implementation of a repairs schedule for the listed barn.
- 1.7 Despite continued reminders from Officers since then, the Section 106 agreement has never been signed and the listed building consent has not therefore been issued. No works have been carried out to alter the unauthorised link building as approved, and the planning permission granted under ref: 3/11/1093/FP lapsed in November 2015.
- 1.8 The unauthorised link building however remains in place.

2.0 Planning History

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

3/08/2151/FP	Alterations to agricultural building for use as an indoor cricket school	Refused. Dismissed on appeal
3/08/2152/LB	Adaptation, alteration and extension of redundant agricultural buildings for use as an indoor cricket school	Refused. Dismissed on appeal
3/11/1093/FP	Alterations to agricultural building for use as an indoor cricket school	Granted
3/11/1094/LB	Adaptation, alterations and extension of redundant agricultural building for use as an	Resolution to grant, subject to a legal

	indoor cricket school	agreement (not signed)
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3.0 **Policy**

3.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy
The impact of the link building on the historic character and appearance of the Grade II listed building within the Metropolitan Green Belt.	Section 12	GBC1,GBC9, BH10,BH11, BH12,ENV1

Other relevant issues are referred to in the ‘Consideration of Relevant Issues’ section below.

4.0 **Consideration of Relevant Issues**

- 4.1 The planning history in relation to this unauthorised link building is long and somewhat complex. Since the service of the enforcement notices, Officers have sought to remedy the breach of planning control (which is considered to be a significant one) through both legal action, in 2011, and then by working with the owners of the site to agree an amended design for the building that would enable the retention of the indoor cricket school whilst still preserving the historic character and appearance of the building. However, despite those negotiations and the granting of a planning permission which would rectify the situation, the owners of the site have failed to sign the necessary legal agreement in respect of the listed building consent and have not made any attempt to implement the planning permission granted under reference 3/11/1093/FP.
- 4.2 Regrettably, Officers consider that the matter must again be approached by prosecuting the owners for non-compliance with the enforcement notices previously upheld on appeal (requiring the demolition of the link building and the cessation of the use). Members are asked therefore to endorse the previous decision of the Committee in this respect.
- 4.3 In addition to that, it is considered appropriate that a revised listed building enforcement notice is served to address the Inspectorates previous criticisms of the Notice served in 2009. It is considered that

this would enhance the Council's prospects of success on prosecution, as it would make clear the precise works that are required to be undertaken to the listed building as part of the process of removing the unauthorised link building.

5.0 Recommendation

5.1 It is therefore recommended that the Head of Planning and Building Control, in consultation with the Head of Democratic and Legal Services, and other Officers as appropriate, be authorised to:

- a) Re-serve an enforcement notice under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to take any such further steps as may be required to secure the removal of the unauthorised link building, and
- b) Instigate legal proceedings for non-compliance with the planning enforcement notices issued in respect of the use of the site and the removal of the unauthorised link building in April 2009.