

ENFORCEMENT REPORT

Recommendation Panel

ENFORCEMENT ACTION TO BE TAKEN:

Enforcement Action –

- a) Cease the use of the Land for the storage and treatment of timber;
- b) Cease the use of the Land for the storage of motor vehicles;
- c) Remove from the Land all motor vehicles associated with these unauthorised uses;
- d) Remove from the Land all machinery, equipment, and materials associated with the unauthorised uses;
- e) Remove from the Land all waste associated with the unauthorised uses; and
- f) Remove from the Land all concrete and brick rubble and all materials used to form areas of hardstanding associated with the unauthorised uses.

The period of compliance shall be 6 months.

Reference and Site

15/50358 Land south of Mill Place Caravan Park,
Horton Road, Datchet

Contravention

1. Without planning permission the material change of use of the land from agriculture to a mixed use of the storage of vehicles, the importation of waste and the storage and treatment of timber; and
2. Without planning permission the formation of hardstanding.

Person(s) responsible

Tommy Michael Giles
6 Mill Place
Horton Road
Datchet
SL3 9JD

Relevant Planning History

None

Site and surroundings

The site lies to the south of Mill Place Caravan Site, Horton Road, Datchet and has the main Windsor - Waterloo railway line running along the southern side. It is accessed from Horton Road along the Mill Place which leads to the caravan site.

History

1. The Enforcement section received a complaint on the 18th August 2015 concerning the use of the site for the storage of motor vehicles.
2. An Enforcement Officer visited the site on the 20th August and noted approximately 40 cars stored on the site. There were also two trucks and a digger present. No one was present at this time.
3. A site visit carried out on the 27th August showed approximately 175 cars, 2 trucks, 2 diggers and a large amount of timber. Local resident Tommy Giles, together with Denny Loverage (senior), arrived at the site explaining that the cars were an 'overspill' for airport parking and that they did not know who owned the site.
4. Various enquiries were then made with the Borough's Estates Department, the Land Registry and local neighbours regarding ownership of the land. On the 7th September 2015 a Planning Contravention Notice was served on Mark Perkins, of Step Properties, Ltd, who was known to have an interest in the land. After some further correspondence and telephone calls, this PCN was returned in April 2016. Mr Perkins also advised that Mr Tommy Michael Giles was now the owner of the site.
5. On the 26th April the Enforcement Officer met on site with Tommy Giles. Mr Giles explained that he had bought the site and that he operating a business whereby trees are brought onto the site and then shredded and then removed from the site. On site there was a large amount of trees forming a bund around the site as well as piles of wood chippings. There were also 37 cars on the site which we are advised were part of an airport parking scheme.

In addition to this, there were also piles of earth, rubble and waste as well as 1 truck, 2 diggers, 1 dumper truck, 1 skip and a large area of hardstanding on site.

6. A letter was sent to Mr Giles on the 13th June 2016 advising that the storing/treating of timber, together with the storage of vehicles, was unacceptable and that this constituted a breach in the planning control. The letter also enclosed a Planning Contravention Notice for his completion and return. The PCN was returned, duly completed, via Mr Giles' planning agent.
7. On the 20th September 2016 the Enforcement Officer revisited the site again to find the following:
 - (i) Large amounts of timber forming a bund around the site;
 - (ii) Piles of soil, rubble and waste;
 - (iii) Approximately 29 cars; and
 - (iv) 1 truck, 1 digger, 1 dumper truck and 2 skips;

Comments:

The reasons for taking formal enforcement action and addressing each potential ground of appeal are set out below.

Ground (a) – that planning permission should be granted

- 1 The change of use and laying of hardstanding represents inappropriate development which is harmful to the function and purpose of the Green Belt, including its openness and for which no very special circumstances have been advanced to clearly outweigh the harm that is to be caused by inappropriateness and the other identified harm. As such the development is contrary to Policies GB1 and GB2 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003) and conflicts with paragraphs 87 and 88 of the National Planning Policy Framework;
- 2 The change of use and laying of hardstanding adversely impacts on the character and appearance of the surrounding area. As such the development is contrary to Policy DG1 of the Local Plan;
- 3 The site lies within an area liable to flood and the landowners have not demonstrated by means of a flood risk assessment that the materials, machinery, hardstanding and vehicles associated with the unauthorised uses would not impede the flow of flood water, reduce the capacity of the flood plain to store flood water or increase the number of people or properties at risk from flooding. As such these uses are contrary to Policy F1 of the Local Plan and paragraph 103 of the National Planning Policy Framework;
- 4 The change of use does not provide an acceptable relationship with neighbouring residential properties for the reason that the activities associated with the use including unsociable movement of vehicles results in an unneighbourly intensification of activities on the land, contrary to Core Planning Principle 4 of the National Planning Policy Framework;
- 5 The site lies within the Wildlife Heritage Site (now known as Local Wildlife Sites) and the change of use has eradicated this wildlife habitat in what was a healthy and sustainable environment. As such the use is contrary to Policy N9 of the Local Plan and paragraph 118 of the National Planning Policy Framework; and
- 6 The change of use does not represent a sustainable form of development given the identified environmental and social harm associated with the uses and possibly economic harm to similar lawful uses within the area contrary to the advice of the National Planning Policy Framework.

Ground (b) - That the breach of control alleged has not occurred

An Enforcement Officer has visited the site as recently as the 19th September 2016 and noted that the unauthorised use continues.

Ground (c) - That there has not been a breach of planning control

The use of the land does not accord with Policies GB1, GB2, N9, and F1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003) and the National Planning Policy.

Ground (d) - That at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice

The planning enforcement section became aware of this unauthorised use in August 2015. Aerial photography confirms that this was an open field before this time.

Ground (f) - *That the steps required by the notice are excessive and that lesser steps could remedy any injury to amenity that has been caused*

The Notice requires the cessation of the various unauthorised uses and also the removal of unauthorised plant, waste, vehicles and hardstanding. Any lesser steps would continue to cause harm.

Ground (g) - *That the time given to comply with the notice is too short*

Six calendar months is a practical time period for remedial works such as this.

Dated *Jenni Jackson 24.11.16.*

Signed

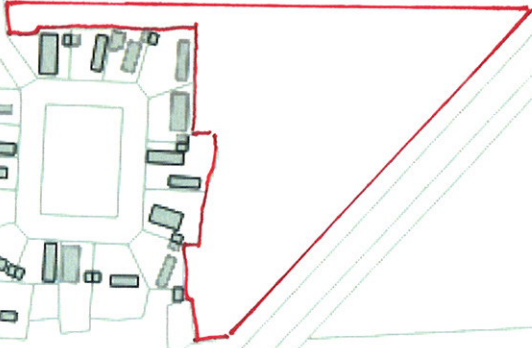
Head of Planning



Horton Road

Mill Place

Mill Place Caravan Park





19/09/2016

19/09/2016





19/09/2016

19/09/2016



ENFORCEMENT REPORT

Recommendation to panel

ENFORCEMENT ACTION BE TAKEN:

Enforcement Action –

1. Demolish the extension located on the flat roof of the rear of the buildings identified on the plan with a red X and further identified by the appended photograph marked AJH1

The period of compliance shall be 14 days from the date of this Notice.

Reference and Site:

16/50324 – Spices, Silver Cottage, the Green, Datchet, SL3 9BJ

Contravention:

Without planning permission the erection of a rear timber extension on flat roof of existing building.

Person(s) responsible:

Mr Nazrul Islam - Spices, Silver Cottage, the Green, Datchet, SL3 9BJ

Relevant Planning History:

10/00659/FULL Change of use of the A1 part of Silver Cottage to A3 use in conjunction with Spices Restaurant – Allowed on Appeal on 21st February 2011 with a condition stating The premises shall not be open for customers outside the following hours: 11.00 - 22.30 Mondays – Thursdays, 11.00 – 23.00 Fridays and Saturdays, 11.00 - 22.30 Sundays and Bank Holidays. No takeaway meals shall be served at any time.

11/03012/FULL – change of use of first floor store room to taxi operator office – granted pp 20 December 2011

Site and Surroundings:

The application site is located on The Green, Datchet and comprises a two storey pair of semi-detached properties which are located within Datchet Village Conservation Area. The buildings comprise a restaurant in the ground floor, kitchen area to rear with associated rooms on the first floor. To the west is a residential property, Mays Cottage, and to the south (rear) is the railway line.

History:

Following a complaint to the Council about the erection of a timber extension without planning permission an Enforcement Officer visited the site and met with the owner, Mr Islam. The notes and photographs are clear that an extension had been erected and it was the Officer opinion that planning permission was required and may not be granted.

On 20 October 2016 the Council wrote to the owner, known as ‘Mr Naz’ inviting him to demolish the extension within 14 days.

A compliance visit was carried out on 11 November 2016 and an Enforcement Officer noted that the development remained.

On 15 November 2016 the Council wrote to the owner advising that the matter would now be referred to the Development Control Panel with a recommendation that enforcement action be taken.

Comments:

The reasons for taking formal enforcement action and addressing each potential ground of appeal are set out below.

Ground (a) – that planning permission should be granted.

Main issues and policies relevant to the planning merits.

The main strategic planning considerations applying to the site and the associated policies are:

Issue	Local Plan Policy	Compliance	
Preserve or enhance Conservation Area	CA2		No

Acceptable impact on appearance of area	DG1		No
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Compliance with Conservation Area Policy

Policy CA2 states that any development should preserve or enhance the character and appearance of the Conservation Area and alterations should be of a high design standard which is sympathetic in terms of materials and detailing to adjacent buildings and the character of the area in general. The use of inappropriate materials is not permitted. Policy DG1 states that materials which are sympathetic to the transitional building material of an area should be used.

The extension has been erected using materials that are unsympathetic to the host building and therefore fails to preserve or enhance the Conservation Area. As such the development is contrary to saved Policies CA2 and DG1 of the Royal Borough of Windsor and Maidenhead Local Plan, 1999 (Incorporating Alterations Adopted in June 2003) and to the guidance given in Section 12 of The National Planning Policy Framework (Conserving and Enhancing the Historic Environment.)

Ground (b) – that the breach of control alleged has not occurred.

An Enforcement Officer has visited the site and noted the development has been carried out as a matter of fact.

Ground (c) – that there has not been a breach of planning control.

Permitted development rights do not apply to flats and therefore the development is not permitted by Class A of the Town and Country Planning (General Permitted development) Order 2015. It is also officer opinion that Part 7 of the GPDO does not apply as the development is not on the ground floor and is within an Article 2(3) Land. It is the officer opinion that the erection of an extension constitutes development under Section 55 of the Principal Act and therefore the development requires planning permission.

Ground (d) – that at the time the Enforcement Notice was issued it was too late to take enforcement action against the matters stated in the Notice.

The development was commenced in 2016.

Ground (f) that the steps required by the notice are excessive and that lesser steps could remedy any injury to amenity that has been caused.

The requirements of the Notice are the minimum the Council can stipulate to ensure the breach of planning control and resulting injury to the Conservation Area is remedied. Any lesser steps would continue to cause harm.

Ground (g) – that the time given to comply with the Notice is too short.

14 days is deemed by the Local Planning Authority to be a reasonable period of time for the requirements of the Notice to be complied with. The development is constructed of timber and no specialist contractor or plant/machinery is required to carry out the requirements of the Notice.

The reasons for serving this Notice are as follows:

The extension has been erected using materials that are unsympathetic to the host building and therefore fails to preserve or enhance the Conservation Area. As such the development is contrary to saved Policies CA2 and DG1 of the Royal Borough of Windsor and Maidenhead Local Plan, 1999 (Incorporating Alterations Adopted in June 2003) and to the guidance given in Section 12 of The National Planning Policy Framework (Conserving and Enhancing the Historic Environment.)

Recommended by the Borough Planning Manager

Jeni Jackson.

Dated: 16 November 2016



Title:

Scale: 1:500

Date: 22/11/2016

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The Royal Borough



Windsor & Maidenhead





