

**E/10/0083/B - The unauthorised residential use of an agricultural building at Swallowfield Farm, Church Road, Epping Green, Herts, SG13 8NB**

**Parish:** LITTLE BERKHAMSTED

**Ward:** HERTFORD – RURAL SOUTH

**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 use of the agricultural building and land for residential purposes.

Period for compliance: 6 months

Reason why it is expedient to issue an enforcement notice:

The site lies within the Metropolitan Green Belt wherein there is a presumption against development except in certain specified circumstances or in very special circumstances. The use of this building for residential purposes is contrary to the development strategy of the Local Planning Authority as set out in the East Herts Local Plan Second Review April 2007 which seeks to concentrate and direct development to the main settlements. Furthermore, the Council is not satisfied that the use of the building for residential purposes is the only means of securing the retention of the building; it does not assist in the diversification of farming on the site; and would have a detrimental impact on the character and appearance of the rural area in which it is situated. The development is thereby contrary to policies SD2; GBC9; GBC10; GBC1 and ENV1 of the East Herts Local Plan Second Review April 2007.

\_\_\_\_\_ (008310B.PD)

**1.0 Background**

- 1.1 The site is shown on the attached Ordnance Survey extract. It is located to the south west of Hertford within the rural area of Epping Green and within the Metropolitan Green Belt.
- 1.2 In March 2010 a complaint was received by this Council concerning the suspected residential use of an agricultural building within the land known as Swallowfield Farm. This followed a further concern regarding the residential use of the building in 2007 where, following investigations it was found that there was no evidence of residential use of the building at that time.

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- 1.3 Letters were sent to the owner/occupier of the building in March 2010 advising the owners that a concern had been raised regarding the use of the building and requesting a date and time to visit the property to view internally. No response was received to this letter and therefore a further letter was sent in April 2010 again requesting a site visit.
- 1.4 As no response was received from the owners to the two previous letters, a Planning Contravention Notice was sent requesting information required on the notice be submitted within 21 days and, in August 2010, a response was received from an agent on behalf of the owners of the property. That response confirmed that the agricultural building in question and associated land were in permanent residential use and had been since June 2005.
- 1.5 Following the response to the notice, the owner's agent was advised that a Certificate of lawful Use for the building and land should be submitted with enough evidence to show that the building had been used continually for permanent residential use for a period in excess of 4 years (that being the time period necessary to establish a lawful use of the building as a single dwellinghouse).
- 1.6 In September 2010 an application was submitted under local reference 3/10/1725/CL. However, after due consideration the application was refused for the following reason:-

The applicant has not provided sufficient evidence to prove on the balance of probabilities, that the use described in the schedule hereto has existed continuously for a period in excess of 4 years prior to the submission of this application.

- 1.7 Photographs of the site was be made available at the meeting.

## **2.0 Planning History**

- 2.1 The recent relevant planning history is as follows: -

3/10/1725/CL	Residential use of agricultural building and land.	Refused
3/04/1720/FP	Part adaptation of unit to ground floor guest accommodation.	Refused
3/03/1760/FP	Alteration to Building	Approved with conditions
3/02/1904/FP	Part adaptation of vacant cow house/hay loft to create overnight visitor accommodation on upper floor.	Refused

### **3.0 Policy**

3.1 The relevant policies in this matter is:-

SD2	Settlement hierarchy
GBC1	Metropolitan Green Belt
GBC9	Adaptation and re-use of Rural Buildings
GBC10	Change of use of an Agricultural Building.

National Planning policy Guidance in PPG2: Green Belts and PPS7: Sustainable development in Rural Areas and PPS3: Housing are also relevant in this case.

### **4.0 Considerations**

4.1 The building the subject of this report was erected for agricultural purposes in 1986 (ref: 3/85/1572/FP). In 1996 there was a later permission for a change of use to stabling. Since then, there have been a number of applications to change the use of the building to a) farmhouse bed and breakfast – Refused and Dismissed on appeal (Refs: 3/99/1129/FP and 3/00/0457/FP); b) overnight visitor accommodation – Refused (Ref: 3/02/1904/FP); c) use of ground floor for guest accommodation – refused ref: 3/04/1720/FP.

4.2 The site was first brought to the attention of Officers in 2007 when the nature of its occupancy was queried. Officers investigated at this time, but considered that there was no evidence of a residential use of the building. This was for a number of reasons such as that no main electrical items were installed, with only facilities to make cups of tea. There were no essential living items such as bedding or sofa, and equally the bathroom had no items that one would expect to see with a residential use. It appeared that the tea making facilities, a toilet, table and chair and small TV would be items that were for casual day use - not essential to actually living in a unit. Overall the character of the use of the site inspected in 2008 was not akin to a residential use and no further action was taken.

4.3 The owners have since claimed, in their application for a certificate of lawfulness, that the building was being lived in at that time and that the current residential use is therefore now lawful through the passage of time. However, Officers disagree with that assertion and the recent certificate of lawfulness has been refused accordingly. At the time of writing this report, no appeal has been lodged against that refusal.

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- 4.4 The site lies within the Metropolitan Green Belt where there is an assumption against development except in certain specified circumstances. Policy GBC1 of the Local Plan does state that the re-use of agricultural buildings may be appropriate provided that it accords with policies GBC9 and GBC10 of the Local Plan.
- 4.5 In this case, however, officers do not consider that the proposal is in accordance with those policies. No evidence has been put forward that the retention of the building is unable to be facilitated by conversion to an alternative business or community/leisure use and nor that it could not make a contribution to affordable housing needs if residential re-use were to be accepted. The use does not appear to form part of any farm diversification scheme and therefore is not in accordance with either policy GBC9 or GBC10 of the Local Plan.
- 4.6 Furthermore, the residential use of the land, if permitted, would be likely to result in a significant change to the character and appearance of the site, by reason of the creation of a defined residential curtilage and likely future changes to the building itself were the use to become established.
- 4.7 Officers therefore consider that the use is contrary to the policies of the Local Plan as set out above and would be detrimental to the rural character and appearance of the surrounding area.

## **5.0 Recommendation**

- 5.1 It is therefore recommended that authorisation be given to issue and serve enforcement notices requiring the cessation of the use of the permanent residential accommodation.