



Appeal Decision

Site visit made on 29 June 2009

by **P N Jarratt BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State
for Communities and Local Government**

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**Decision date:
10 July 2009**

Appeal Ref: APP/L2820/C/09/2098711

Land situated at The Thornhill Arms, 2 Station Road, Rushton, Kettering, NN14 1RL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Susan Haynes against an enforcement notice issued by Kettering Borough Council.
- The Council's reference is ENFO/2007/00158.
- The notice was issued on 20 January 2009.
- The breach of planning control as alleged in the notice is without planning permission the construction of a raised deck and balustrading.
- The requirements of the notice are permanently to remove the raised decking and balustrade structure and all resultant materials from the site.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Decision

1. I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a raised deck and balustrading on land at The Thornhill Arms, 2 Station Road, Rushton, Kettering, NN14 1RL referred to in the notice, subject to the following conditions:-
 - i) The raised decking and balustrading hereby permitted shall be removed from the property within one month of the date of failure to meet any of the requirements set out in points a) to d) below:
 - a) within 1 month of the date of this decision a scheme for the planting of a hedgerow to screen the decking (planting scheme) shall be submitted for the written approval of the Local Planning Authority and the planting scheme shall include a timetable for its implementation;
 - b) within 9 months of the date of this decision the planting scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the planting scheme or fail to give a decision within this defined period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - c) if an appeal is made in pursuance of requirement b) above, that appeal shall have been finally determined and the submitted planting scheme shall have been approved by the Secretary of State;
 - d) the approved scheme shall have been carried out and completed within the approved timetable.

ii) Following the implementation of the approved planting scheme any plants which within a period of 5 years from their planting, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

iii) The existing hedgerow on the High Street boundary where it abuts the balustrade shall be maintained at a height no less than the height of the balustrade.

Procedural Matters

2. Although the appeal was originally made under ground (b), the appellant's submissions related to a ground (a) appeal and consequently the appellant changed the appeal to ground (a).

The appeal under ground (a)

Reasons

3. The main issues in this appeal are the effects of the unauthorised development on the setting of a listed building and on the character or appearance of the Conservation Area.
4. The appeal property is an attractive stone built grade II listed building used as a public house and it is situated within the Rushton Conservation Area on a prominent triangular plot at a road junction. The raised decking has been constructed along part of the front of the public house and partly on the High Street side, linking the front and rear gardens that appear also to be used as external seating areas. There are a number of stainless steel lights on the decking but these have not been referred to in the enforcement notice.
5. The timber decking is subdued and neutral in colour, not that dissimilar to the colour of the stone of the public house. The decking is at a very low level at the front of the public house, being only one step above the grass and stepping up twice around the corner of the building. It is not attached to the listed building so far as I could observe. The timber balustrading is of a similar colour to the decking and modest in height. It is set behind an established hedge on the High Street boundary.
6. The Council is concerned that the decking is overly domestic in design having a suburban appearance at odds with the character of the listed building. Whilst a more traditional paving approach could have been employed, it does not mean that a contemporary approach is harmful to the setting of the listed building. The design is typical of decked seating areas associated with public houses although I acknowledge similar designs are used in domestic circumstances. Whilst the listed building is imposing in the street scene and contributes considerably to the character and appearance of the Conservation Area, the design and appearance of the decking and balustrading is such that it does not compete with the listed building and it sits comfortably within the garden of the listed building.
7. The low height and colour of the decking and its positioning relative to the building and its gardens and to the established boundary hedges do not in my view make the decking appear prominent from outside the appeal property and

the slight difference in levels is not significant. Similarly, the height, design and colour of the balustrading are such that the visual impact of the balustrading is not significant from outside the site. Additionally the established hedgerow on the High Street boundary screens much of the balustrading from view. Glimpses of the balustrading suggest nothing more than a timber fence which is contextually appropriate. Neither the character nor the appearance of the Conservation Area in the vicinity of the appeal site is harmed by the decking and balustrading.

8. I conclude that the decking and balustrading is not an incongruous form of development. It does not adversely affect the setting of the listed building and it preserves the character and appearance of the Conservation Area. Consequently, the unauthorised development accords with national planning guidance set out in PPG15: Planning and the Historic Environment and Policy 13 of The North Northamptonshire Core Spatial Strategy.
9. The Council is concerned about the use of the decking as a seating area for the public house as it gives rise to the placement of tables, chairs, parasols, and illumination, worsening the impact of the decking on the listed building. However, it seems to me that this area could be used as a seating area even without the decking in place, being part of the garden similar to the front and rear gardens that have tables and benches. The activities and effect on the listed building would not be significantly different in my view. The appellant has however indicated in the submitted (but not registered) planning application an intention to plant evergreen hedging along the balustrading to screen the decking area. As this would screen the activities on the decking to some extent I have included a condition requiring additional planting. I have also included a condition intended to maintain the height of the existing hedgerow.
10. I note that the Parish Council supports the granting of planning permission for the decking and that there is also a petition of support from customers of the public house. However a neighbour has raised objections on a number of grounds including the distraction of the lights to road users. However, the lights do not form part of the Council's alleged breach of planning control. The neighbour is concerned about nuisance arising from customers of the Public House but the appellant denies some of the allegations. I also note that a sign is displayed by the decking requesting customers to keep noise to a minimum. Notwithstanding this, I am not aware of any restrictions on the use of the garden as an external seating area irrespective of whether the decking is in place. Consequently, any nuisance arising as a result of the use of the decking is unlikely to be different from the garden's use as a sitting area.
11. The neighbour has referred to the lack of disabled access on the decking. However the appellant states that the original decking has been modified by the appellant to improve disabled access on the basis of advice from the Council.
12. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

P N Jarratt

Inspector