

# **TAUNTON DEANE BOROUGH COUNCIL**

**Planning Committee - 07 January 2015**

**E/0073/46/12**

## **HOLIDAY LETS ALLEGEDLY OCCUPIED BY LONG TERM TENANTS AT GERBESTONE LODGES, GERBESTONE LANE, WEST BUCKLAND**

**OCCUPIER:**

**OWNER:** LORD WATTS HOLDINGS LTD  
94 GROSVENOR ROAD, LONDON, SW1V 3LF

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## **PURPOSE OF REPORT**

To consider whether it is expedient to serve an Enforcement Notice requiring the cessation of residential occupation of the Holiday Lodges in contravention of the condition 02 of permission 46/08/0022.

## **RECOMMENDATION**

The Solicitor to the Council be authorised to serve an Enforcement Notice and take prosecution action if sufficient evidence is obtained that the Notice has not been complied with.

The Notice shall require -

- The cessation of permanent residential occupation of the holiday lodges.

The time for compliance shall be 6 months from the date the notice takes effect.

## **SITE DESCRIPTION**

Land to the immediate west of Gerbestone Manor, formally part of the curtilage of the Manor, but now with planning permission for 8 holiday lodges granted by two separate permissions (4 each) in 2004 and 2005. Only 4 have been built to date, three from one permission and 1 from the other. The site is accessed off a private driveway which leads from the unclassified highway known as Gerbestone Lane which runs from junction 26 of the motorway. the site is about 1.5 hectares in size.

## **BACKGROUND AND RELEVANT HISTORY**

A complaint was received that the four constructed lodges were being occupied on a full time/permanent basis and that the occupants were not holiday makers. It has been suggested that some of the occupants send their children to the local school thereby indicating that there was a degree of permanence to their occupancy. Planning Contravention Notices were served on each occupied Lodge and the

information received back clearly showed that the units were indeed being occupied on a permanent basis. This means that the occupancy condition was not being complied with. The owner was contacted and shortly afterwards, an application was submitted to vary the condition attached to the 2008 permission. This application (46/14/0029) was refused under delegated powers on 12/11/2014

## **DESCRIPTION OF BREACH OF PLANNING CONTROL**

The condition attached to permission 46/08/0022 states -

"The chalets shall be occupied for tourism purposes only and shall not be occupied as a persons sole or main residence. The site operator and owners shall maintain an up to date register of the names of all owner/occupiers including their guests of individual chalets on the site and of their main home address and shall make this information available at all reasonable times to the Local Planning Authority".

This condition has not been complied with and as the attempt to vary the condition has failed the Local Planning Authority need to progress further action to resolve the breach.

## **RELEVANT PLANNING POLICES**

NPPF - National Planning Policy Framework,  
PPF655 - NPPF Section 6, Paragraph 55,  
Paragraph 207 (Enforcement)  
SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,  
DM2 - TD CORE STRATEGY - DEV,  
CP1 - TD CORE STRAT. CLIMATE CHANGE,  
CP8 - CP 8 ENVIRONMENT,  
EN12 - TDBCLP - Landscape Character Areas,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The primary consideration with this matter is the planning policy position. Planning Policy and Government Guidance requires all planning proposals to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Taunton Deane Core Strategy contains policies for the development of the Borough. The relevant policies are listed above. Within the document, major sites for housing development have been identified in detail. Reference is also made for the need to allocate additional small scale housing within minor rural centres, via a 'Site Allocation and Development Management Plan' – [SADMP]. The proposal site is not covered by either policy. The site lies beyond existing and proposed settlement limits as set out in the adopted Local Plan (2004), Core Strategy (2012) and the emerging SADMP. In this regard, it is clear that the proposal should be treated as being within Open Countryside (see Core Strategy Policy SP1).

Proposals for new development and changes of use in open countryside should be determined in accordance with policy DM2. This policy lists the types of development that are acceptable. As three of the four structures the subject of this proposal have already been built, they are covered by policy DM2.7, which deals with the conversion of existing buildings. It is clear from DM2.7(a) that the building 'must be of permanent and substantial construction and of a size suitable for

conversion without major rebuilding or significant alteration or extension'. The lodges are described in the original marketing brochure (Stags) as being of timber framed construction with log cladding set beneath a tiled roof. This has been confirmed by the agent on the original 2005 permission. It is doubtful whether this would meet the tests for residential occupation required under the Building Regulations, although the Building Control Officer has commented that all of the facilities of the units would need to be tested to be certain. In any event, the units cannot be described as being of 'substantial construction. Even if the units were deemed to meet the test of DM2.7(a), it is clear from DM2.7(b) that a sequential test must be followed. There are 4 other preferred uses that the policy deals with before any form of residential occupation might be considered appropriate. The 5th preferred option identifies 'affordable, farm or forestry dwellings, but there is no intention in the application to make the properties any of these. Community housing is identified as the 6th preferred option and this is defined in the accompanying text as having a maximum of two bedrooms with no home office. This clearly does not apply either, as the development does not propose community or affordable housing. The policy is clear that only in exceptional circumstances will the 7th option of conversion to other residential use be permitted. The proposal therefore does not accord with the adopted development plan (The Core Strategy).

Having reached this conclusion, it is appropriate to consider whether or not the benefits of residential use would outweigh the harm. The size of the site and number of dwellings involved would not make a worthwhile contribution to the 5 year land supply, but could set a precedent elsewhere in this immediate area and across the Borough for deviating from the Development Plan. The LPA has an up to date Core Strategy which defines the settlement limits and countryside (policies SP1 and DM2). The site is too small for an allocation, which would normally have at least 10 dwellings (the size regarded as a 'major application' and of a scale to provide other benefits only deliverable through the Development Plan such as affordable housing). The site is some significant distance from the services and facilities that a residential property would require. There are no nearby settlements, communities or associated facilities to serve the units, with the nearest settlements at West Buckland being 2.5 kilometres away and at Wellington over 4 kilometres away. Neither are walkable given the distance and poor quality of roads, many without designated footpaths. There is also no public transport route in the vicinity of the proposals site. This all makes the site an unsustainable location, and development/changes of use should not be supported in unsustainable locations. These factors also make the proposal contrary to the provisions of the National Planning Policy Framework, which is quite clear in making a 'presumption in favour of sustainable development'. An exception was made for the holiday use because it was accepted that holiday makers tend to use vehicles more anyway, and there was an identified need to help the tourism trade in the area. These factors do not apply to residential use. It is clear that permission was only granted originally on this basis and residential consent would never have been authorised.

It is not considered that the owner has tried sufficiently to market the properties for holiday purposes, and even if he had, then the adopted Core Strategy (policy DM2.7) is clear that there needs to be a sequential approach to alternative uses. Residential use would only be considered in very exceptional circumstances and it has not been argued that there are any in this instance, other than a lack of bookings for the holiday accommodation. Therefore the proposal is clearly contrary to the provisions of the NPPF which makes clear that proposals must be determined in accordance with the development plan, unless material considerations indicate otherwise - paragraph 11. When a recent application was considered, the applicant did not allude to any other material considerations and the LPA is not aware of any.

The proposal is also contrary to paragraph 55 of the NPPF which only promotes sustainable development (which includes changes of use) in the countryside.

In conclusion, from a policy perspective, use of the properties for residential purposes fails the referenced tests and is therefore contrary to the National Planning Policy Framework and policies SP1, DM2 and CP8 of the Core Strategy. Design, highways and access issues, landscape issues, drainage, impact on the Listed Building (Gerbestone Manor being grade II\* and the two adjacent barns being grade II), and the impact on the street scene and character of the area are other relevant considerations, but would probably not be adversely affected by any authorised residential use as the units already exist. Traffic generation is likely to be more permanent, busy and year round with residential occupation, but it is noted that the Highway Authority did not object when the Council considered the recent request to lift the occupation restriction. Therefore, it is not felt appropriate to add any of these issues as additional reasons for taking enforcement action.

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

PLANNING OFFICER: Mr J Burton

ENFORCEMENT OFFICER: Mr J A W Hardy, Tel: 01823 356466

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**AUTHORISATION OF CASE OFFICER'S REPORT AND RECOMMENDATION**

**Chartered Town Planner (Development Management Lead)**

I agree/disagree to the above recommendation.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_