

BOROUGH OF KETTERING

Committee	Planning Committee	Item 6.1	Page
Report Originator	Michael Boniface	ENFO/2011/00190	
Wards Affected	Burton Latimer	Date 09/10/2012	
Title	Authorisation for Planning Enforcement Action at The Olde Victoria Restaurant, 39 Bakehouse Lane, Burton Latimer		

1. PURPOSE OF REPORT

To seek authorisation to issue an Enforcement Notice in respect of unauthorised development at 39, The Olde Victoria Restaurant, Bakehouse Lane, Burton Latimer, shown in bold outline for identification purposes on the site plan attached to this report.

2. BREACH OF PLANNING CONTROL

Without planning permission, the erection of a timber lean-to smoking shelter on the west elevation and a raised timber decking to the south.

3. RECOMMENDATION

That in respect of the breach of planning control described above, the Head of Development Services be authorised to issue an Enforcement Notice pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) requiring the step(s) to be taken within the specified time period(s); and for the reason(s) which are set out below:

3.1 Steps to be Taken

1. Permanently remove the smoking shelter and decking from the land.
Time for compliance: 2 months
2. Remove from the land all building materials and rubble arising from compliance with requirement (1) above, and restore the land to its condition before the breach took place by levelling the ground and replacing paving.
Time for compliance: 3 months

3.1 Reasons For Issuing the Notice

The building in question was substantially completed less than four years ago.

The site falls within a designated Conservation Area and the development must therefore be judged against Section 72 of the Planning (Listed Buildings and

Conservation Areas) Act 1990 which requires that special attention be paid to the desirability of preserving or enhancing the character of the area.

The Conservation Area encompasses the historic core of the town, along with the main access roads. The site is visible from Church Street which is a principal thoroughfare of the Conservation Area. The low walls, open spaces and traditional building materials are characteristics of this area. These make an important contribution to the historic and visual appeal of the Conservation Area. The Olde Victoria occupies a prominent corner location at the junction of Spring Gardens and Bakehouse Lane, and is a significant feature in the local townscape.

The raised decking occupies an extensive area and is prominent in views from Bakehouse Lane. It dominates the space in front of the building and, by reason of its height and materials, appears out of keeping with the adjoining boundary wall. The existing umbrellas and tables affect this space to some extent, but they do not justify such an extensive area of raised decking.

The shelter with its timber posts and corrugated clear plastic sheeted roof contrasts sharply with the traditional materials of the building to which it is attached. Its design and siting takes little account of the existing features of the building, such as its roof form and fenestration. As a result, the shelter sits awkwardly in this context. It appears as a utilitarian and incongruous addition to the existing building, and that harms the appearance of the area.

The development does not therefore preserve or enhance the character or appearance of the Conservation Area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The development conflicts with Policy 13 of the North Northamptonshire Core Spatial Strategy.

The Council considered a planning application for this development under reference KET/2011/0329 for the following reason:

The site is set back but clearly visible from Church Street, being a principal thoroughfare in the Conservation Area, with a prevailing historically-defined character of distinctive low walls and boundaries, spaces and buildings. The exterior of the pub has a simple elegance free of the sort of structures proposed, which are by reason of their design and materials incongruous and unsympathetic to the character and appearance of the building and the wider Conservation Area. It is considered that the proposed development harms the significance of the heritage asset, by reason that it fails to preserve or enhance the Conservation Area. As such the proposed development is contrary to the aims and objectives of policy 13 (h), (l) and (o) of the North Northamptonshire Core Spatial Strategy, policies 2 and 27 of East Midlands Regional Plan and national planning policy advice contained within PPS5: 'Planning for the Historic Environment'.

The proposal was subsequently considered at appeal which was dismissed for the reasons identified above. Informal approaches have been made to the owner in an attempt to remedy the breach of planning control without the need for formal enforcement action however this has proved unsuccessful.

Having established that the development results in harm to the character and appearance of the Conservation Area through the planning application and appeals process it is important that the Council now exercises its powers to enforce removal of the unauthorised structures.

4. INFORMATION

Site Description

The site comprises a public house set on elevated ground in the historic centre of Burton Latimer. The building is constructed of stone with a grasses garden area surrounding and adjoining Spring Gardens. Residential properties surround the site and a public car park opposes to the south. The site is located within the Conservation Area.

Planning History

KET/2011/0329 – Smoking shelter to side and raised decking to front – REFUSED
16/08/2011 – APPEAL DISMISSED 26/03/2012

Planning Policy:

National Planning Policy Framework

Part 1 – Building a strong, competitive economy

Part 2 – Ensuring the vitality of town centres

Part 4 – Promoting sustainable transport

Part 7 – Requiring good design

Part 12 – Conserving and enhancing the historic environment

Circular 10/97: Enforcing Planning Control - Legislative provisions and procedural requirements

Development Plan

North Northamptonshire Core Spatial Strategy (CSS)

Policy 13: General Sustainable Development Principles

5. APPRAISAL

On 25.08.2011 a site visit was carried out following a complaint from a member of the public. The smoking shelter and decking were viewed and the need for planning permission established.

On 16.08.2011 planning permission was refused for the development.

On 26.03.2012 an appeal against the Council's decision to refuse planning permission was dismissed.

On 19.04.2012 the Council wrote to the owner, drawing attention to the refusal notice and subsequent appeal decision. The owner was reminded that the structures

remained unauthorised and should be removed within 28 days. The structures have not been removed and remain in situ.

The development results in a significant adverse impact to the character and appearance of the Conservation Area and is contrary to the development plan as set out above.

Paragraph 207 of the NPPF states that effective enforcement is important as a means of maintaining public confidence in the planning system.

It is considered that the unauthorised development has an unacceptable adverse impact which conflicts with the Development Plan and therefore it is recommended that enforcement action is authorised.

Human Rights Implications

Service of an enforcement notice in this instance is not a breach of the property owner's human rights. Whilst it does affect their property rights they will have an opportunity to challenge the decision by way of an appeal against the enforcement notice and that provides adequate safeguards in accordance with the Human Rights Act 1998 incorporating the European Human Rights Convention.

Background Papers:

Title of Document:

Date:

Contact Officer: Michael Boniface

Previous Reports/Minutes:

Ref:

Date: