

**5w E/09/0245/B – Unauthorised change of use of land to residential and construction of a reinforced pit for a trampoline on land rear of Jasmine Cottage, Broadfield, Throcking, Buntingford, SG9 9RD**

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**Parish: COTTERED CP**

**Ward: MUNDENS AND COTTERED WARD**

**RECOMMENDATION:**

That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under s.172 of the Town and Country Planning Act 1990 and any such further steps as may be required to cease the unauthorised use of the land, the removal of the reinforced pit and play equipment, and the reinstatement of the land to its former state.

Period for compliance: 3 months

Reason why it is expedient to issue an enforcement notice:

1. The unauthorised change of use of the land from agriculture to residential garden land represents an incursion into the countryside which has an adverse effect on the character and appearance of the local landscape, and therefore is contrary to policies GBC3, ENV1, ENV2 and ENV7 of the East Herts Local Plan Second Review April 2007 and national planning statements PPS1 and PPS9.

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**1.0 Background:**

- 1.1 The site is shown on the attached Ordnance Survey extract. The site lies to the south east of Broadfield Hall, outside the residential area of Throcking village. The subject land is to the rear of Jasmine Cottage and extends for 0.7 hectares, although the unauthorised development to include the children's play equipment is close to the residential boundary of the cottage.
- 1.2 It was brought to the attention of the Enforcement team in June 2009 that the owners of the property had erected decking to incorporate a pool area to the rear of the cottage. It was evident, during a site visit that this decking extended beyond the residential curtilage. It was also evident that a sunken reinforced pit was being built to accommodate a children's trampoline, this also being outside the residential curtilage of the property.

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- 1.3 An application was submitted, under reference 3/09/1472/CL, for a Certificate of Lawfulness (Proposed Use) on the 15<sup>th</sup> September 2009. However, as the development had already commenced, this application was rejected and superseded by an application for a Certificate of Lawfulness (Existing Use), using the same reference number
- 1.4 On the 3<sup>rd</sup> December 2009 the application was refused for the following reason:
1. The frame structure set in ground with decking applied in submitted drawings does not fall within the scope of Schedule 2, Part 1, Class E of the Town and Country (General Permitted Development) Order 1995 (as amended) as part of the structure is outside the lawful curtilage of the dwelling. An application for planning permission is required.
- 1.5 On the 17<sup>th</sup> March 2010, a further application was submitted, under reference 3/10/0287/FP, seeking retrospective planning permission for the enlargement of the garden area (change of use of agricultural land to domestic garden). This application was refused on the 12<sup>th</sup> May 2010 for the following reason:
1. The proposed extension of the residential curtilage of the dwelling represents an incursion into the countryside, which would have an adverse effect on the character and appearance of the local landscape, and would therefore be contrary to Policy ENV7 of the East Herts Local Plan Second Review April 2007.
- 1.6 However, despite further discussions and agreements on site, and confirmed in a letter dated the 16<sup>th</sup> June 2010, no action has been taken to rectify the breach of planning control.
- 1.7 The agent for the owner has suggested in letters dated the 21<sup>st</sup> June 2010, 9<sup>th</sup> July 2010, 9<sup>th</sup> September 2010 and 8<sup>th</sup> October 2010 that a revised application showing the new curtilage position would be submitted. To date no application has been received.
- 1.8 Photographs will be available at the meeting.

## **2.0 Planning History:**

- 2.1 The recent relevant planning history is as follows:

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3/09/1472/CL	Framed structure with decking.	Refused
3/10/0287/FP	Change of use of agricultural land to domestic garden.	Refused

### **3.0 Policy:**

3.1 The relevant policies of the East Herts Local Plan Second Review April 2007 are:

GBC3 – Appropriate Development in the Rural Area Beyond the Green Belt.

ENV1 – Design and Environmental Quality

ENV2 – Landscaping

ENV7 – Extension of Curtilage of a Residential Property  
National policies PPS1 and PPS9

### **4.0 Considerations:**

4.1 Policy GBC3 relates to uses in the Rural Area Beyond the Green Belt, wherein planning permission will not be granted for purposes other than outdoor sport and outdoor recreation. In this case, the change of use relates to a change of agricultural land to residential curtilage, an option not recognised in the policy.

4.2 Policy ENV1 requires that development proposals will be expected to minimise loss or damage of any important landscape features. It is considered that the change of use does represent a loss of agricultural land and the important landscape feature of this rural field.

4.3 Policy ENV2 requires any development proposals to retain and enhance existing landscape features. In this case, there is no proposed or actual landscaping on site to enhance the rural outlook.

4.4 Policy ENV7 advises that the extension of the curtilage of a residential property into the countryside may be permitted if the proposal is not likely to result in an adverse effect on the character or appearance of the local landscape and does not involve areas of existing archaeological or ecological significance. It is considered that the development which has taken place without planning permission in this case has had a significant adverse impact on the openness on the landscape, resulting in the change of the character and appearance of the land and the potential for further domestic paraphernalia, which

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would detract from the appearance of the natural landscape, contrary to the requirements of Policy ENV7.

### **5.0 Recommendation:**

- 5.1 For the above reasons it is recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the residential use of the land to cease and the removal of the sunken reinforced pit and other domestic paraphernalia and to return the land to its former use.