



© Crown copyright and database rights [2013]
Ordnance Survey [100018056]

Scale - 1:1250
Time of plot: 11:56
Date of plot: 19/03/2015

Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

DEVELOPMENT CONTROL AND LICENSING COMMITTEE

31st March 2015

ENFORCEMENT REPORT

The Royal Oak, Queen Street, Uppingham, Rutland

REPORT OF THE DIRECTOR FOR PLACES (ENVIRONMENT, PLANNING AND
TRANSPORT)

STRATEGIC AIM:	CREATING A SUSTAINED ENVIRONMENT
----------------	---

1. PURPOSE OF THE REPORT

- 1.1 There are a number of breaches of planning control relating to the Royal Oak public house which remain unresolved. This report gives details of the breaches and the actions taken to date so that members can consider whether further action is required.

2. RECOMMENDATIONS

- 2.1 **That members take,**
1. NO ACTION in respect of the smoking shelter, and
2. ENFORCEMENT ACTION BE AUTHORISED in relation to the gate.

3. DETAILS OF THE REPORT

- 3.1 The property is a Grade 2 listed building sited within the Uppingham Conservation Area.
- 3.2 A local resident alleged that various alterations were taking place in the beer garden to the rear of the public house, including the extension of the beer garden into the car parking area and the display of an 'A' board without consent on High Street East.
- 3.3 At the subsequent site visit it was confirmed that the gate enclosing the listed building had been altered by the attachment of a wooden fence panel with a strand of barbed wire attached to the top of it without planning permission. A timber and corrugated plastic smoking shelter had been attached to the listed building without listed building consent or planning permission and an 'A' board was being displayed on the footpath without advertising consent or highways authority permission.

- 3.4 The extension of the beer garden to take up an area of car parking is all within the same curtilage and does not require planning permission. There was also an allegation about music being played in the garden and causing disturbance. That is an environmental health matter and is not currently occurring.
- 3.5 The 'A' board which was present on High Street East has now been removed. This breach is therefore resolved.
- 3.6 The Conservation Officer advises that, "the smoking shelter is not prominent and has a limited, reversible and acceptable impact on the character of the listed building. The fence detail is also acceptable and is not prominent within Uppingham Conservation Area, although the barbed wire is not acceptable and should be removed."
- 3.7 The smoking shelter is a reversible addition to the building which in itself does not currently cause harm. It is a lightweight structure and its removal in the future will not harm the building. The gate with barbed wire on top is not unduly prominent from Queens Street as it is set back from the road itself down a private drive. However, it is visible from other adjacent areas and as a principle, it is an inappropriate means of enclosure for a listed building. It does therefore harm the setting of the listed building. In this case there is scope for under enforcement as the removal of the barbed wire is sufficient to reduce the harm to an acceptable extent.
- 3.8 The public house licensee was advised that the works were unauthorised and applications were encouraged in order to regularise matters but no applications have been submitted.
- 3.9 The Council has a duty under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the setting of the listed building and to preserve or enhance the Conservation Area. The gate as it exists does cause harm and in the absence of other material factors of weight does justify action in relation to the gate. Members do have the power to under enforce if this is sufficient to remove the harm. If this recommendation is accepted then the changes would be sufficient to have a neutral effect on the setting of the listed building and the conservation area.
- 3.10 The recommendation is in accordance with the Development Plan and in particular Policies SP15, SP 20 and CS22 of the adopted Core Strategy.

4. LEGAL IMPLICATIONS

- 4.1 Under Section 172 of The Town and Country Planning Act 1990, the Council may serve an Enforcement Notice if Members are satisfied that:
- (a) There has been a breach of planning control, and
 - (b) It is expedient to issue the Notice having regard to the provisions of the development plan and any other material considerations.

- 4.2 By virtue of Section 172 (1) the Local Planning Authority may ‘under enforce’ by requiring less onerous steps to be taken than might have been required. Once the recipient of the Notice has complied with all the steps, planning permission is granted for the retention of operational development or continuation of any activities which were within the scope of the alleged breach of planning control.
- 4.3 Failure to comply with the Notice would result in the Council having the option to prosecute the landowner in the Magistrates Court. However, the interested parties may appeal to the Secretary of State for Communities and Local Government against the issue of the Enforcement Notice if they so wish.
- 4.4 To the extent that the Human Rights Act might be engaged, it is considered that the enforcement action proposed is a proportionate and justified response to the harm caused to legitimate public interest by the unauthorised development.

5. RISK MANAGEMENT

RISK	IMPACT	COMMENTS
Time	Medium	The breaches are well within the 4 years time period that is within planning legislation. Sufficient time has been given for the owner to address the breaches and further delay is not reasonable as there is an unresolved complaint.
Viability	Low	There are no viability issues
Finance	Medium	There are no finance implications if the recommendation is followed by the owner. If however there is a challenge to any action then there are potential costs involved in an enforcement appeal or prosecution.
Profile	Low	There is one complainant and the Council is not aware of concern from others.
Equality and Diversity	Low	EIA is not required.

Background Papers
Background File Ref: CMP/2014/0124

Report Author
Mr Mark Longhurst
Tel: 01572 758262
Email:
m.longhurst@rutland.gov.uk

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577