

# REPORT

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## LAND AT NUNSWELL HOUSE, HIGHER COOMBE, DONHEAD ST. MARY

### Report Summary:

To consider the expediency of enforcement proceedings in respect of the material change of use of land and buildings from a stable block to a playroom/games room for the private and domestic use of the occupiers of Nunswell House.

### Introduction:

The unauthorized conversion of this building for domestic purposes was first drawn to the Council's attention in May 2002.

This matter has been brought to Members for the consideration of the expediency of enforcement proceedings, following the submission and subsequent refusal of two, retrospective planning applications seeking to retain the current use of the building as a play room/games room for the occupiers of Nunswell House and also extend it to provide a bathroom.

The latter application was refused by Members following their meeting on 7<sup>th</sup> October 2004.

At the most recent site inspection (12<sup>th</sup> November) the use described above appeared to be continuing.

### Site and surroundings:

The building is a stable of a size/ layout allowing accommodation for three horses, constructed of timber boarding under a slate roof. It is located adjacent to the lane leading to St. Marys school on sloping land, in open countryside within the AONB and well outside of the deemed residential curtilage of Nunswell House.

The external alterations to the building comprise clear glazing being inserted in the former stable door openings, together with a French door type opening in the south western end of the building. Internally, a timber floor has been laid, the walls painted and a kitchen/breakfast bar installed. Lighting and various items of domestic furniture are also present within the building.

### Planning history:

S02/1789 – retrospective change of use from stable block to games/leisure building and extension to provide bathroom. Refused 29<sup>th</sup> January 2003.

S/04/0259- retrospective change of use from stable block to play room/games room for the private domestic use of the occupiers of Nunswell House and creation of bathroom within footprint of existing building. Refused 20<sup>th</sup> October 2004.

**Main issues:**

The breach of planning control.

Effect on AONB.

Human Rights

**Planning policies:**

The site lies in countryside within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty. Policies C1, C2, C4, C5 and C22 of the Replacement Salisbury District Local Plan concerning development in such areas.

Policy C22 (iii) allows for the re-use of rural buildings in the countryside subject to certain criteria including whether the building can be adapted to its new use without detriment to its external appearance or its setting.

In countryside within the AONB, policies strongly favour protecting the landscape (C4/C5); development is only permitted where its siting and scale is sympathetic to the AONB landscape in general and that of the locality, and high standards of landscaping, design and materials, reflecting the local context are observed (C5).

Also of relevance is the guidance in PPG 18 –Enforcing Planning Control, Circular 10/97 and the DETR’s Good Practice Guide.

**Considerations:**

The breach of planning control

Officers have previously accepted that the stable building itself whilst erected without planning permission has been in situ for some years and is therefore immune from planning enforcement action. However, such considerations do not apply in relation to the use of the building as domestic accommodation, which appears to have begun within the last ten years, nor the alterations undertaken thereto to effect the conversion.

The use of this building as domestic accommodation ancillary to Nunswell House is materially different for the previous use of the building for the keeping of horses. The building stands a considerable distance away from Nunswell House and is separated from the garden of that property by an agricultural field. It could not therefore reasonably be described as standing within the ‘curtilage’ of Nunswell House. The external and internal works to the stable building are a part and parcel of the material change of use as they to a large extent facilitate the use of the building as domestic accommodation.

Effect on AONB

The site is in an area of very attractive, high quality countryside. The landform of the locality and presence of mature trees adds a sense of intimacy to the local landscape, within which built development is scattered

and isolated, lending the site and surroundings an overwhelmingly rural character. As already noted above, the stable building stands well away from the dwelling and is adjoined by land in agricultural/ rural uses.

In deciding the planning merits of the recently refused application, Members considered that the current use of the building and alterations which facilitated it, adversely effected the appearance of this previously simple rural building; its resulting, obviously domestic appearance being an unduly alien and incongruous feature in the site's strongly rural context which seriously detracted from the character and appearance of these AONB surroundings and the AONB in general.

In the absence of any material change in circumstances since refusal of that application, similar conclusions should be reached in relation to the impact of the development on the AONB and consequent lack of compliance with the above policies referred to.

### Human Rights

The issue of an Enforcement Notice will interfere with the owner property rights under Article 1 of the 1<sup>st</sup> protocol of the HRA. It will also interfere with their right to a home (Article 8) as it will have an impact on the use and enjoyment of the rest of their dwelling. In order for such interference to be lawful it must have a legitimate public interest objective and be proportionate.

In this case, the issue of an Enforcement Notice and steps contained therein seek to protect the nationally recognized high quality landscape of the AONB and uphold Development Plan Policies.

Such action is therefore considered justified in view of the harm to the AONB landscape identified above and outweighs Article 1 and Article 8 rights, and the action/ recommended steps are proportionate to the breach.

### **Conclusions**

The use of this building for domestic accommodation and alterations to effect such use have resulted in an unwarranted, residential intrusion into open countryside within the AONB which has seriously detracted from its character, in conflict with Development Plan policies referred to above.

The retention of such use/ alterations would perpetuate the conflict with policies and harm identified above.

Enforcement action is therefore considered expedient to remedy the above harm.

### **Recommendation:**

That the Head of Legal & Property Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) and serve it on the appropriate person(s).

Alleging the following breach of planning control: -

1. The material change of use of land and buildings from use for the keeping of horses to domestic use ancillary to a nearby dwelling.
2. Operational development comprising material alterations to the external appearance of the building, in conjunction with the use alleged at 1 above.

Requiring the following steps to be taken: -

1. Cease the use of the building for domestic purposes.
2. Remove the kitchen/ sink/ breakfast bar, timber flooring, carpets, domestic furniture, mattresses, electric lighting and light fittings, appliances and all other domestic paraphernalia from the land.
3. Remove all the windows and window frames shown in blue on plan A attached to this Notice and replace them with solid timber stable doors to match the adjoining timber in terms of colour.
4. Remove the window and window frame shown in green on plan A attached to the Notice and infill the opening with horizontal boarded solid timber to match that of the adjoining timber wall in terms of colour.
5. Permanently remove all resulting materials arising from steps 2, 3 and 4 above from the site.

Reasons for serving the Notice: -

1. It appears to the Council that the development has occurred within the last ten years; and
2. The alterations to windows and doors, undertaken to convert this stable building to domestic use have resulted in a domestic appearance that is detrimental to the visual amenities and character of the open countryside which is designated as part of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty. The continued use of the building as living accommodation and the alterations to the appearance of the building are therefore contrary to policies C1, C2, C4, C5 and C22 of the Replacement Salisbury District Local Plan.

Time For Compliance: -

1. Three months.
2. Four months.
3. Four months.
4. Four months.
5. Four months.

Implications:

- Financial: None at this time.
- 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: Donhead.