

5i E/11/0167/B – The unauthorised residential use of an outbuilding at the rear of 3 Pilgrims Row, Westmill, SG9 9LQ

Parish: WESTMILL

Ward: MUNDENS AND COTTERED

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 the unauthorised use and the removal of the physical elements of the development that form part and parcel of, and an integral part of, the use.

Period for compliance: 6 months.

Reason why it is expedient to issue an enforcement notice:

1. The site lies within the Rural Area as defined in the East Herts Local Plan wherein there is a presumption against development other than required for agriculture, forestry, small scale local community facilities or other uses appropriate to a rural area. The development is prejudicial to this policy, set out at policies GBC3 within the East Herts Local Plan Second Review April 2007.
2. The unauthorised use results in the provision of a poor standard of residential accommodation with inadequate private amenity space and poor outlook. Furthermore, the use is detrimental to the amenities of nearby residential occupiers by reason of the increased comings and goings and activity at the site and the resultant noise and disturbance. The development is thereby contrary to policy ENV1 of the East Herts Local Plan April 2007.

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1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extract. It is at the bottom of the garden of the cottage, one of a row of Grade II listed buildings, adjacent to the Sword in Hand public house. The annexe building is accessed through a gateway, from a driveway alongside Westmill Village Hall.

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- 1.2 In September 2010 a concern was expressed to the Council that this outbuilding had been converted to, and occupied as, a residential annexe. Members will appreciate that there are occasions when planning permission is not required for the conversion of an existing outbuilding to a residential use, if that use is only for a member of the household of the main property.
- 1.3 The enforcement officer contacted the owner and met him on site on 5th October 2010. The outbuilding had been converted and contained a bedroom, shower room and kitchen; all the facilities required for daily domestic existence.
- 1.4 The owner stated that the house itself was occupied by his son and that the outbuilding was for use by visiting friends and relatives. He added that no rent or other charges were being made for its use and that the building was currently being used by a friend of his son.
- 1.5 Under these circumstances the use of the annexe may have been acceptable in planning terms. However to ensure that the Council had the information in a form that it could legally rely upon, a planning contravention notice was issued to the owner requiring particular information with regard to the detail of the use.
- 1.6 The owner's written response to the notice stated that the annexe was not used as a separate self contained residential unit, that it was used for an extra sleeping area and utility room and was not separately rented from the dwelling at 3 Pilgrims Row. He gave the names and full time addresses of persons who had slept there.
- 1.7 Officers' took the view that under these circumstances there did not appear to be a breach of planning control. Accordingly no further action was taken at that time.
- 1.8 The matter was re-opened however following a number of renewed concerns expressed to the Council regarding what was described as an independent residential use of the annexe. Access to the annexe was not being made from the house but through gates off the rear driveway, where the occupants of the annexe parked their vehicle. The annexe is fenced off from the main house and garden although there is a gate in the fence.
- 1.9 The enforcement officer again spoke to the owner of the property. He stated that his son (who occupied 3 Pilgrims Row) could not afford to run the property on his own and that the occupiers of the annexe were paying rent for their use of it. He added that the occupants, who had no

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other residential address in the United Kingdom, could access the main house to use the washing machine or kitchen if they so wished. However there is a cooker, sink, worktop and kitchen units in the annexe which was described as a 'utility room' in the owner's previous response to the planning contravention notice.

- 1.10 It is the view of officers that this is an independent residential use of the property that requires planning permission. They further consider that such an independent use of the outbuilding would be contrary to policy. Accordingly officers' consider that it is necessary for authority to be granted to issue and serve a Planning Enforcement Notice requiring the cessation of the residential use.
- 1.11 Photographs of the site will be available at the meeting.

2.0 Planning History:

3/88/1711/FP	2 storey rear extension + extension to garden store for use as garage.	Granted.
3/88/1712/LB	Demolition of rear lean-to & W.C.; erection of ground floor rear kitchen extension and first floor dormer for bedroom extension; extension to garden store to form new garage.	Granted.
3/97/0905/LB	Demolish/remove two small first floor dormers in rear roof, forms one dormer as a replacement. Amended scheme.	Granted.
3/04/2068/FP	Conversion of outhouse from storage to playroom/laundry room. Replace door with window in new wall.	Granted.

3.0 Policy:

- 3.1 The relevant policies in this matter are:-

- GBC2 – The Rural Area beyond the Green Belt
- GBC3 – Appropriate Development in the Rural Area beyond the Green Belt
- OSV3 - Development in Category 3 Villages

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4.0 Considerations:

- 4.1 The main consideration in this matter is the residential use of a building within both the Rural Area beyond the Green Belt and the (category 3) village of Westmill, wherein there is a presumption against inappropriate development. As residential use is not detailed amongst the appropriate uses set out in policy GBC3 it is contrary to local planning policies which seek to restrict new residential development in the countryside.
- 4.2 As such, the local planning authority considers that the development is contrary to the main development strategy of the Development Plan which is to concentrate and direct development to the main settlements within the District. This strategy ensures that development is located in the most sustainable locations and that the natural asset of the District's countryside and its rural character is protected from encroachment.
- 4.3 This is also very much in accordance with national policy as expressed in PPS3 – Housing and in PPS7 - Sustainable Development in Rural Areas. PPS3 for example highlights the need for new housing to be in suitable sustainable locations which offer a good range of community facilities and with good access to jobs, key services and infrastructure. The site however, is not located within such a sustainable location.
- 4.4 If permitted, the creation of additional dwellings in the small countryside villages, as in this case, would cumulatively change the rural character of the District, both visually and in terms of the general level of activity, particularly as a result of additional traffic movements. Such use may also adversely impact upon the amenity of both local residents and of the area itself.
- 4.5 The annexe 'dwelling' does not meet any identified need within the village of Westmill, is not meeting local needs for first and subsequent occupiers and does not easily integrate into the settlement. Accordingly it fails the requirements of policy HSG5 with regard to rural exceptions, affordable housing.

5.0 Recommendations:

- 5.1 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised residential use and any works necessary to remove the physical elements of the development that form part and parcel of, and an integral part of, that use.