

BOROUGH OF KETTERING

Committee	Planning Committee	Item 6.4	Page
Report Originator	Mark Philpott	ENFO/2012/00220	
Wards Affected	34UEHF	Date	
Title	Authorisation for Planning Enforcement Action at 31 Station Road, Desborough		

1. PURPOSE OF REPORT

To seek authorisation to issue an Enforcement Notice in respect of unauthorised development at 31 Station Road, Desborough, shown in bold outline for identification purposes on the site plan attached to this report.

2. BREACH OF PLANNING CONTROL

Without planning permission, the installation of a roller shutter and housing at ground floor level, above the shop window on the front elevation of the building.

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 roller shutter, guides and shutter housing.
Time for compliance: 6 months
2. Clad the exposed part of the frontage arising from compliance with requirement (1) above with a fascia board to match the external appearance of the material used for the existing pilasters.
Time for compliance: 6 months
3. Finish in 'Coral Blue' (RAL5002) the external faces of the fascia board installed as required by requirement (2) above and other external faces of work exposed by compliance with requirement (1).
Time for compliance: 6 months
4. Remove from the land all building materials arising from compliance with requirements (1), (2) and (3) above.
Time for compliance: 6 months

3.2 Reasons For Issuing the Notice

The roller shutter was installed less than four years ago. It is considered that the shutter, when in use, creates an obscured, oppressive and inactive frontage which represents a striking and incongruous feature within a prominent location in Station Road. It therefore detracts from the character and appearance of the existing building, surrounding properties and contributes negatively to the Desborough Conservation Area.

As such the unauthorised development conflicts with the aims and objectives of the following planning policies:

National Planning Policy Framework

Paragraph 17 states that development should:

'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings';
'take account of the different roles and character of different areas, promoting the vitality of our main urban centres'; and
'conserve heritage assets in a manner appropriate to their significance'.

North Northamptonshire Core Spatial Strategy

Policy 13: General Sustainable Development Principles

Policy 13 states that development should:

h) be of a high standard of design which respects and enhances the character of its surroundings;
i) create a strong sense of place by strengthening the historic and cultural qualities of the townscape; and
o) conserve and enhance designated built environment assets and their setting.

Planning conditions could not overcome these objections to the development.

4. INFORMATION

Site Description

The site is a betting shop occupying the ground floor of a three storey, semi-detached building located on the corner of Station Road and Welland Court, within the Desborough Conservation Area. The building fronts onto Station Road and features a modern shop frontage consisting of pilasters, a large shop window with fixed internal display units immediately within it, and a large Coral sign above the window. The design is typical of the Coral brand. By contrast, the first floor of the building is a traditional, red brick property with arched limestone lintels.

The neighbouring semi-detached property is similar in that it features a modern shop front below traditional appearing brickwork and lintels. The surrounding properties consist of red brick terraced dwellinghouses interspersed with shop fronts of varying designs.

Relevant Planning History

KET/2012/0706 – s.73A application: Roller Shutter. REFUSED 17.12.12

KE/02/0183 – Change of use of ground floor retail unit to class A2. APPROVED
02.05.2002

Planning Policy:

National Policies

National Planning Policy Framework

Core planning principles

7. Requiring good design

8. Promoting healthy communities

12. Conserving and enhancing the historic environment

Development Plan

North Northamptonshire Core Spatial Strategy (CSS)

Policy 13: General Sustainable Development Principles

Supplementary Planning Documents (SPD)

Kettering Borough Shopfront Design Guidance

5. APPRAISAL

The unauthorised roller shutter is located on the ground floor front elevation which directly abuts the highway.

On 15.11.2012 an application was received which sought retrospective planning permission for the roller shutter. It is stated within the application form and on the submitted plans that the roller shutter has been installed since March 2009, following a ram raid. The shutter consists of a piece of operational development which was substantially completed less than 4 years ago, and is therefore currently unlawful.

Notwithstanding the roller shutter, there is no planning history for the creation of the existing shop front; however, the first gambling licence issued to Coral at this address was in September 2007. This suggests that the shop front development took place around 2007. On balance, there is no evidence to suggest that the shop front was substantially completed less than 4 years ago and it is therefore considered to be lawful as provided by Section 171 of the Town and Country Planning Act 1990 (as amended).

On 17.12.2012 the retrospective application was refused.

When in use, the shutter is highly visible within the Conservation Area as the site is located on the corner of Station Road and Welland Court. Whilst the existing frontage is modern and does not make a contribution to the Conservation Area, the building in which it is located appears as a traditional, red brick property at first floor level, which does make a contribution to the Conservation Area. The development negatively impacts on the first floor front elevation of the building, and therefore negatively impacts on its contribution to the Conservation Area. It is also therefore unbecoming and incongruous to the existing property.

The development has a detrimental impact on the wider Conservation Area as an obtrusive and uncharacteristic feature in Station Road, which predominantly consists of similarly dressed traditional red brick properties, particularly above ground floor level.

Certain security measures, such as laminated plate glass or internal shutters of an open mesh design, would be more appropriate than external shutters, which completely obscure the shop front and negatively impact on the Conservation Area, existing building and surrounding properties. The alternatives were not considered within the Design and Access Statement for KET/2012/0706. It is stated that the roller shutter was installed following a ram raid. It is not considered that this individual event is sufficient justification for the external roller shutter when an internal shutter would also prevent future ram raids and is considered a more appropriate crime prevention measure.

The development is therefore contrary to national policies and the Development Plan as set out above.

External shutters are present on other buildings within Station Road; however, some of these are unlawful and will be subject to enforcement investigation to determine whether action needs to be taken against them. Others preclude the designation of the Conservation Area. The roller shutter in this case was installed after the designation of the Conservation Area, and the impact of the development on the Conservation Area must therefore be considered. The developer states within the Design and Access Statement for KET/2012/0706 that as the shutter currently exists on the shop front, the

The existence of other shutters within Station Road serves to highlight the detrimental impacts of this type of development on the character and appearance of the Conservation Area. The need to preserve the character of Desborough from further erosion was one of the main reasons for the designation of the Conservation Area. The presence of other shutters increases the need to prevent unauthorised development which will not preserve or enhance the Conservation Area in order to halt any further erosion of the Conservation Area.

Paragraph 207 of the NPPF advises how local planning authorities should determine whether or not it is expedient to take enforcement action in respect of a breach of planning control. In particular it advises that *'enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches in planning control'*.

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: Mark Philpott

Previous Reports/Minutes:

Ref:

Date: