

Enforcement of Planning Control
Enforcement item for consideration: Staithe 'N' Willow, Horning
Report by Planning Officer (Compliance and Implementation)

Summary: This report concerns the erection of fencing without the benefit of the required planning approval and the felling of trees in a conservation area.

Recommendation: That authorisation is granted for any necessary enforcement action to secure the removal of the fencing and implementation of an agreed replanting scheme.

Location: Staithe 'N' Willow, 16 Lower Street, Horning, NR12 8AA.

1 Background

- 1.1 In early November 2013 the Authority was made aware of a new fence that had been erected at the Staithe 'N' Willow Tea Shop, Lower Street, Horning. A site visit showed the fence to exceed the maximum height allowed under the General Permitted Development Order 1995 (GPDO) of 1m where a fence is adjacent to a vehicular highway. The erection of the fencing necessitated the removal of a number of trees and shrubs. As the property is located within the Horning Conservation Area consent is required before undertaking any work to trees.
- 1.2 On 8 November 2013 a letter was sent to the operator of the business requiring either the removal of the fencing or a reduction in its height to comply with the requirements of the GPDO. A timescale of 30 days was given for undertaking this work. Following a request from the proprietor this timescale was extended until the New Year.
- 1.3 A site visit made on 23 January 2014 showed the fence to still be in place. A Planning Contravention Notice (PCN) was served on 28 January 2014 seeking information on the property ownership. The PCN required a response from the proprietor within 21 days of the date on which it was served. To date there has been no response to the PCN. Failure to respond to a PCN is a criminal offence.
- 1.4 Following a telephone call from the proprietor a letter was sent on 18 February 2014 detailing why the fencing was unacceptable within the Horning

- Conservation Area. The letter offered a number of areas where the Authority might be prepared to negotiate over the design of the fence.
- 1.5 On the 12 March 2014 a letter was received from the proprietor detailing her concerns about the removal of the fence and the effect it would have on the security and privacy of her property.
 - 1.6 On 15 April 2014 a further letter was sent to the proprietor explaining why the fence was not acceptable in the Horning Conservation Area.
 - 1.7 On the 29 April 2014 the proprietor advised that she had verbally accepted the Authority's compromise.
 - 1.8 A further letter was sent to the proprietor on 13 May 2014 clarifying the need to reduce the height of the unauthorised fencing where it abutted the Highway.
 - 1.9 On 5 June 2014 the Authority's arboricultural consultant met with the proprietor to discuss and recommend a suitable planting scheme which would help mitigate her concerns about security and privacy. The proprietor was asked to confirm that the scheme being proposed was acceptable but no response was received.
 - 1.10 A letter was therefore sent on 1 July 2014 detailing the proposed planting scheme and requesting the proprietor reply by 31 July 2014 with her intentions as to these proposals. No response was received.
 - 1.11 On 3 September 2014 a further letter was sent setting out a timescale for the removal / reduction in height of the fencing and the implementation of a planting scheme. The scheme required the reduction in height of 2 fencing panels which front Lower Street to 1 metre by 1 October 2014 and the completion of the planting scheme by 30 November 2014 and was, in effect, the compromise solution previously agreed.
 - 1.12 A site visit on 29 October 2014 showed that no action had been taken to comply with any of the Authority's requests. The proprietor has been informed in writing that authority is to be sought for the serving of an Enforcement Notice.

2 Description of Site and Development

- 2.1 Horning is one of the larger Broadland villages being located on the middle part of the River Bure. The village is an important focus for boating activities and visitors to the Broads. The centre part of the village falls within a Conservation Area. Much of the village does, however, fall outside the Broads Authority area and is not covered by the Broads Local Plan.
- 2.2 Staithe 'N' Willow is located in a prominent position on Lower Street, Horning and falls within the village Conservation Area. It is considered that the height, design and the materials employed in the construction of the fencing are out of character with the surroundings.

2.3 A number of small trees and shrubs were removed in order to erect the fencing. As the property is located within the Horning Conservation Area consent should have been granted before this work was undertaken. None of the trees removed were of a significant value and their loss can be mitigated with the proposed planting scheme. A separate prosecution for the illegal removal of the trees is therefore not considered to be warranted.

3 The Planning Breach

3.1 The fence which has been erected is approximately 2 metres in height. It is constructed of close boarded timber with concrete fence posts and gravel boards. The General Permitted Development Order 1995 (GPDO) permits the erection of fencing to a maximum height of 1 metre where it abuts a highway.

3.2 The development is contrary to Policy DP28 of the Development Plan.

4 Action Proposed

4.1 It is considered that the fencing is inappropriate and contrary to Local Planning Policy and is unlikely to gain retrospective planning permission.

4.2 It is proposed to serve an Enforcement Notice in consultation with the solicitor requiring the removal of the fencing. It is proposed that a compliance period of 3 months is given. Authority is also sought to prosecute the owner in the event that the Enforcement Notice is not complied with.

5 Financial Implications

5.1 There may be legal costs associated with this course of action.

6 Conclusion

6.1 That authority is given for officers to take appropriate enforcement steps in respect of this breach of planning control.

Background Papers: Broads Authority DC Enforcement Files: BA/2013/0046/UNAUP1

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Date of Report: 18 November 2014

Appendices: APPENDIX 1 – Location Plan

