

**Planning Committee:** 27 November 2012 **Item Number: 23**

**Investigation Number:** ENF 450/43/08

**Town/Parish Council:** Leek Wootton

**Case Officer:** Gary Fisher

**Meadow Cottage, Hill Wootton Road, Hill Wootton, CV32 6QN**

**Various works, including erection of structures and excavations, and changes of use of land**

**Owner: Mr M Rooke**

---

This enforcement matter is being presented to Committee in order to request that enforcement action be authorised.

### **RECOMMENDATION**

That officers be authorised to proceed with appropriate enforcement action directed at the following matters all with a compliance period of SIX months:-

1. The permanent cessation of the use of former agricultural land incorporated into the residential use of the site; the removal of unauthorised development from that land comprising a series of concrete columns, revised ground levels and a canal feature; the reinstatement of the land to its former agricultural use and the reinstatement of the land to its former ground levels.
2. The permanent removal in its entirety of the storage area and all associated stored material and containers.
3. The demolition in their entirety of the unauthorised structures/buildings; the removal of all foundations and materials from the site and the reinstatement of the former ground level.

### **BACKGROUND**

Unauthorised development has been identified at this site as follows:-

1. The incorporation of a significant area of former agricultural land (comprising some 0.46 ha) into the residential site (the "incorporated land") including the excavation of part of that land; the part construction of a storage building currently comprising the erection of substantive concrete columns; and the extension of an existing lake into part of that land in the form of a canal feature.
2. The unauthorised use of part of the site as a permanent storage area comprising the stationing of various containers and piles of debris.

3. Extensive works within the site to create an enlarged lake/pond area including the construction of a bridge.
4. The construction of substantive buildings/structures adjacent to the residential dwelling at the site.

Officers have concluded that these works fall outside of the residential curtilage of the property and do not benefit from permitted development rights.

The owner of the site has been repeatedly advised to cease work and that any continuing work was being undertaken at risk of enforcement action being taken. Officers continue to receive complaints from local residents and the Parish Council who are concerned over the scale of continuing development on site and its effect on the open countryside.

### **RELEVANT LOCAL PLAN POLICIES**

DP1- Layout and Design.

DP3 – Natural and Historic Environment and Landscape

National Planning Policy Framework.

### **RELEVANT PLANNING HISTORY**

Planning permission was granted in 2003 and 2004 for alternative designs for two storey extensions to the existing dwelling at the site (W/04/211 and W/03/796).

### **KEY ISSUES**

#### **The Site and its Location**

Meadow Cottage is an isolated cottage situated on low lying land to the immediate south-east of the River Avon which forms part of the boundary of the site. It is located in the open countryside and Green Belt between Leamington Spa and Kenilworth.

The site is partly located within Flood Zone 2 where there is a low to medium risk of flooding. Whilst some of the site is also located in Flood Zone 3 where there is a high risk of flooding, none of the unauthorised development the subject of this report falls within that area.

Whilst the land associated with the cottage is extensive amounting to approximately 2 ha including a large existing lake, it is considered that the specific residential curtilage comprises a much smaller area around the cottage itself which is located close to the southern boundary of the site.

The site is bounded to the east by the River Avon; to the south and west by open countryside and to the north by Hill Wootton Road.

The previous planning permission permitted the extension of the residential dwelling at the site and whilst works did commence, to date

these have not been completed. Upon completion, those works which permit 2 storey extensions would result in the dwelling continuing to comprise a building of modest scale.

## **Assessment**

The National Planning Policy Framework (NPPF) states that the essential characteristics of the Green Belt include its openness and permanence (paragraph 79). It sets out that as with previous Green Belt Policy, inappropriate development is, by definition, harmful and should not be approved except in very special circumstances (paragraph 87).

Apart from the exceptions set out at paragraph 89, new buildings comprise inappropriate development as do other forms of development which do not preserve the openness of the Green Belt. Furthermore at paragraph 100, the NPPF makes reference to development in areas at risk of flooding, such that where development is undertaken it should be safe and not increase flood risk elsewhere.

The Extension of the Site to Incorporate former Agricultural Land (the "Incorporated Land") including the part erection of a storage building and a canal feature.

The current enforcement investigation has identified evidence strongly indicating that the area of land in question has been incorporated into the site the subject of this report from the adjoining agricultural field within the last 10 years, in all likelihood in approximately 2008.

Previously, this area of land was demonstrably of agricultural character comprising part of the adjacent agricultural field. Subsequently, the hedgerow/tree line demarking the 2 sites was removed and resited to its current location such that the area of land in question was effectively incorporated into the Meadow Cottage site. Subsequent construction work on part of this site which is summarised below has reinforced that position:

- i. The partial completion of a storage building currently comprising of some 13 substantial concrete columns of various heights exceeding 6 metres along with the excavation of land to house these features.
- ii. The construction of a canal feature with an approximate length of some 55 metres, extending existing lakes and ponds into incorporated land.

It is considered that the change of use of this area of land including the operational development described at i. above comprises inappropriate development in the Green Belt in respect of which no very special circumstances have been identified and to which there is therefore an objection in principle.

The resulting significant encroachment into the open countryside materially impacts upon the visual amenities and openness of the surrounding area and of the Green Belt and is considered to be unacceptable for those reasons.

The Environment Agency has declined to comment in detail in respect of this site, however, officers are concerned about the potential impact of the collective development on flood zone capacity.

#### Unauthorised storage area

The current enforcement investigation has also identified that whilst the use of part of the site as a storage area comprising a number of containers and the storage of debris within the northern area of the site, has occurred over a number of years this has not exceeded 10 years and is therefore not immune from formal enforcement action.

This storage use continues at the site in addition to the use of land closer to the residential dwelling at the site for the current storage of building, etc. materials. Furthermore, in view of the period of time over which this use has continued at the site including during periods when there has been no ongoing development activity, it is considered to comprise a permanent use unconnected to any such current development activity.

The presence of the storage area is considered to materially change the character of the use of the wider site in a manner which comprises inappropriate development in the Green Belt in respect of which no very special circumstances have been identified and to which there is therefore also an objection in principle.

Whilst again, there is no evidence from the Environment Agency to suggest any materially increased flood risk as a result of this use, its continued presence at the site introduces unsightly features into the rural landscape to the detriment of the visual amenities and openness of the countryside and the Green Belt.

#### Extension to reservoir/lakes and construction of new bridge.

The extensive engineering and building operations involved in respect of these particular works are considered to be located outside the residential curtilage of the dwelling at the site.

They are considered to be located within the wider area of the residential land associated with that dwelling and also extend into the "incorporated land" at the site. These works comprise additional water features at the site with principal dimensions of some 55 metres falling outside the higher risk flood zone area.

As stated above, the Environment Agency advise that they have no issues in respect of this site. In addition, officers consider that the extended water features by their very nature offer the potential to further alleviate the risk of flooding in the area by providing additional flood zone capacity.

On balance these works are not considered to materially harm or impact upon the openness and visual amenities of the Green Belt and the surrounding area. As identified above, they are not considered to materially increase flood risk and for these reasons it is not considered expedient to pursue these aspects of the unauthorised development at the site further.

#### Unauthorised structures/buildings.

It is understood that the unauthorised structures/buildings under construction at the site are intended to provide additional residential floorspace including a swimming pool, changing rooms, garages and workshop.

They are situated to the east of the existing dwelling at the site beyond the residential curtilage of that property. They form an L shape of single storey buildings of varying height ranging from between 4m to 6m. The buildings collectively fall outside the area of high flood risk, but do fall within the area of lesser such risk. Whilst the bulk of the construction activity in relation to this part of the development has been undertaken more recently, there is evidence that a material start was made in 2008 such that the pre-October 2008 permitted development regime applies.

At that time, officers advised the site owner in writing that the development in question was not considered to comprise permitted development principally because of its location outside the residential curtilage of the dwelling at the site, and because its scale was such that it was not considered to be incidental to the use of that dwelling.

It is considered that this part of the unauthorised development of the site comprises inappropriate development in the Green Belt in respect of which no very special circumstances have been identified and to which there is therefore an objection in principle.

These substantive and extensive range of buildings currently under construction dominate the original dwelling at the site causing it to appear subservient in comparison. By virtue of their location, extent and design, they do not preserve the openness or the visual amenities of either the Green Belt or the surrounding countryside and are considered to be unacceptable for that reason.

Again, this element of the unauthorised development falls within Flood Zone 2, the area of lesser risk at the site. The Environment Agency have raised no issues in that respect, however as identified above, officers remain concerned about the impact of the collective development on site on flood capacity.

#### **Justification for Enforcement Action**

In view of the extent and scale of the continuing works at the site; the harm identified; the absence of any indication from the owner of a

willingness to resolve these breaches of planning control, enforcement action is considered to be the appropriate way forward in resolving these matters.

---