

E/0177/49/13

**CHANGE OF USE OF THE OLD DOG KENNELS TO RESIDENTIAL ON LAND
ADJACENT TO WIVEY VIEW, 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 cessation of the use of a building for residential occupation following the refusal of a Certificate of Lawfulness.

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 use of the building for residential occupation following the refusal of a Certificate of Lawfulness.

The Enforcement Notice shall require:-

- to secure the cessation of the use of the building for residential occupation following the refusal of a Certificate of Lawfulness.
- remove the kitchen and bathroom facilities from the building.

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 dog kennel. There is a further building to the east that has recently been divided into two dwellings 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 September 2013. A site visit was carried out and the owner was advised of the need for Planning permission should she wish to retain the building as a unit of accommodation. A Certificate of Lawfulness was received in December 2013 and subsequently refused in January 2014.

DESCRIPTION OF BREACH OF PLANNING CONTROL

The conversion and residential occupation of a building without the relevant Planning permission.

RELEVANT PLANNING HISTORY

Planning application 49/06/0061 - Change of Use of Kennel Block to Residential Accommodation at Higher Whitefield, Wiveliscombe. - Refused 20 June 2007. Appeal lodged and dismissed 21 November 2007.

Certificate of Lawfulness - 49/13/0058LE - Application for a Lawful Development Certificate for the Existing Conversion of The Old Kennels into a Self Contained Dwelling at The Old Kennels, Wiveliscombe. Refused

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

This development introduces a new unit of residential accommodation. It is considered that the main issues are the principle of the development in terms of planning policy, and, the impact on the visual amenities of the area 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.

Visual amenity

The introduction of further residential accommodation at this site has the potential to further extend areas of domestic curtilage and the paraphernalia associated with such uses. However, the building itself is surrounded by substantial trees and does not have a particular presence in the landscape as a result. When viewing from the public highway, the building is beyond the neighbouring 'Wivey View', a converted barn, which already has a visual impact on the area. In this particular case, it is not considered that the use causes further injury to visual amenity.

The building can be seen from the highway, through the access to Wivey View and other gaps in the hedgerow. However, it is no more intrusive in the landscape than it was in its previous guise as a kennels. Therefore, to require the reinstatement of the previous form would be excessive in terms of the action required to remedy the harm.

Highways

The dwelling would be accessed via the existing access which already serves Wivey View. 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 2 spaces for this development and this could be provided if necessary. The purpose of requiring 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 obvious parking spaces on site, therefore, was is considered to be a reason to serve an enforcement notice in this instance.

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. 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

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