

## Planning Committee

15 November 2017



<b>Site Address:</b>	Land rear of Pentire, Stable 2, Fordbridge Road, Sunbury on Thames, TW16 6AX
<b>Breach</b>	That an outbuilding to the rear of 'Pentire' is being used as a separate residential dwelling without planning permission.
<b>Ward:</b>	Halliford and Sunbury West
<b>Call in details:</b>	That an Enforcement Notice be issued to secure the cessation of land and building for residential use and the restoration of the land and building to their former use. Such notice to be complied with within 6 months of it taking effect.

**This report is brought to the Planning Committee as an urgent item as it involves planning enforcement action which relates to the potential loss of a home and is subject to time limits.**

### **MAIN REPORT**

#### **1. Background**

- 1.1 The site contains a detached single storey outbuilding, formerly described a stabling, of approximately 107 square metres gross external area. The plan submitted with the Certificate of Lawful development also shows an associated residential curtilage of approximately 1100 square metres.
- 1.2 To the east of the site, fronting Fordbridge Road is a residential property named 'Pentire' and to the west is an outbuilding identified as 'Pentire Stable 1' which has an authorised office use (11/00803/FUL).
- 1.3 Access to the site is from Fordbridge Road, via a shared access with the residential dwelling of Pentire and the Stable 1 authorised office use.
- 1.4 The site is located within the designated Green Belt and the 1:100 flood risk area - Zone 3a

## 2. Relevant Planning History

11/00803/FUL	Change of use of outbuilding into an office (Stable 1)	Granted 30/4/2012
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## 3. Details of unauthorised development:

3.1 The outbuilding identified as Stable 2 is currently being used as an unauthorised residential unit and contains two bedrooms, a lounge, kitchen and bathroom. A large area of land has been enclosed on the south west of the building as residential curtilage.

## 4. Planning Considerations

4.1 The breach of planning control relates to the unauthorised use of the outbuilding, identified as 'stable 2', as a separate residential dwelling and the enclosure of land for use as residential curtilage.

4.2 Section 171B(2) of the Town and Country Planning Act 1990 identifies that: 'Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach'

4.3 The main issues in this particular case are whether the applicant has provided sufficient evidence that the outbuilding has been used as separate unit of residential accommodation and if not, whether a new residential dwelling would be acceptable in this location.

4.4 As part of an application for a Certificate of Lawful Use, the owner submitted a Statutory Declaration providing a timeline for the alleged residential use of the building. The Statutory Declaration states that the owner, progressively began living in the Stable in June 2012. In December 2012, the owner stated that he started to live in the Stable full time. The outbuilding at that time included toilet facilities, a kettle and a microwave. Following a request for further information, the applicant's agent stated that the accommodation also included a table, chair and a bed, but this is not contained in evidence.

4.5 The Statutory Declaration confirms that the owner's family were staying at his partner's parents' house as the standard of accommodation in the stable building was not appropriate for a family. The owner also had concerns that while conversion works were being undertaken, including soak away holes and tools and equipment in the building, would be dangerous. The Statutory Declaration states that the family moved into the building on a permanent basis during 2014. This is outside of the four-year time limit and is considered to be when the building was occupied as a separate residential dwelling.

- 4.6 Evidence has been submitted to show that the owner issued invoices with Stable 2 as an address in December 2013 and the statutory declaration indicates that he was 'working from home'. This shows that an unauthorised business use could have been carried out at the building from December 2013, but it is anticipated that this would form the basis of an argument that residential use was occurring from this date.
- 4.7 Based on the information submitted the Local Planning Authority is not satisfied that the outbuilding has been used as a separate unit of residential accommodation for 4 years without the necessary planning permission.
- 4.8 Whilst the NPPF does accept that the re-use of building within the Green Belt, it is considered that the residential use represents inappropriate development within the Green Belt and would be harmful to the openness of the Green Belt. The building is also located within the flood plain, within the 1:100 flood risk zone.
- 4.9 Notwithstanding that there is no planning application associated with a new residential dwelling on this site. The Local Planning Authority is satisfied that there are no 'very special circumstances' associated with the site and that such a proposal would be contrary to the Core Strategy and Policies Development Plan Document
- 4.10 The building is already in use as an unauthorised residential dwelling and provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14, are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control. In view of the need to enforce planning law for the public good, it is not considered that this would contravene the Human Rights Act. Given the harm caused to the amenity of surrounding neighbours due to the unacceptable noise and disturbance, it is considered to be expedient to take enforcement action against this use.
- 4.8 On the basis of the information available to the Local Planning Authority it is considered that insufficient evidence has been provided to support the use of the outbuilding as a separate residential unit of accommodation for four years or more. It is further considered that a new unit of residential accommodation in this location would be contrary to the Council's Core Strategy and Policies Development Plan Document and enforcement action is therefore warranted.

## **5.0** Recommendation

5.1 That an Enforcement Notice be issued to require:

- The cessation of the residential use of the land and building as a separate residential dwelling;
- The removal of all fixtures and fittings, associated with the residential use, and restoration of the original floor plan layout; and
- Removal of all ancillary residential structures and equipment within the land to the south west of the outbuilding

Such Notice to be complied with within 6 months of it taking effect.

### Reasons for Serving of Notice

**5.2** The current development consisting of the use of an outbuilding as a residential dwelling is considered to be inappropriate development within the Green Belt and an area liable to flood. The scheme is therefore contrary to 'Saved' policies SP1, SP7, LO1 and GB1 of the Spelthorne Borough Council Local plan 2001.