



REPORT

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LAND AT THREE ACRE FARM, DUNSTABLE ROAD, PITTON

Report Summary:

To consider the expediency of enforcement action concerning a mixed use of the above land, including use for agriculture; use of agricultural barns for residential purposes and storage of caravans; and use of land for the parking and storage of caravans, motor cars, vans and lorries and repair and maintenance of such vehicles, all unrelated to the agricultural use of the land.

Introduction:

The site is in open countryside north-east of the village of Pitton. The site consists of two modern barns set well back from the road, with an enclosed yard in between and an open yard to the side and rear of the buildings. The site is accessed from Dunstable Road via a track leading from two brick gate piers.

Adjacent pasture land amounting to almost three hectares is associated with the barns is largely open and laid to grass, with little evidence of active agricultural activity thereon.

Allegations have been received regarding the use of the land for purposes unrelated to agriculture comprising residential occupation of one of the barns together with the parking and storage of caravans, motor cars, vans and lorries and repair and maintenance of such vehicles, all unrelated to the agricultural use of the land.

Planning History:

This site and adjoining land has a long history of allegations of unauthorised uses since the barns on the site were erected in the late 1980's, apparently under the auspices of agricultural 'permitted development. However, formal enforcement action has not been taken concerning previous allegations of unauthorised use..

The current owner appears to have acquired the site in January 1992. A Planning Contravention Notice was served on the former owner (then still using the barns) in April 1992 but was not responded to. Site photographs dated 19th June 1992 indicate, amongst other things, three cars and two caravans parked within the buildings and hay stored within one of the buildings. One of the buildings (the northern of the two) had been subdivided by block built walls with door and window openings (infilled with solid timber). It appears that at the time, it was suggested that such works were being carried out to create a farm shop.

Following a site inspection in July 1996, the Council wrote to Pitton and Farley PC, stating that the main building was used for the storage of hay and straw and implements and tools used on the site. A touring caravan was stored but there was no evidence that this was in use for residential purposes.

Aerial photographs of the site dated 12th May 1996 show the barns, two vehicles in the enclosed yard, and three vehicles and a touring caravan at the rear of the building.

At a site inspection on 20th March 1997, a neighbour stated that no-one was living in the building. 'Interior' photographs taken on 1st April 1997 within the enclosed yard show that block built subdivided area has been completed, with a stove, table, two chairs, toilet, shower and domestic paraphernalia observed within. Accompanying notes indicate however that there was no evidence of actual residential occupation of the building at that time and evidence was provided by the person at the site (not the current owner) that she lived elsewhere.

An aerial photograph dated 24th June 2001 appears to show a limited number of vehicles (2-3) parked/stored at the rear of the barns; no vehicles are parked/stored elsewhere within the site.

At a site inspection on 8th July 2003, two touring caravans were observed stored at the rear of the buildings, together with a van and five cars. Another car and four lorries were observed parked/stored in various locations within the adjacent field. In the enclosure within the two barns it was noted that a touring caravan, cars, vans, tyres and waste were present. It was also noted that persons were present within the barn enclosure but remained 'hidden' within the compound.

Subsequently in responding to a Planning Contravention Notice served on him on 14th July 2003, the owner of the land indicated that the land was in use for agricultural purposes and storage of three caravans. He also stated in response to a number of questions, that there was no residential use of the site.

At a site inspection on 16th November 2004, at least nine cars, a touring caravan and a truck were noted around the buildings. A derelict touring caravan and a truck were noted in the adjacent field. A further Planning Contravention Notice dated 8th December 2004 with enquiries directed at the parking/ storage use, was not responded to.

At a site inspection on 25th January 2005, approximately 20 cars, vans and lorries were observed on the site, together with 4 touring caravans, two trailers a minibus and a boat. The majority of the vehicles were parked/stored in the open around the buildings, but several vehicles were also parked in the field adjacent to Dunstable Road. Some of vehicles around the buildings showed signs of being worked on and there were piles of tyres, batteries and old oil drums in this area. Across the site, the vehicles were in varying states of disrepair/dereliction. No access could be gained to the enclosure but 2 touring caravans were observed parked/stored undercover. No-one appeared to be present within the enclosure (apart from a large dog), the only door of which was padlocked on the outside. However there was washing hung on a line and an electric light was on in the enclosure. Two pigeon coops were present within the barns. Three bags of household waste were immediately outside the enclosure.

At a further site inspection on 14th February it was noted that a number of the above vehicles had been removed however some cars, lorries and caravans were still present; the owner/occupier stated that the majority of the remaining vehicles were being removed by a scrap dealer in Wimborne, within a week. Additionally much of the rubbish including oil drums, batteries and domestic waste had been removed from the site; the owner/occupier stated that the tyres were also in the process of being removed. In the barns as well as the touring caravans and pigeon coops previously observed was a further touring caravan (all the caravans were stored).

Officers were also able to gain entry to the block -built building within the northernmost of the barns. The Owner/occupier admitted to living in the building and stated that he had done so since 1991. He stated that he was not employed and lived in the building as a single parent with teenage children (attending St. Josephs School, aged 13 and 15) following the end of his marriage. Evidence of residential occupation of the site was also observed.

Planning Policies:

In the Adopted RDSLP 2003, the site is in open countryside within the Special Landscape Area (SLA). Policies G1 (sustainable development principles); G2 (general development criteria); C2 (development in the countryside); C6 (Special Landscape Area), and; C22 (change of use and conversion of buildings) are relevant.

PPS 7 –Sustainable Development in Rural Areas is also relevant.

Considerations:

The breach of planning control

The authorised use of the site is for agriculture.

It is considered that the extent of vehicle parking and storage which has taken place at the site recently far exceeds that which could reasonably be described as associated with the agricultural use of this relatively small holding and a material change of use has therefore occurred. Whilst no actual repairs of vehicles have been observed at the site, the evidence of vehicles apparently under repair/ in disrepair and the presence of quantities of vehicle parts such as tyres and batteries strongly indicates that activities of this nature have taken place at the site.

In his response to the 2003 PCN the owner suggests such use began in 1991 (before his ownership) such use does not appear to have taken place at the site at the current scale for more than ten years – photographs of the site in 1995, 1996 and 2001 show only limited parking/ storage of vehicles at the site around/ within the buildings, which is considered likely to have mostly been associated with/ancillary to the agricultural use of the land. They do not show the parking/ storage of vehicles at the site, including around the barns and elsewhere in the adjacent field to the extent which has been observed at the site since 2003.

As far the use of the barn for residential purposes is concerned, the owner/occupier's recent claim that such use began in 1991 is noted. Whilst it is clear that the block-built structure housing the accommodation has been present since 1992, the owner's claim of continuous occupation is contradicted by his response to the Planning Contravention Notice served in July 2003, where he was adamant that the site was not being used for residential purposes. Site inspections in 1997 also failed to establish that the barns were being used for residential purposes.

On the basis of the evidence currently available, it is therefore considered that any residential use of the barn did not commence before 1997 and by his admission continuous residential use commenced after July 2003.

The vehicle parking/ storage, maintenance/repair uses

Policy C2 strictly limits development in the countryside to that which benefits the local economy and maintains or enhances the environment. Policy C22 however allows the re-use of rural buildings in certain circumstances. C22(iii) requires that the building can be re-used without detriment to its external appearance or harming its setting.

The site lies within the Special Landscape Area; policy C6 indicates that the siting and scale of new development should be sympathetic to the landscape and incorporate high standards of landscaping, design and materials appropriate to their context. Policy G2 (iv) requires that development respects existing landscape and ecological features and that landscaping takes place where appropriate.

The existing buildings are simple, unprepossessing modern farm buildings, which whilst of little intrinsic merit, nevertheless lie in an area of attractive, open countryside within the SLA and are in keeping with their rural surroundings. The site lies in a relatively isolated position within the attractive open, undulating countryside which comprises this part of the SLA , which possesses an overwhelmingly rural character being dominated by agricultural uses.

The vehicle parking/ storage, maintenance/repair uses on the site appear to have largely involved the use of open land around the buildings and in the adjacent field, although some space is used within the barns for the storage of vehicles (three touring caravans).

The vehicles parked/ stored, under repair /maintenance at the site, comprising touring caravans, motor cars, vans, and lorries largely have a commercial or domestic character, with angular lines and strident colours. This is untypical of vehicles normally found on agricultural holdings. The use of the site for the open storage and parking of a large number of such vehicles around the buildings and repair and maintenance of such vehicles also spreading indiscriminately into the adjacent field, and the collection/ storage of paraphernalia in conjunction with such use including tyres, batteries and other vehicle parts, as well as other paraphernalia, all unrelated to agricultural use, all appear as unduly alien and incongruous features in the otherwise pleasant rural surroundings, also giving a cluttered and unsightly appearance to the site.

All of the above serves to seriously detract from the setting of the existing buildings and character and appearance of this part of the SLA described above. Whilst it is accepted that such use (and the harm caused) has recently reduced through the owner's efforts to clear the site, there is currently no impediment to its re-occurrence in future.

To allow such use to continue would therefore be contrary to C22 (iii) above concerning the re-use of rural buildings, policy C6 above concerning development in the SLA, as well as policy G2 (iv) and, with no apparent benefit to the rural economy arising from the use, would also conflict with policy C2 above.

The residential use

As noted above, policy C22 above favours re-use of such buildings for purposes which provide a continuing net gain to the rural economy; residential uses are only to be considered once the avenues for business re-use have been fully explored.

Clearly, given the circumstances of the case, no examination of alternative business uses was undertaken prior to occupying part of the barn for residential purposes.

It has already been demonstrated above that the vehicle storage/parking, repair and maintenance uses associated with the residential use (and which any the residential use could be argued to be ancillary to) have had an unacceptable effect on the surrounding SLA landscape and should not be allowed to continue.

Moreover, it is considered inappropriate to consider the residential accommodation in question as an ancillary part of a business use; the owner/occupier has admitted being unemployed and any business activities being undertaken at the site either in relation to agriculture or the uses described above are considered to be ad hoc, rather than being genuinely related to any coherent, businesslike operation at the site.

Whilst the partial conversion works to form the residential accommodation have themselves had little external impact on the buildings, the parking of vehicles associated with the accommodation including cars and caravans, the accumulation of domestic waste and other paraphernalia around the buildings all appear as unduly alien, unduly domestic features in the context of these rural buildings and surroundings, seriously detracting from their rural character and appearance and their setting. This in turn has had a serious adverse effect on the rural character and appearance of the surrounding area within the SLA.

Furthermore, it is considered that due to the rather restrictive nature of the accommodation (limited size, limited natural daylight, lack of garden), if the principle of a residential use were conceded in this case there would inevitably be pressure to extend the residential use, adapt the buildings possibly introducing domestic style door and window openings and use external space for domestic purposes, all further detracting from the setting of these buildings.

In consideration of all the above, use of the barns for residential purposes is also considered contrary to policies C6, C22 (iii) and G2 (iv).

Highway & Sustainability Issues

WCC Highways have expressed concern regarding the lack of visibility from the site access in a north – easterly direction to service the uses, which represent an increase over the authorized agricultural use of the site. Whilst visibility to the south west is considered reasonable, this is due to the hedge being severely cut back; the likelihood is that with further growth of the hedge in future, visibility would again be compromised adding further to the risk to road safety, in conflict with policy G2 (i) above.

Moreover, the site is considered to be remote from other services, housing and ‘customers’ of any ‘business’, and the above uses do not encourage travel to and from the site by means other than by private car, therefore being contrary to sustainability objectives in policy G1 (i) above.

Human Rights Act

Enforcement action cause interference the owner/occupiers Human Rights. Such interference is only lawful if a legitimate public interest is being pursued. Moreover, in order to be justified, enforcement action has to be proportionate to the seriousness of the breach in question.

Enforcement action will cause interference with the owner’s property rights (Article 1, Protocol 1). More importantly, enforcement action will interfere with the occupiers’ rights to a home under Article 8.

Brief details of the occupiers and the circumstances of their occupation of the site are set out above. Further information has been requested from the occupiers in relation to the circumstances of their occupation of the site, however at the time of writing this has not been received. The occupiers Human Rights have nevertheless been carefully considered. However, it is also considered that enforcement action and the steps required to achieve compliance are both minimal and proportionate, having regard to the public interest of protecting the environment in line with Development Plan policies.

In both instances, under –enforcement would not remedy the breach or the harm to amenity caused. A long period for compliance has however been specified, in order to ensure that the effect of the interference on the occupiers is minimized as far as possible by allowing the occupiers sufficient time to negotiate and obtain suitable, alternative accommodation.

CONCLUSION

There is evidence that the above breaches of planning control, consisting of the material change of use of land to a mixed use of land including use for agriculture and use of agricultural barns for residential purposes and storage and use of land for the parking and storage of caravans, motor cars, vans and lorries and repair and maintenance of such vehicles all unrelated to the agricultural use of the land, has all occurred within the last ten years.

To allow the above unauthorised uses to continue would conflict with policies concerning development in the countryside including those related to the re-use of rural buildings, would perpetuate the harm to the character and appearance of the surrounding countryside within the SLA and would seriously detract from road safety conditions as well as conflicting with sustainability objectives.

The owner/occupiers have been given opportunity to provide relevant information, in order that the impact of any action on their Human Rights can be assessed. In any event their Human Rights have been considered, however enforcement action to require the above unauthorised uses to cease is considered expedient, having regard to the strict limits on development in the countryside and the harm to the SLA, highway safety and sustainability objectives identified above and is considered a justified and proportionate response to the breaches of planning control in HRA terms.

Members will also note that the steps recommended do not require that any building works associated with the residential aspect of the use(s) are removed as there is evidence that such works were undertaken more than ten years ago and would thus be immune from planning enforcement action.

RECOMMENDATION: That the Head of Legal and Property Services be authorized to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended) and serve it on the appropriate person(s)

Alleging the following breach of planning control:

Without planning permission:

1. The material change of use of land to a mixed use of land including use for agriculture and use of agricultural barns for residential purposes and storage of caravans; and use of land for the parking and storage of caravans, motor cars, vans and lorries and repair and maintenance of such vehicles all unrelated to the agricultural use of the land, within the last ten years.

Requiring the following steps to be taken:

1. To cease the mixed use of land and buildings for residential purposes, parking and storage of caravans, motor cars, vans and lorries and repair and maintenance of such vehicles all unrelated to the agricultural use of the land;
2. To remove all domestic furniture, electrical equipment and other domestic paraphernalia from the land;
3. To permanently remove all vehicles including touring caravans, motor cars, vans, lorries, vehicle parts and other associated paraphernalia unrelated to agricultural use, from the land.

Reasons for serving the Notice:

1. The uses of the land for the parking and storage and repair and maintenance of vehicles including touring caravans, motor cars, vans and lorries, all unrelated to agricultural use has seriously detracted from the attractive, rural character and appearance of the surrounding countryside, which lies within a Special Landscape Area, and the setting of the barns. To allow such uses to continue would therefore be contrary to policies C2, C6, C22 (iii) and G2 (iv) of the adopted June 2003 Replacement Salisbury District Local Plan.
2. The continued use of the barns on the land for residential purposes not ancillary to any business use of the land and in the absence of any reasonable attempts to secure re-use of the building for business or community uses is contrary to policy C22 of the adopted June 2003 Replacement Salisbury District Local Plan.
3. Furthermore, the use of the barns on the land for residential purposes has seriously detracted from the setting of these buildings and the rural character and appearance of their surroundings, which lie within a Special Landscape Area. To permit the continued use of part of the barn as a dwelling would also therefore be contrary to policies C2, C6, C22 (iii) and G2 (iv) of the adopted June 2003 Replacement Salisbury District Local Plan.
4. The site lacks an adequate vehicular access and visibility onto Dunstable Road to cater for the significantly increased in vehicular traffic egressing the site over its agricultural use and the above uses have seriously detracted from road safety conditions on Dunstable Road. To permit the uses to continue would therefore be contrary to policy G2 (i) of the adopted June 2003 Replacement Salisbury District Local Plan.
5. The site is considered to be remote from other services, housing and customers, and the uses, which do not encourage travel to and from the site by means other than by the private car, are therefore contrary to sustainability objectives in policy G1 (i) of the adopted June 2003 Replacement Salisbury District Local Plan.

Time Period For Compliance:

1. **One year.**
2. **One year.**
3. **Three months.**

Implications:

- **Financial: None at this time. There may be costs implications if the issue of an Enforcement Notice was held to be unreasonable by an Inspector determining an appeal.**
- **Legal: Detailed in the report.**
- **Human Rights: Detailed in the report.**
- **Environmental implications: Detailed in the report.**
- **Council's Core Values: Protecting the environment; fairness and quality.**
- **Wards Affected: Winterslow.**