



COTSWOLD DISTRICT COUNCIL

PLANNING AND LICENSING COMMITTEE

14TH OCTOBER 2015

AGENDA ITEM (9)

ENFORCEMENT - ORCHARD RISE, CHARINGWORTH, CHIPPING CAMPDEN GL55 6NR

Ward Member(s)	Councillor Mrs. SL Jepson
Accountable Officer	Colin Davies Enforcement Officer 01285 623000 colin.davies@cotswold.gov.uk
Purpose of Report	To consider the expediency of taking enforcement action
Recommendation(s)	<p>That enforcement action be taken under Section 172 of the Town and Country Planning Act 1990, as amended, to secure:-</p> <p>(i) demolition of the unauthorised building at Orchard Rise, Charingworth Chipping Campden, and its associated features such as retaining walls, steps and land areas, within a period of ten months of the date on which the Notice takes effect;</p> <p>(ii) the permanent removal from the land of the materials resulting from such demolition within a period of eleven months of the date on which the Notice takes effect</p> <p>(iii) the reinstatement of the land where the unauthorised dwelling stood to its original levels and profile within a period of twelve months of the date on which the Notice takes effect.</p>
Reason(s) for Recommendation(s)	<p>The completed dwelling is significantly larger in terms of size and scale than either the original dwelling on the site or the dwelling approved under permission 12/04267/FUL. The development therefore fails to accord with Cotswold District Local Plan Policy 22, which seeks to restrict the size and scale of replacement dwellings. There are no material considerations to justify a departure from the aforementioned Policy in this particular case.</p> <p>The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB) wherein the Council is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape. The completed dwelling, by virtue of its size, scale and mass appears as an obtrusive and dominant form of development that has an adverse impact on the character and appearance of the AONB, contrary to Local Plan Policy 42 and guidance contained in the National Planning Policy Framework, particularly Paragraphs 7, 56, 64, 109 and 115 thereof.</p>
Ward(s) Affected	Blockley
Key Decision	No

Recommendation to Council	No
Financial Implications	There are no financial implications arising directly from this report. However, there is a risk that an appeal could be lodged against the service of an enforcement notice.
Legal and Human Rights Implications	<p>'Everyone has a right of respect for his family life, his home and his correspondence'.</p> <p>'There shall be no interference by a public authority with the exercise of this right, except such as in accordance with the law and is necessary in democratic society in the interests of national security, public safety or the economic well-being of the country; for the prevention of disorder or crime for the protection of public health or morals, or for the rights and freedom of others'.</p> <p>Article 8 does not give anyone the absolute right to be provided with a home or to live where they want, nor does it prohibit the Council from taking enforcement action which would result in people being removed from their homes in circumstances where people have no other home (although the absence of suitable accommodation is relevant).</p> <p>When striking a balance, the Committee must take account of all relevant matters, particularly:-</p> <ul style="list-style-type: none"> (i) questions of the family's or individuals' health; (ii) the existence of suitable, alternative accommodation; (iii) considerations of hardship and personal circumstances; (iv) the degree of planning and environmental harm flowing from the continued occupation of the site; (v) the degree and flagrancy of the breach of planning control which appears to have occurred. <p>In respect of the above, and at the time of writing this report, Officers consider that the harm caused by the unauthorised dwelling is such that enforcement action should be taken. The occupiers of the property have been contacted in order to establish if they wish to provide any personal, financial and/or health-related information which they would like the Committee to consider prior to any decision(s) on enforcement action being taken. The information received has been attached to this report. Any further information submitted will be reported to the Committee at its Meeting on 14th October 2015.</p>
Environmental and Sustainability Implications	None
Human Resource Implications	None
Key Risks	There is a risk that an appeal could be lodged against the service of an Enforcement Notice
Equalities Analysis	None

Related Decisions	Retrospective planning application 15/02096/FUL - 19 th August 2015
Background Documents	Planning file
Appendices	<p>Appendix 'A' - site location plan</p> <p>Appendix 'B' - planning and enforcement report and extract from the Minutes of the Meeting - 19th August 2015</p> <p>Appendix 'C' - Decision Notice and location plan relating to permitted use of Cold Store Barn - 11/02760/FUL and Decision Notice relating to variation of holiday let Condition - 13/01666/FUL</p> <p>Appendix 'D' - e-mail from owners - 17th September 2015</p> <p>Exempt Appendix 'E' - letter from owners - 11th August 2015</p> <p>Exempt Appendix 'F' - e-mail from owners - 22nd September 2015</p> <p>Exempt Appendix 'G' - further information supplied by Solicitors acting on behalf the owners</p>

Performance Management Follow Up	To implement the decision(s) of the Committee
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<p>Background Information</p> <p>1. At its Meeting on 19th August 2015, the Committee considered application 15/02096/FUL relating to a retrospective application for amendments to the approved plan at Orchard Rise, Charingworth, Chipping Campden. That application was refused and enforcement action was authorised. A copy of the site location plan is attached at Appendix 'A'; a copy of the Officer report to the Committee's Meeting held on 19th August 2015, and an extract from the Minutes of that Meeting, are attached at Appendix 'B'; a copy of the Decision Notices relating to applications 11/02760/FUL and 13/01666/FUL are attached at Appendix 'C' a copy of an e-mail from the owners dated 17th September 2015 is attached at Appendix 'D'; a copy of a letter from the owners, dated 11th August 2015, is attached at Exempt Appendix 'E'; a copy of a further e-mail from the owners, dated 22nd September 2015, is attached at Exempt Appendix 'F'; and a copy of further information supplied by Solicitors acting on behalf of the owners, is attached at Exempt Appendix 'G'.</p> <p>2. The enforcement issue has been brought back to the Committee for reconsideration because, at its Meeting on 19th August 2015, the Committee had been advised that the Cold Store Barn could be used to provide alternative residential accommodation for the owners of Orchard Rise in the event that the unauthorised dwelling was demolished. Subsequent to that Meeting, further consideration has been given to that matter, and Officers are now of the opinion that the accommodation concerned does not have permission for unrestricted residential use, but is permitted for use for holiday purposes, or for use ancillary to that of the main dwelling on the site (Orchard Rise). If the main dwelling was to be demolished, the ability to use the Cold Store Barn in an ancillary sense would disappear.</p> <p>3. Since the Committee's Meeting on 19th August 2015, an application for separate, unrestricted residential use of the Cold Store Barn has been refused. That application was determined by Officers in accordance with the approved Scheme of Delegation (application 15/03143/FUL referred).</p>

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