

E/0033/38/12

UNAUTHORISED WORKS AT MAMBO, MILL LANE, TAUNTON

OCCUPIER:

OWNER: THE MANAGER
MAMBO, MILL LANE, TAUNTON
TA1 1LN

PURPOSE OF REPORT

To consider whether it is expedient to take Prosecution Action for unauthorised works to a Listed Building and serve an Enforcement Notice requiring the removal of the timber structures and floodlights and a Listed Building Enforcement Notice requiring the reinstatement of metal railings.

RECOMMENDATION

The Solicitor to the Council be authorised to take Prosecution Action:-

Prosecution Action for unauthorised works to a Listed Building:-

- In light of the works carried out to the Listed Building and its setting which constitutes a criminal offence to take prosecution action for the removal of railings.

The Solicitor to the Council be authorised to serve an Enforcement Notice and take Prosecution action subject to sufficient evidence being obtained that the Notice is not complied with.

The Enforcement Notice shall require:-

- the removal of the unauthorised timber buildings and floodlights.

The Solicitor to the Council be authorised to serve a Listed Building Enforcement Notice and take Prosecution action subject to sufficient evidence being obtained that the Notice is not complied with.

- for the reinstatement of the railings.

SITE DESCRIPTION

The site is in Mill Lane which runs along the rear of 13 - 17 North Street, Taunton. Cafe Mambo and land to the rear is largely bounded by brick walls which form part of the Castle area. Attached to Cafe Mambo is a Listed building, Ina Cottage. The site is a Scheduled Ancient Monument and falls within the Castle Conservation Area.

BACKGROUND

The complaint was brought to the Council's attention in February 2012. Contact was made with the owners and a Planning application was received. This application was incomplete and to date is still invalid and unregistrable.

DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL

The works carried out include

- unauthorised alteration to the listed boundary railings
- siting of unauthorised timber shed buildings and floodlighting,
- removal of conifer trees within a conservation area without consent,
- installation of decking and balustrading without permission.

RELEVANT PLANNING HISTORY

There have been several applications for this site including:

38/11/0162	Change of Use & extension to beer garden - Conditionally Approved 27/10/11
38/11/0163/LB	Alterations to boundary treatment - Conditionally Approved 22/08/11
38/12/0158	Permanent toilet structure - application invalid and incomplete therefore not registered.

RELEVANT PLANNING POLICES

National Planning Policy Framework

Somerset & Exmoor National Park Joint Structure Plan Review

Policy 9 - The Built Historic Environment

Taunton Deane Local Plan 2004

S1 - General Requirements

S2 – Design

Taunton Deane Core Strategy 2011 - 2028

Policy CP8 - Environment

Policy DM1 - General Requirements

DETERMINING ISSUES AND CONSIDERATIONS

The works carried out include unauthorised alteration to the boundary railings which are linked to the listing of the building, siting of unauthorised timber shed buildings and floodlighting, removal of conifer trees within a conservation area without consent, installation of decking and balustrading without permission. In addition it would appear there may have been disturbance to the Scheduled Ancient Monument.

The site falls within the Castle Conservation Area and within the Ancient Monument. Part of the timber buildings screen the railings and one building is used as toilets. Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority...shall have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. In this instance the buildings are considered to detract from the setting of the listed building and would not have been recommended for permission if an application was made.

While the upper level of the site previously had planning permission for change of use to beer garden under application 38/11/0162, this did not allow for the erection of buildings, removal of trees or ground disturbance. In fact notes were imposed advising of the need for consent to remove any trees as the site was in a conservation area and also that the site was in an ancient monument and consent would be required for any ground disturbance. The restrictive nature of the site was discussed as part of the previous submission and consequently there is no excuse for not knowing that various further permissions would be required.

In light of the blatant disregard for the listed building and its setting it is therefore recommended that authorisation be given for prosecution action for the unauthorised works to the building which is a criminal offence.

In addition to the above it is also recommended that the serving of enforcement notices be authorised. A listed building enforcement notice will be required to reinstate the metal railings which have been removed without consent. These railings were required to be retained as part of the previous consent on the site as they were considered an historic boundary feature of the site. A planning enforcement notice will be required to secure removal of the timber structures and lighting. The timber structures are considered to detract from the character and setting of the listed building and the character of the conservation area and ancient monument. Furthermore the tree loss and external lighting will adversely affect bat habitat and while it is not possible to reinstate the felled trees it is possible to ensure the lighting units are removed to prevent disturbance to the bat habitat into the evening.

The raised deck area and balustrading are on balance not considered to detract from the character of the area or building and consequently it is not recommended that action be taken for these elements of the unauthorised works.

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

PLANNING OFFICER: Mr G Clifford
PLANNING ENFORCEMENT OFFICER: Mrs A Dunford

CONTACT OFFICER: Mrs A Dunford, Telephone 01823 356479