

**E/0100/49/13**

**UNAUTHORISED SUBDIVISION OF RESIDENTIAL PROPERTY AT WIVEY VIEW,  
WHITEFIELD ROCKS, WIVELISCOMBE**

**OCCUPIER:**

**OWNER:** MR & MRS COCKING  
WIVEY VIEW, WHITEFIELD ROCKS, WIVELISCOMBE  
TAUNTON  
TA4 2UP

---

**PURPOSE OF REPORT**

To consider whether it is expedient to serve an Enforcement Notice requiring the return of the building to one single dwelling following the refusal of Planning permission for subdivision to two dwellings.

**RECOMMENDATION**

The Solicitor to the Council be authorised to serve an Enforcement Notice and take prosecution action should the notice not be complied with, to secure the cessation of the building as two separate units and return the building to comply with the floor plan submitted with the 2011 certificate of lawfulness application.

The Enforcement Notice shall require:-

- to secure the cessation of the building as two separate dwellings and return the building to comply with the previous layout (plan to be attached).

Time for compliance: 1 month from the date the notice comes into effect.

**SITE DESCRIPTION**

The site is in open countryside to the north of Langley Marsh and the dwelling is a converted barn. There is a further building to the west that was a dog kennel which has recently been formed into a dwelling without planning permission which is subject to a separate enforcement investigation. The surrounding land uses are mainly agricultural.

**BACKGROUND**

The complaint was brought to the attention of the Enforcement section in June 2013. A site visit was carried out and the owner was advised of the need for Planning permission should she wish to retain the sub division of the dwelling. A planning application was received in September 2013 and subsequently refused in November 2013.

**DESCRIPTION OF BREACH OF PLANNING CONTROL**

The formation of a dwelling through the subdivision of an existing dwelling is development.

**RELEVANT PLANNING HISTORY**

Permission to convert the building to a dwelling in 1990 was refused and an appeal was dismissed. A further application in 2003 was refused to convert the building to a dwelling, but permission was granted later in 2003 to convert it to holiday accommodation.

In 2008, an application was refused to remove the holiday occupancy condition and a subsequent appeal in 2009 was dismissed. The Inspector found that this was not a suitable location for a permanent dwelling, and also that the development would result in the creation of a domestic curtilage that would have an unacceptable impact on the visual appearance of the area.

In 2011, a Certificate of Lawful Use was applied for and issued confirming that the building had been occupied as a permanent dwelling for more than four years despite the previous planning history. A floor plan was included with the documentation showing the building as one dwelling.

Application 49/13/0046 retrospectively sought permission to subdivide the building into two separate dwellings. The application was refused on the basis that the proposal would result in the creation of a new unit of permanent residential accommodation in the open countryside, the cumulative impact of which would result in an increase in the need to travel by private car in order for the occupants to meet most of their day to day needs. The proposal, therefore, represented unsustainable development in transport terms and was considered to be contrary to Policies CP8 and DM2 of the Taunton Deane Core Strategy.

## **RELEVANT PLANNING POLICES**

### National Planning Policy Framework

Enforcement (paragraph 207)

### Taunton Deane Borough Council Core Strategy

DM2 - Development in the Countryside

CP8 - Environment

## **DETERMINING ISSUES AND CONSIDERATIONS**

In assessing the previous application, it was considered that the main issues were the principle of the development and highways.

### Principle of development

The site is in the open countryside, detached from any recognisable settlement. The hamlet of Whitefield is some distance to the south, but this comprises only a handful of houses and it too, in planning policy terms, would be considered as open countryside.

In locations such as this, policies CP8 and DM2 of the Taunton Deane Core Strategy seek to restrict new residential development. New dwellings in such locations are considered to be unsustainable in transport terms due to the reliance on the private car for most (if not all) of the occupant's day to day needs.

The proposal is, therefore, considered to be contrary to well established settlement policies and your officers do not consider that there are any material considerations that can outweigh this conflict.

### Highways

The proposed dwelling would be served via the existing access which already serves the single dwelling that exists on this site. The Highway Authority advice about required visibility splays are dependent on actual vehicle speeds in the locality. Having visited the site, it is considered that vehicle speeds along the lane are likely to be in the region of 30mph, and certainly no greater than 40mph due to the poor horizontal and vertical alignment at this point. Visibility of almost 100m appears to be achievable provided that the hedge was trimmed back along site frontage and this is adequate for the likely speed of traffic.

The Somerset Parking Strategy requires the provision of 5.5 spaces for this development. The previous application identified space for 3, resulting in an objection from the highway authority. However, the parking area is some distance from the public highway and there is other, less formal, space in and around the site. The purpose of ensuring that adequate parking is identified is considered to be to ensure that there is sufficient space to park and vehicles do not park or manoeuvre on the public highway. Taking account of the site layout in real terms and the characteristics of the highway in this location, it is considered that any users of the site would find space to park and turn. The lack of demonstrable parking space, therefore, was not considered to warrant refusal of the previous application and should not, therefore, be a reason to serve an enforcement notice in this instance.

### Other matters

Given the established lawful use of the building as a single dwelling, it is not considered that has been an adverse impact on other nearby property or the visual amenities of the immediate rural area.

### Conclusions

The site is in the open countryside where there is a strong presumption against new residential development. The development conflicts with established planning policies that seek to prevent such development and as such it is considered to be unacceptable. Planning permission has recently been refused for this development. It is, therefore, recommended that an Enforcement Notice is served.

**In preparing this report the Enforcement Officer has considered fully the Implications and requirements of the Human Rights Act 1998**

**PLANNING OFFICER: Mr M Bale**  
**PLANNING ENFORCEMENT OFFICER: Mrs A Dunford**

**CONTACT OFFICER: Mrs A Dunford, Telephone 01823 356479**