

## **PLANNING COMMITTEE – 28 JANUARY, 2004**

### **Report of Chief Planning Officer**

#### **ENFORCEMENT ITEM**

**Parish:** Kingston St Mary

- 1. File/Complainant Number** E13/20/2004
- 2. Location of Site** Hopper Lodge, The Kingfisher Centre, (formerly known as Nailsbourne Nursery), Nailsbourne, TAUNTON, TA2 8AQ
- 3. Names of Owners** Mrs Ellis
- 4. Names of Occupiers** -
- 5. Nature of Contravention**

Occupancy of dwelling in breach of Condition.

#### **6. Planning History**

Planning permission was granted on 15 March, 1989 for a dwelling for a horticultural worker at Nailsbourne Nursery, Nailsbourne, Kingston St Mary. The property was built and occupied by the proprietor of the nursery. The Nursery and dwelling was sold in December 2002 and purchased by Mrs Ellis. Her intention was to let out 2 rooms as bed and breakfast accommodation for people who are carers of terminally ill friends and relatives to be able to come and relax in country surroundings and be able to talk about their problems to a sympathetic ear. However this type of operation does not comply with Condition 06 which states:- The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 290(1) of the Town and Country Planning Act 1971, or in forestry or a dependent of such a person residing with him or her or a widow or widower of such a person.

Mrs Ellis's son has written on her behalf explaining the situation and how their solicitor did not bring the condition to their attention when the property was purchased. All plans for the intended venture and any future developments at the property have been put on hold due to the situation and Mrs Ellis's state of health. Mr Ellis has requested that the Council be sympathetic to his mother's situation. A letter has been sent to Mr Ellis stating that in view of the potential hardship to his mother the Chief Planning Officer would not wish to instigate enforcement action to ensure immediate compliance with the condition and a period of time to enable the property to be sold would be appropriate. Mrs Ellis may decide to submit a planning application to lift the condition but this

would have to be considered on its merits and would normally require evidence of marketing the property for sale as an agricultural dwelling at an appropriate price.

**7. Reasons for Taking Action**

The property is in an area where it is the policy of the Local Planning Authority to restrict new residential development to that required to meet the needs of agriculture or forestry.

**8. Recommendation**

That a period of 18 months from the date of this Committee be allowed prior to serving a Breach of Condition Notice in order that the property can actively be marketed as an agricultural dwelling in compliance with the condition.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.**

**CONTACT OFFICER: Mr J A W Hardy Tel: 356479**