

5n E/10/0367/B – Unauthorised engineering operation to raise the levels of the land by the deposit of spoil at land off St Mary’s Lane, Hertingfordbury, Herts.

Parish: HERTINGFORDBURY

Ward: HERTFORD CASTLE

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 such further steps as may be required to secure a) the cessation of the engineering operation to alter the levels of the land; b) the removal of the spoil from the site and c) the restoration of the land to its former levels.

Period for compliance: a) 1 month
b) 1 month
c) 1 month

Reason why it is expedient to issue an enforcement notice:

1. The Council considers that the development is not required for genuine agricultural purposes on the site. No justification has been provided for the need for the engineering operation nor are there any very special circumstances apparent in this case. The unauthorised development is visually intrusive from the adjoining bridleway and is out of keeping with and detrimental to the character and appearance of the surrounding rural area. The development is thereby contrary to the saved Metropolitan Green Belt policy as expressed in PPG2 and policy GBC1 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 within the Metropolitan Green Belt.
- 1.2 The site, located off St Mary’s Lane, Hertingfordbury, is along a well used public bridleway, which is currently gated to stop vehicles using it, apart for maintenance purposes. There is limited parking at its junction with St Mary’s Lane. The site boundaries are wooded with a large central opening. Part of which has been the subject of previous enforcement action.

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- 1.3 From investigations into the planning history of the site it appears that the land was initially used for clay extraction many years ago and that resulted in the creation of a pit. It was subsequently used for the disposal of waste until approximately 1978. No use has been made of the site since then.
- 1.4 In 1998 an application was refused and dismissed on appeal for the creation of a fishing lake at the site. During visits to the site over recent months, it was found that the land is not currently being used for any agricultural or other purpose.
- 1.5 In October 2010 concerns were expressed to this local planning authority spoil was being taken to the site. This enquiry was initially passed to Herts County Council as it was suspected that there had been the importation of waste materials and that authority deals with these matters. Following their initial enquiries, however, it was considered that the importation of materials onto the site was for land level alterations and the creation of a roadway. and the District Council should therefore deal with the unauthorised engineering works.
- 1.6 No response was received to a letter to the owner and therefore he was advised that the matter would be referred to the Development Control Committee.
- 1.7 Photographs of the site will be available at the committee meeting.

2.0 Planning History

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| 2.1 | 3/78/0320 | Use of site for tipping of ash and incinerator residues. |
| | Approved. | |
| | 3/78/1568 | Deposit of non-putrescible and non hazardous waste. |
| | Refused. | |
| | 3/92/0695/FP | Conversion of disused clay pit into a fishing lake. |
| | Withdrawn. | |
| | 3/96/1285/FP | Proposed fishing lake. Refused. |
| | 3/04/1297/FP | Formation of means of access and parking area. Refused. |
| | | Widening of access allowed and car park dismissed on appeal. |

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3.0 Policies

- 3.1 Saved Policy GBC1 of the East Herts Local Plan Second Review April 2007 and the policies of Central Government as expressed in Planning Policy Guidance PPG2 are relevant in this matter.

4.0 Considerations

- 4.1 The determining issue in this case relates to policy and the impact of the unauthorised development on the Metropolitan Green Belt.
- 4.2 The site lies within the Metropolitan Green Belt wherein permission will not be given except in very special circumstances for development other than that required for mineral extraction, agriculture, essential small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. In this case, however, it is not considered that the use of the land falls within any of these identified criteria. There is no apparent agricultural activity on the site. The developments are thereby contrary to the provisions of PPG2 and policy GBC1 of the Local Plan.
- 4.3 The engineering operation to alter the levels of the land and to create a roadway is considered inappropriate in this rural setting. The resultant development is, in the opinion of your officers, detrimental to its character and appearance especially when viewed from the adjacent bridleway.
- 4.4 It is considered that the land is not being used for agricultural purposes and therefore the operation does not fall within the terms and conditions of Class A of Part 6 of Schedule 2 of Town and Country Planning (General Permitted Development) (Amendment) Order 2008. as the works are not reasonably required for such a use.
- 4.5 Even if the development was considered as reasonably necessary for the purposes of agriculture the development is not permitted by Class A due to:
1. Class A1 (d)(i). it is considered that the development is more than 465 square metres;
 2. Class A1(h). it is considered that the operation is within 400 metres of the curtilage of a protected building.

5.0 Recommendation

- 5.1 It is therefore recommended that enforcement action be taken to secure the cessation of the engineering operation to alter the levels of the land, the removal of the imported spoil and restoration of the land to its former levels before the start of the current importation.