

Planning Committee – 25 July, 2007

Report of the Development Manager

Enforcement Item

Parish: Wellington

1. **File/Complaint Number** E112/43/2007
2. **Location of Site** 14 - 18 North Street, Wellington.
3. **Names of Owners** Miss S Cunningham
4. **Names of Occupiers** Cunningham's Restaurant
5. **Nature of Contravention**

Use of flat roof area as roof terrace in connection with the restaurant.

6. **Planning History**

Planning permission was granted on 4 May, 2005 for a change of use of the ground floor from a community centre to a restaurant. No permission exists for use as a restaurant on any other part of the building.

It was brought to the Council's attention on 27 April, 2007 that the roof area of 14 – 18 North Street was being used as an extension to the restaurant known as Cunningham's. It was initially thought that this was a 'one off' due to the restaurant having a Grand Opening event. However, the roof terrace now appears to be used on a regular basis, especially with the anti-smoking legislation coming into force. The owner was contacted and informed that an application for planning permission to use the roof terrace should be submitted.

To date no application has been received.

7. **Reasons for taking Action**

The use of the roof for patrons of the restaurant either for eating or for smoking purposes causes a serious overlooking problem for the dwellings situated at the rear and side of the property. Also the open aspect of the area can cause excessive noise levels which are considered detrimental to the amenities of the neighbouring properties. Therefore the use is contrary to Taunton Deane Local Plan Policy S1(E).

8. **Recommendation**

The Solicitor to the Council be authorised to serve an enforcement notice in respect of the unauthorised use of the roof terrace and to take prosecution action, subject to obtaining satisfactory evidence, should the notice not be complied with.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

CONTACT OFFICER: Mr J A W Hardy Tel: 356479