

Taunton Deane Borough Council

Planning Committee – 17 August 2011

E/0080/38/10

BREACH AND ADDRESS

OCCUPIER: Ms T BRISTOW

OWNER: Ms T BRISTOW, 31 SHOREDITCH ROAD, TAUNTON,
TA1 3BU

PURPOSE OF REPORT

To consider whether it is expedient to serve an Enforcement Notice requiring the removal of all catering trailers/vehicles from 31 Shoreditch Road, Taunton.

RECOMMENDATION

The Solicitor to the Council be authorised to serve an enforcement notice to require the removal of all catering trailers from 31 Shoreditch road with a compliance time of 3 months from the notice coming into effect. Should the notice not be complied with then the Solicitor to the Council also be authorised to take prosecution action subject to satisfactory evidence being obtained.

SITE DESCRIPTION

No.31 Shoreditch Road is a large residential property set in a backland location behind other houses lining the road. Access is by a long narrow lane between houses, owned by a neighbour but over which the appellant has a right of way. There is a common southern boundary with a group of houses on Tamar Avenue, which overlook the site..

BACKGROUND

The stationing of two catering trailers at the above site was first brought to the Council's attention in March 2010. A site visit was made where it was found that the two catering trailers were undergoing their annual cleaning process. Ms Bristow stated that that they would be removed to their respective trading sites the following week. In July 2010 a further site visit was made but only one trailer was on site.

In April 2010 a Planning Contravention Notice (PCN) was served in order to establish the nature of the operation being carried out on the site. This was

completed and returned within the prescribed time limit. Based on the response, no further formal action was taken and the site was monitored.

In July 2010 evidence was received that, over a three month period, there were 3 occasions (amounting to 15 days) when there was more than one catering trailer on site. This includes the March 2010 site visit referred to above. Ms Bristow was advised to submit a Planning application for consideration for the stationing of more than one catering trailer on site at any particular time. The application was submitted in September 2010 and subsequently reported to the Planning Committee in November 2010 with a recommendation to approve planning consent.

The Planning Committee considered that the proposal was unacceptable and refused permission for the stationing of two mobile catering trailers for the following reason:

The proposed commercial vehicle storage due to their size, height and advertisements would have an adverse impact on the visual and residential amenity of neighbours contrary to Policy S1(D) of the Taunton Deane Local Plan.

An appeal was lodged and has recently been dismissed with the Inspector agreeing with the above reason for refusal.

In addition to the Inspectors reasoning of the harm caused, he stated that “I do not consider that the use of part of the garden for the storage, servicing and provisioning of 1 or more mobile catering trailers is one that can be held to be ordinarily incidental to the enjoyment of the dwellinghouse as such.” This statement has led to this enforcement report being presented to the Planning Committee

DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL

The Inspector stated that “it seems to me that the change of use as a whole falls within the provisions of Section 55(2)(d) of the Act, which says that the use of any land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such shall not be taken to involve development.

As it has been considered that the storage of a trailer is not incidental to the enjoyment of the dwellinghouse, nor was it considered to be de-minimus, a change of use has occurred.

RELEVANT PLANNING HISTORY

38/10/0318 – Change of use of part of land to store 2 mobile catering trailers – Refused and subsequent appeal dismissed.

RELEVANT PLANNING POLICES

National Policy, Guidance or Legislation

PPG18 – Enforcing Planning Control

Taunton Deane Local Plan 2004

S1 – General Requirements

DETERMINING ISSUES AND CONSIDERATIONS

Given the Inspectors decision and reasoning in dismissing the appeal, this gives a clear direction that a single catering trailer is not acceptable. He stated that:

“Judging from what I saw on site, and from between the houses on Tamar Avenue, 2 catering trailers would be very conspicuous. Despite intervening fencing, their size, height, signage and colour means that they would be particularly prominent in the principal outlook across private gardens from houses on Tamar Avenue, and their residents would at all times be aware of the comings and goings of the trailers and their towing vehicles. They would be alien features in the garden landscape. I consider that, in conflict with the objectives of Policy S1 of the Taunton Deane Local Plan, the character and appearance of the surrounding residential area would be harmed by this change of use and that it would significantly undermine the visual and residential amenity of neighbours.”

He also made that decision while only 1 trailer was being stored on the site which he referred to as being garish and designed to attract attention. Therefore it is considered that harm has been caused and it is appropriate to take action to secure its removal.

PPG18 – Enforcing Planning Control discusses how to deal with enforcement cases regarding unauthorised development by small business or self-employed people. It states that a reasonable compliance period....may make the difference between enabling a small business or self-employed person to continue operating, or compelling them to cease trading. It is considered that 3 months is a short, yet reasonable time period for compliance that offers a realistic prospect of alternative storage premises to be found and secured.

In preparing this report the Enforcement Officer has considered fully the Implications and requirements of the Human Rights Act 1998

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