

5L E/11/0077/B – The unauthorised use of former agricultural buildings for various commercial uses at Pound Farm, Hollybush Lane, Datchworth, Herts, SG3 6RE

Parish: DATCHWORTH CP

Ward: DATCHWORTH AND ASTON

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 the cessation of unauthorised uses within various units/buildings as shown on the attached plan and detailed as follows:

Unit 3	Office and storage	The Fire Protection Company
Unit 4B	Storage of motor cycles	Predator Motorcycles
Unit 4C	Workshop for photography	Occupier unknown
Unit 9	Storage of furniture	Occupier unknown
Unit 9A	Storage of machinery	Gnat UK
Unit 10A	Storage of water	Aquastations
Unit 10B	Storage of carpets.	Home Call Carpets

Period for compliance: 2 Months

Reasons why it is expedient to issue an enforcement notice:

1. The re-use of the buildings for commercial purposes has resulted in an unacceptable increase in traffic generation to and from the site, including heavy goods and commercial vehicles, accessing the site by very narrow country lanes with poor alignment and visibility. The development is therefore detrimental to highway safety in the area, contrary to policy TR20 of the East Herts Local Plan Second Review April 2007.
2. The unauthorised uses, by reason of the additional comings and goings at the site, and the additional heavy goods and commercial traffic on the surrounding local road network, are detrimental to the amenities of nearby residential properties and to the rural character of the surrounding area. Furthermore, there is no evidence to suggest that the unauthorised uses are necessary to support the continuation of a farming enterprise in the area and no other material considerations are apparent which would outweigh this identified harm. As such, the development is contrary to policies ENV1, GBC8, GBC9, GBC10 and GBC1 of the East Herts Local Plan Second Review April 2007 and to

the sustainability principles contained in PPS1.

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1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extract. It is located to the north west of Datchworth Village, near to the village church of All Saints and the local primary school, and within the Metropolitan Green Belt.
- 1.2 The site comprises a farm from which a straw and hay business has operated for many years. Within the farmyard, adjacent to residential properties, there are a group of former agricultural buildings used for car servicing and repair. This operation was granted a Certificate of Established use, under reference 3/82/1518/EU, in 1982.
- 1.3 A further Certificate of Lawfulness (Existing), under reference 3/06/1010/CL, was granted in August 2006 for the use of unit 9C as office accommodation and a storage area at the northern end of the site used for the storage of plant and machinery for a company called Contract Surfacing Ltd.
- 1.4 In 2006 a retrospective application was submitted for a change of use of further existing buildings on the farm for the storage and sale of cars by appointment only. This application was, however, refused for the following reason:
 1. The proposal would represent an inappropriate use in the rural area which, in terms of sustainability, would more appropriately be located in an urban area. It would generate additional traffic on the surrounding rural roads to the detriment of the rural character of the area and would thereby be contrary to the aims and objectives of Policy RA6A (l) (d) and (l) (f) of the adopted East Herts Local Plan; Policy GBC10 (l) (d) and (f) of the second review of the East Herts Local Plan and the sustainability principles contained in national Planning Policy Statement PPS1.
- 1.5 Following the refusal as above, an enforcement notice was issued and served on the 11th June 2007. However, before the appeal inquiry, the council withdrew the notice due to a technical error in the drafting.
- 1.6 A further application reference 3/08/1044/FP was submitted seeking retrospective planning permission for the change of use of existing buildings for the storage and sale of cars by appointment only. The

E/11/0077/B

change of use referred to parts of unit 4 and 7. However, after due consideration, this application was again refused for the following reason:

1. The proposal represents an inappropriate use in the rural area which, in terms of sustainability, would more appropriately be located in an urban area. It would generate additional traffic on the surrounding rural roads to the detriment of the rural character of the area and would thereby be contrary to the aims and objectives of Policy GBC9 and TR20 of the East Herts Local Plan Second Review April 2007 and the sustainability principles contained in national Planning Policy Statement PPS1.
- 1.7 Following this refusal and the issue and service of an Enforcement Notice, the Planning Inspectorate, on the 17th March 2009, dismissed the appeal against the refusal and upheld the notice with corrections and variations. The Inspector substituted the then attached plan with another plan clearly identifying the units subject of the action and varied the time for compliance from 2 months to 6 months. The notice was complied with.
- 1.8 In March 2011, a concern was raised with the council that further units at the site were being rented out to businesses not associated with agriculture, mainly storage of carpets, aqua water bottles, fire protection equipment and robotic machinery.
- 1.9 Following long correspondence the owner of the site, he referred the matter to his solicitors, who stated that, in their view, as a number of Certificates of Lawfulness (Existing) had been granted, these covered the whole farm site and therefore that there were no current breaches of planning control as the current unauthorised uses were all within the B1, B2 or B8 uses.
- 1.10 However, your officers do not agree with this assertion, as the previously granted Certificates of Lawfulness all clearly defined the subject unit/area under consideration. Each of the individual uses within the Pound Farm site are, in Officers view, separate and distinct, not relying on each other and therefore are considered to be separate planning units. This approach to the site also appears to have been adopted by the Planning Inspector within the car sales/storage appeal and is consistent with case law.
- 1.11 The following table details the occupants of the various units. During a recent visit to the farm to confirm this information, your officers were asked by the owner of the farm, via a tenant, to leave the site. This has

E/11/0077/B

resulted in some information not being verified. However, Planning Contravention Notices will be issued prior to any formal enforcement notices being served to ensure the availability of accurate information at the time of service.

Unit 3	Office and storage	The Fire Protection Company *
Unit 4A	Office	Appellants business office
Unit 4B	Storage of motor cycles	Predator Motorcycles*
Unit 4C	Workshop for photography	Currently Unknown*
Unit 5	Stables	Appellant
Unit 6	Toilet	
Unit 7	Hay storage for stables	Appellant
Unit 8	Storage for hay/straw	Appellant
Unit 9	Storage of furniture	Occupier currently unknown
Unit 9A	Storage of machinery	Gnat UK*
Unit 9B	Office storage	Maytree Developments (CL)
Unit 9C	Office	Contract Surfacing Ltd. (CL)
Unit 10	Storage.	Appellant
Unit 10A	Storage of water	Aquastations*
Unit 10B	Storage of carpets.	Home Call Carpets*

* Unauthorised uses

2.0 Planning History:

2.1 The recent planning history at Pound Farm can be summarised as follows:

3/82/1518/EU	Established use in respect of repair and servicing of vehicles	Granted
3/06/1010/CL	Certificate of lawfulness for existing use of unit and storage area for machinery and storage	Granted
3/06/2237/FP	Change of use of existing building for sale of cars	Refused
3/06/2242/CL	Certificate of lawfulness for existing operation of Maytree Developments	Refused
3/08/1044/FP	Change of use of existing building for the storage and sale of cars by appointment	Refused Appeal Dismissed

E/11/0077/B

3.0 Policy:

3.1 The relevant saved policies of the adopted Local Plan in this matter are:

GBC1	Appropriate Development in the Green Belt
GBC8	Rural Diversification
GBC 9	Adaptation and re-use of Rural Buildings
GBC10	Change of use of an Agricultural Building
TR20	Development Generating Traffic on Rural Roads.

The following National Planning Guidance is also relevant:

PPS1	Delivery Sustainable Development
PPS7	Sustainable Development in Rural Areas
PPG2	Green Belts
PPG13	Transport

4.0 Considerations:

4.1 The determining issues in this case relate to:

- a) Metropolitan Green Belt policy and the adaptation and re-use of rural buildings.
- b) The impact on the character and appearance of the area.
- c) Highways issues.

Green Belt policy and re-use of buildings.

4.2 In terms of the Green Belt policy, the re-use of existing rural buildings is not, in principle, inappropriate development provided that it also complies with the detailed policies in GB9 and GBC10 of the Local Plan. However, in this case, it is considered that the commercial use of these former agricultural buildings does not comply with those policies and causes substantial harm to the character and appearance of the surrounding rural area.

4.3 In particular, there is serious harm resulting from the cumulative traffic generation to and from the site and the use of the narrow country lanes by large heavy goods and commercial vehicles. This is clearly detrimental to the free flow and safety of vehicles on the local road network and is also detrimental to the amenities of nearby residents and the rural character of the surrounding area.

4.4 In terms of policy GBC9: the adaptation and re-use of rural buildings, the policy supports this in principle provided that certain specified

E/11/0077/B

criteria are met.

- 4.5 It is considered by Officers that a very limited number of the current unauthorised businesses may meet these criteria in that they could be carried out with limited alteration of the buildings; no external storage; and limited, light traffic generation. In this respect, Officers have sought the submission of planning applications for these individual uses. To date, however, no such applications have been submitted for consideration.
- 4.6 However, most of the unauthorised uses on the site are, in the opinion of Officers, unlikely to be acceptable in this location because they result, both individually and cumulatively, in significant commercial traffic generation including heavy goods vehicles on the very narrow surrounding rural roads.
- 4.7 As such, the development on the site is considered to be contrary to policy GBC9 of the Local Plan. Furthermore, it results in significant harm to the character of the surrounding area; to the amenities of local residents and to highway safety. No material considerations have been put forward by the owners of the site, or are apparent, that would outweigh this significant harm or justify the grant of permission contrary to the policies of the Development Plan.

Highway Implications

- 4.8 As mentioned above, it appears to officers that many of the unauthorised units on the farm generate unacceptable levels of traffic, both in terms of vehicle movements and the size of the vehicles.
- 4.9 Complaints have been received by local residents that these traffic movements, particularly by HGVs have caused damage to the highway verge and have caused disturbance to their lives in the early morning by the lorries passing within feet of their properties due to the narrowness of the highway, and by the noise and number of lorries trying to negotiate their way to the site via these narrow and winding lanes.
- 4.10 The Herts Highway Development Control Engineer was asked to visit the area and commented that the Highway Authority "*would welcome enforcement action against the unauthorised uses. The public highways in the vicinity of the site are no more than single width rural roads totally unsuitable for regular unwarranted HGV movements. I acknowledge that the former/existing agricultural uses generate traffic movements including a number by HGVs but I would argue that those are existing and are there by necessity and are a consequence of*

historic development and land use. Unlike those generated by the unauthorised uses, which could be located elsewhere. These unauthorised uses are contrary to our Local Transport Plan in respect of policies resisting development on rural roads and your own Local Plan Policy TR20.....Obviously HGV traffic causes the most concern and stress on the fabric of the highway, but I would still question the suitability of the site for commercial use in view of the limited width of the surrounding highway network. Not only are the roads largely single width, passing places are limited and the alignment is such that forward visibility around the bends is restricted at numerous locations”.

- 4.11 Your officers consider that in this particular case policy TR20 of the Local Plan is relevant. This policy suggests that permission will not be granted for any development where the road is poor in terms of width, alignment, and construction. It is evident that the surrounding roads are very narrow, without many passing places, and with a number blind bends. The traffic generated by the unauthorised uses is both large vans and lorries and it is considered by planning officers that the development does not meet the criteria of this policy.
- 4.12 TR20 also suggests that permission will not be granted where increased traffic would have a significant adverse effect on the local environment, either to the rural character of the road or residential properties along it. As suggested by local residents, some of whom live within and on the edge of the site and directly adjacent to the entrance, the current uses of the site have increased the amount of traffic to the farm with inappropriate large vans and lorries, causing a significant loss of amenity.

Impact on character and appearance of the area

- 4.13 As mentioned above, the development has a detrimental impact on the character of the rural area by reason of the use of the narrow rural lanes for large amounts of inappropriate commercial traffic. Furthermore, it is also clear that the development results in harm to the amenities of local residents by reason of noise and disturbance from the additional commercial activity at the site.

Other issues

- 4.14 Policy GBC8 refers to Rural Diversification. This policy generally supports proposals that would support the continuation of a farm enterprise as a whole and not result in the inappropriate and unsuitable subdivision of the farm unit. Officers consider, however, that Pound Farm has not operated as a ‘farm’ for some years and the current

E/11/0077/B

unauthorised uses do not therefore appear to be justified on the basis of any genuine rural diversification scheme. In any event, Officers consider it unlikely that any such scheme would be of such merit as to outweigh the harm that is caused by this development.

- 4.15 Whilst Officers accept that there are some lawful commercial uses on the site, these are limited in extent and became lawful through the passage of time. They were not the subject of planning applications and their impact on the surrounding area could not be considered. Even accepting their presence, however, does not lend support for further intensifying the commercial use of the site.
- 4.16 The unauthorised development that exists at present is inappropriate for the area and results in considerable harm that is not outweighed by any other material considerations.

5.0 Recommendation:

- 5.1 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation and removal of the unauthorised commercial uses on the site.