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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
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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

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

REPORT NO: 71/2015

DEVELOPMENT CONTROL AND LICENSING COMMITTEE

31ST MARCH 2015

**PLANNING APPLICATIONS TO BE DETERMINED BY THE
DEVELOPMENT CONTROL AND LICENSING COMMITTEE**

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

Rutland County Council

Development Control & Licensing Committee – 31st March 2015

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Rutland County Council

Catmose,
 Oakham,
 Rutland
 LE15 6HP

Application:	2014/1105/FUL	ITEM 1	
Proposal:	Application for the erection of camping/caravanning toilet/shower facilities with associated landscaping (retrospective) and the relocation of car parking		
Address:	Armley Lodge Farm, Ketton Road, Hambleton		
Applicant:	Mr Luke Blackwell	Parish	Hambleton
Agent:	N/A	Ward	Exton
Reason for presenting to Committee:	Agreed at site meeting with applicant and ward member		
Date of Committee:	31 March 2015		

EXECUTIVE SUMMARY

The proposal is to retain a block of 3 amenity buildings provided in association with a licensed caravan site, and the provision of a car parking facility.

Planning policy requires that such facilities in the countryside are essential to the provision of visitor facilities, and documentation from the certificate issuing body shows that such facilities are not a requirement.

The proposal is therefore contrary to the Development Plan.

RECOMMENDATION

REFUSE PLANNING PERMISSION, for the following reason:

1. The application is for the retention of amenity facilities erected for use in conjunction with the nearby certified location authorised by the Caravan Club, and the provision of a new parking facility. Policy SP7 of the Site Allocations and Policies DPD (October 2014) states that development in the countryside will be supported where it is “essential for the provision of ...visitors facilities for which the countryside is the only appropriate location.”
2. Policy CS24 Rutland Water of the Rutland Core Strategy (July 2011) states that “Outside the five defined recreation areas, new development will be restricted to small scale development for recreation, sport and tourism facilities only where essential for nature conservation or fishing or essential for operational requirements of existing facilities and subject to it being appropriate in terms of location, scale, design and impact on the landscape.”
3. No evidence has been provided to show that the facilities erected are essential for the use to which they relate and the exempted organisations for camping and caravan sites do not require the provision of such facilities. The proposal is therefore contrary to the aforementioned policies SP7 and CS24.

Site & Surroundings

4. The proposal is located in the countryside to the east of the village of Hambleton, immediately to the west of a site used for the accommodation of up to 5 caravans through an exemption certificate granted by the Caravan Club. The premises form part of a wider agricultural enterprise known as Armley Lodge Farm.

5. The particular location is the southern end of an agricultural field immediately to the north west of the existing farm buildings and adjacent to the southern boundary hedge of the field.
6. The site is obscured from public view from the south by the boundary hedges between the development and Ketton Road, but would be visible to long distance views from the north and across Rutland Water.

Proposal

7. The proposal is for the retention of the existing structures, comprising two buildings housing toilets, and a third housing a shower facility and the provision of a car parking area associated with the use of the site, immediately to the south of the amenity block location in the adjacent field.

Relevant Planning History

Application	Description	Decision
2014/0478/FUL	Application for the erection of camping/caravanning toilet/shower facilities with associated landscaping (retrospective) and the relocation of car parking.	Refused

Planning Guidance and Policy

National Planning Policy Framework

Section 3 – Supporting a prosperous rural economy

The Rutland Core Strategy

CS1 – Sustainable development principles
 CS2 – The spatial strategy
 CS4 – The location of development
 CS15 – Tourism
 CS16 – The rural economy
 CS24 – Rutland Water

Site Allocation and Policies Development Plan Document

SP1 – Presumption in favour of sustainable development
 SP7 – Non-residential development in the countryside

Consultations

8. Parish
 A concern for the village is the additional road traffic that such a site in this location creates, but should not be an issue if managed within the terms of the licence. Amenity block does not cause any additional issues. Query who would regulate and enforce the licence conditions, permitted numbers and duration of stay have been exceeded in the past. Wish to see the owner controlling the location of guests within the curtilage to avoid nuisance to neighbours. Hoped that the site does not create a precedent.
9. Ecology
 No comments

10. NFU
Support the proposal. NPPF para 28 states that planning policies and decisions should support the development and diversification of agricultural businesses, and that local planning authorities should support sustainable rural tourism and leisure development that benefit businesses in rural areas, communities and visitors.
Development is small scale and in keeping with its surroundings and very necessary for the comfort and wellbeing of the Blackwells' visitors and customers. The application is in line with government economic and planning policy, in keeping with its surroundings and necessary for the camping and caravanning offer.
11. Natural England
Comments as per the previous application.
Proposal is not necessary for the management of the European site, but is unlikely to have a significant effect on any European site.
Recommend that should permission be granted, it is conditional on retention of the foul water handling outlined in the application, and restriction of the capacity of the site to that outlined in the application.

Neighbour Representations

12. 6 responses have been received in relation to the application outlining the following matters:
- Agree with the points made by the Parish Meeting.
 - Request that a condition be attached to any permission requiring the redundant rubbish to be removed.
 - Temporary rights granted under Part 4 of the General Permitted Development Order have been exceeded on numerous occasions.
 - Rights granted under part 5 of the General Permitted Development Order have been exceeded on numerous occasions.
 - The toilet blocks were erected without planning permission.
 - The excessive number of vehicles accessing the site damages the access track and makes passing and its use difficult, and creates congestion.
 - The lack of control over car parking results in rural fields being turned into large scale car parks, with associated amenity impacts from vehicles noise, and loss of visual amenity.
 - Camping events attract a large number of people, bringing associated noise, and the sale and consumption of alcohol on the site. Antisocial behaviour from the campers has occurred.
 - The above mentioned usage could be ameliorated by creation of a new access point from Ketton Road.
 - Would like to see conditions imposed limiting the site to 5 caravans and 10 tents.
 - No objection to the use for 5 caravans and 10 tents, but certificated sites do not require such permanent facilities.
 - The pd rights currently being exercised can be removed by Article 4 direction, used up or withdrawn through other methods. If consent is given for the amenity block however that permanent change will still be authorised. A condition should be imposed requiring the amenity block to be removed upon the loss of the certificated status of the site.
 - No objection to the external appearance of the development, but should consent be granted it should be conditioned to be retained in the same location and colour/materials as existing.
 - No objection to the revised location of car parking as sought in the planning application. Request that a limit of 15 cars is imposed as a condition of any permission.

- It seems inconceivable that a toilet and shower block for the convenience of campers at the site should not be granted. It can only enhance tourism and encourage diversification.
- The amenity block is unobtrusive and not visible from the main highway or shared driveway. Facility is sympathetic and has been planted around beautifully.
- Have not noticed a marked problem or increase in traffic along Ketton Road since the site offered camping and caravanning facilities.
- Beneficial to the tourist facilities.

Planning Assessment

13. This assessment will firstly explain the special circumstances that apply to caravan sites in planning legislation then consider how the current proposal relates to the Development Plan and other material considerations.

Caravan sites and Planning Law background

14. The Town and Country Planning (General Permitted Development) Order 1995 sets out the circumstances when a planning application will not be required for development, currently detailing 43 categories of development.
15. The 5th of those categories sets out that the use of land as a caravan site is permitted development not requiring planning permission provided one of 9 caveats are met. These caveats are specified in the Caravan Sites and Control of Development Act 1960. The 5th caveat allows exempted organisations (such as the Caravan Club and the Caravan and Camping Club) to certify caravan sites for use by its members for the purposes of recreation for a period in each case of up to one year, allowing up to 5 caravans to be stationed for the purposes of human habitation on the land without a site licence or planning permission.
16. The application site in question has such a certificate from the Caravan Club. The applicant currently has under consideration an application with the Caravan and Camping Club for a certificate for 5 caravans and 10 tents. On this basis, the principle of allowing either the existing 5 caravans, or the proposed 5 caravans and 10 tents, is not a matter that can be considered by the local planning authority as no application for this is required.
17. In addition to the above exemption, the 6th caveat allows meetings organised by exempt organisations to be held on the land, provided that such meetings are for less than 5 days in duration. This exemption covers rallies and such events held on the land, placing such events beyond the scope of planning control providing they are organised by an exempt organisation.

The Development Plan and planning policy

18. The NPPF sets out the Government's overarching policy strategy to development, and section 3 (paragraph 28) of the document addresses the matter of 'Supporting a prosperous rural economy'. This section sets out that planning policies should support economic growth in rural areas, supporting sustainable new development and diversification of agricultural and other land based rural businesses. It also notes at paragraph 196 that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is one such material consideration.

19. The Rutland Core Strategy sets out the broad policy approach to development within Rutland, with policies CS4, CS15, CS16 and CS24 being the most relevant to the development proposal.
20. Policy CS4 sets out the approach to the location of development within the county. It states that “Development in the Countryside will be strictly limited to that which has an essential need to be located in the countryside and will be restricted to particular types of development to support the rural economy and meet affordable housing needs.” The proposal is therefore not in conflict with this policy as a facility serving a permitted operation in the countryside would need to be located adjacent to that operation. This policy only deals with the need in relation to the location of the facility however, not the need for the facility itself (which is addressed by policy SP7 of the Site Allocations and Policies DPD).
21. Policy CS15 (Tourism) states that the strategy for tourism is to allow provision for visitors which is appropriate in use and character to Rutland’s settlements and countryside, and ‘allow new tourism development of an appropriate scale and use which utilises the existing historic buildings in the countryside (adjacent or closely related to the towns, local services centres and smaller services centres) while respecting their character. Hambleton is classed as a restraint village however and is therefore not one of the villages referred to by this policy.
22. Policy CS24 deals specifically with the defined ‘Rutland Water Area’ which includes the entire Hambleton peninsula. Outside the five defined recreation areas (Barnsdale, Whitwell, Sykes Lane, Normanton and Gibbet Lane) it states that ‘new development will be restricted to small scale development for recreation, sport and tourism facilities only where essential for nature conservation or fishing or essential for operational requirements of existing facilities and subject to it being appropriate in terms of location, scale, design and impact on the landscape.’ As will be demonstrated later, the facilities that form the subject of the application are not essential for the operational requirements of the existing facility, and the proposal is therefore contrary to this policy. This is the key policy as it refines how the more general policies should be applied in the specific area around Rutland Water.
23. Policy CS16 addresses the approach to the rural economy, and states that ‘the strategy for the rural economy is to encourage agricultural, horticultural and forestry enterprises and farm diversification projects where this would be consistent with maintaining and enhancing the environment’.
24. Policy SP7 of the Site Allocations and Policies Development Plan Document (October 2014) sets out the key policy approach to development in the countryside. It states that sustainable development in the countryside will be supported where it falls within one of six categories. The category most applicable to the proposal is ‘essential for the provision of sport, recreation and visitors facilities for which the countryside is the only appropriate location.
25. The licensed caravan site is an existing visitor facility, and therefore to comply with Policy SP7, the development that is the subject of this application (namely the amenity block and the car park) must be essential for the provision of those facilities.
26. It is not common practice for such certificated sites to be provided with separate toilet and shower facilities, and officers have confirmed both verbally with the Caravan and Camping Club and via their publication ‘All you need to know: Your guide to setting up a Certificated Site’ regarding the application to them for a certificate to accommodate 5 caravans and 10 tents on the site that there is no requirement for such facilities. In order for a certificate to be issued, the only essential requirements specified are as follows:

- At least 0.5 acres of fairly level land
- Safe access
- A chemical disposal point
- 1 rinsing water tap
- 1 drinking water tap with a non-return valve
- Dry waste disposal
- Public liability insurance
- Sign at the entrance of the site

27. On this basis, the proposal does not fall within any of the categories of development deemed to be acceptable in the countryside, and would result in the permanent provision of buildings and facilities in relation to a use granted consent only for the duration of the site licence.
28. It is noted that the representation made in support of the application proposal by the National Farmers Union refers to policy SP26 of the Site Allocations and Policies Development Plan Document. This policy however relates to the five specific Recreation Areas defined within the document (Barnsdale, Whitwell, Sykes Lane, Normanton and Gibbet Lane) whereas the site in question does not fall within one of those five areas, and therefore policy SP26 does not apply to the proposal.

Material Considerations

29. It is noted that the comments received in relation to the application raise a series of matters outside the remit of the application as submitted. The permission for the use of the site as a site for up to 5 caravans is granted by a certificate issued by the Caravan Club.
30. With regard to the visual impact of the proposal, officers have assessed the visibility of the site from both the footpath circuit of Rutland Water and the north shore between Barnsdale and Whitwell. The dwellings adjacent to the site are visible from a variety of points in these locations, as are caravans stationed on the adjacent site, however it is noted that the existing and proposed planting, when combined with the location of the facility in relation to publicly accessible vantage points and the colour of the buildings would combine to ensure that there is no detrimental visual impact from the proposal, with visibility of the structures extremely limited.
31. The following matters are not material to the application being considered:
- Any matters pertaining to the principle of the use of the site.
 - Any matters pertaining to the noise or behaviour of users of the site
 - Any matters relating to traffic impacts from the use of the site
 - Any matters pertaining to other impacts on neighbours not arising from the retention of the amenity block or provision of the car park
 - Any limitation on numbers of caravans/tents on the site as these are granted by the certificate.

DEVELOPMENT CONTROL & LICENSING COMMITTEE

31st March 2015

APPEALS

Report of the Director for Places (Environment, Planning and Transport)

STRATEGIC AIM:	Ensuring the impact of development is managed
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1. INTRODUCTION

- 1.1 This report lists for Members' information the appeals received since the last meeting of the Development Control & Licensing Committee and summarises the decisions made.

2. RECOMMENDATION

- 2.1 That the contents of this report be noted.

3. APPEALS LODGED SINCE LAST MEETING

- 3.1 **APP/A2470/W/15/3002295 – Imprezaco – APP/2013/0221**
Former Rose of England Hotel, Old Great North Road, LITTLE CASTERTON, Rutland
Erection of 15 no. Employment Units (Use classes B1, B2 and B8)
- 3.2 **APP/A2470/W/15/3002788 – Mr Robert Jeynes – 2014/0548/POD**
Barns to the rear of 10 Reeves Lane, WING, Oakham Rutland LE15 8SD
Conversion of agricultural buildings into 3 detached residential dwellings
- 3.3 **APP/A2470/X/15/3005722 – Mr Robert Jeynes – 2014/1118/CLP**
Barns to the rear of 10 Reeves Lane, WING, Oakham Rutland LE15 8SD
Existing buildings require refurbishment including some partial demolition, installation of windows, doors, a complete new roof including a new roof structure. In addition to which a new connection to services including water and electricity.
Floors would be concrete with a damp proof course inserted. Buildings being of conventional construction and having improved levels of thermal installation. A number of roof lights. A modern level of amenities.

4. DECISIONS

- 4.1 **APP/A2470/A/14/2229008 – Mr Wilfred Bothwell – 2014/0612/FUL**
Land to the West of Stocken Hall Road, STRETTON, Rutland, LE15 7RW
Proposed agricultural building and access track
Delegated Decision
Appeal Allowed – 03 March 2015

5. APPEAL AGAINST ENFORCEMENTS LODGED SINCE LAST MEETING

5.1 None received.

6. ENFORCEMENT DECISIONS

6.1 None received.

Background Papers

As quoted

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