

Planning Committee

27 May 2022

Agenda item number 7.2

Enforcement- Beauchamp Arms- non-compliance with Enforcement Notice

Report by Head of Planning

Summary

In November 2021 an Enforcement Notice (EN) was served requiring the cessation of the use of static caravans for residential purposes and their subsequent removal. The EN has not been complied with and the unauthorised uses are continuing, which is an offence. There are further breaches on the site.

Recommendation

That members authorise the commencement of prosecution proceedings in respect of non-compliance with an Enforcement Notice and the serving of an Enforcement Notice and Stop Notice in respect of the other breaches.

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1. Introduction and legal background

- 1.1. An effective enforcement service is a fundamental part of the planning system. It ensures compliance both with planning law and planning conditions, investigates and resolves planning breaches and, where necessary, instigates direct action or

prosecution in order to achieve compliance. The latter are usually remedies of last resort. The National Planning Policy Framework (July 2021) states at paragraph 59 that “Effective enforcement is important to maintain public confidence in the planning system” and the law gives a Local Planning Authority (LPA) a wide range of powers that it can use in the discharge of its enforcement duties.

2. Unauthorised development at the Beauchamp Arms

- 2.1. The Beauchamp Arms Public House is situated in a remote location between the villages of Claxton and Langley on the south bank of the River Yare. It is a very prominent building over three storeys with moorings for craft on the south bank and it immediately adjoins Buckenham Sailing Club which is to the south east of the Beauchamp Arms alongside the River Yare. It sits in a big plot, with a large open area to the rear and a long driveway which connects it to the public highway.
- 2.2. In May 2018 officers became aware that a number of static caravans had been installed on land adjacent to the driveway at the Beauchamp Arms. The operator indicated that he intended to refurbish them as accommodation for fishermen. At a site visit in July 2018, it was noted that they had been moved to the car park to the rear of the premises, and the operator was asked to remove them off site by the end August 2018. They were not removed and a [report](#) was brought to the Planning Committee meeting on 14 September 2018 meeting seeking authority to serve an Enforcement Notice and for prosecution in the event of non-compliance.
- 2.3. By the date of the Planning Committee meeting, one of the units had been removed and two relocated to land adjacent to the access drive; one remained on the car park. None were in use. Members resolved to give authority to officers to issue an Enforcement Notice requiring the removal of unauthorised static caravans, should there be a breach of planning control and it be necessary, reasonable and expedient to do so. Officers continued to monitor the site.
- 2.4. In September 2019 a fourth caravan was installed on the site. In October 2020, following complaints about work at the site, it was found that three static caravans had been located to rear of the site, with a close boarded fence around them, effectively creating a compound. The operators were present and advised that the caravans were being used by workers at the pub and the intention was to use them as additional accommodation to support the viability of the pub. Officers were authorised to view them. Officers found services appeared to be attached to the caravans (i.e. electricity, water and bottled gas) and that two of the caravans appeared to be occupied.
- 2.5. In November 2020 a Planning Contravention Notice (PCN) was served requiring the provision of information on the ownership and use of the units. The operators failed to complete the PCN satisfactorily, such that the LPA was unable to reliably establish the current use of the caravans. Following protracted correspondence on the matter with the operators, on 5 February 2021 a [report](#) was brought to Planning Committee meeting seeking authority to prosecute for non-compliance with the obligations in the

PCN, which is an offence. Members resolved to authorise the commencement of prosecution proceedings in respect of non-compliance with a PCN.

- 2.6. Prosecution proceedings were commenced and at a hearing in June 2021 the operator pleaded not guilty and a trial date was set for September 2021.
- 2.7. In August 2021 the LPA received information on the activities at the site, including details of the occupation of the caravans. Legal advice was sought and, mindful that the purpose of the original PCN was to get sufficient information to enable the LPA to establish whether or not there was a breach of planning control (and, if there was a breach, the nature and extent of that breach), the prosecution was withdrawn. On 7 September 2021 a further PCN was served, with the purpose of confirming the information received. The response received on 27 September 2021 indicated two of the caravans were occupied and it was confirmed by South Norfolk Council that Assured Shorthold Tenancies had been issued.
- 2.8. On 30 November 2021 an Enforcement Notice was served. This required the recipient:
 - i. To permanently cease the use of the Land for the standing and use of the static caravans marked with a X and Y for residential purposes; and
 - ii. To remove the caravans and any structures, fixtures or otherwise upon which they sit from the Land; and
 - iii. To permanently disconnect all the services which have been provided to the static caravans (water and electricity) and remove the pipework and cables which have been laid to provide these services, from the Land and make good the excavated trenches to the same level as the surface of the adjacent land.

The deadlines for compliance were by 29 March 2022 for (i) and 29 April 2022 for (ii) and (iii). No appeal was submitted against the Enforcement Notice.

- 2.9. The site was visited on 4 April 2022 and the caravans appeared to be still in occupation. A PCN was served on 8 April seeking information on the use of the caravans and the response was provided at a meeting on 12 May 2022, at which it was confirmed that the two units are still being used for residential purposes.
- 2.10. The Enforcement Notice has therefore not been complied with, either in terms of the cessation of the use or the subsequent actions required to clear the site.

3. Other information.

- 3.1 There are further breaches of planning control at this site.
- 3.2 At the October 2020 site visit officers found that a small extension was being built on the western side of the public house building. The operators were advised that planning permission was needed but indicated that they would not make an application. The extension is not unacceptable and would be likely to be granted planning permission were an application to be submitted, so no action has been taken.

- 3.3 At the 4 April 2022 site visit officers noted that a further caravan was stood adjacent to the compound where the other units are sited; this unit was unoccupied at that time. Two street lighting standards had also been installed within a raised kerb arrangement which formalises the separation of the caravan compound from the pub car park and access. There is no planning permission for this development.
- 3.4 At a site visit on 12 May 2022 it was found that a two-storey workshop measuring approximately 15m x 5m was under construction to the west side of the access road. Made of wood, the construction was well advanced, with a mezzanine floor over part of the height and first -fix wiring and insulation in place. Located in a prominent area away from the other buildings on the site, the structure is of a poor-quality design and standard of construction. A small single storey shed building was also under construction on the east side of the track. There is no planning permission for the workshop or a shed and neither are acceptable due to the adverse impact on the appearance of the site and the local landscape. A Temporary Stop Notice was served on 13 May 2022. This requires the cessation of all works on these buildings. A Temporary Stop Notice is valid for 28 days and there is no right of appeal.
- 3.5 At the site visit on 12 May 2022 it appeared that the additional caravan is being prepared for occupation, in that it has been decorated and curtains have been hung. There was no residential use at that point.

4. Action proposed

- 4.1. Prior to serving the Enforcement Notice there was full consideration of whether this was a suitable site for new residential development and it was concluded that it was not, for reasons including the unsustainable location, the visual impact of the structures and the poor standard of accommodation and amenity that they offer the occupants. Until the Enforcement Notice has been complied with, these adverse impacts will continue.
- 4.2. It is considered that the operators here have ignored the statutory planning requirements and then sought to frustrate the planning process. They are aware that planning permission is needed for the occupation of the static caravans, but have let them out without permission regardless. When the LPA has sought to investigate the breach, they then either failed to respond properly to PCNs or gave scant, imprecise information that the LPA has had to verify elsewhere in order to establish the position. They have not complied with the Enforcement Notice and in discussions have given no indication that they intend to.
- 4.3. The LPA has a statutory duty to investigate enforcement matters and to take action where it is expedient to do so. It also has a duty to take action to uphold public confidence in the planning system. It is proposed that the LPA commence prosecution proceedings against the operator for failing to comply with the Enforcement Notice.

- 4.4. With regard to the other breaches, it is not proposed to take any action in respect of the extension to the pub building as this is not unacceptable.
- 4.5. The lighting columns and kerbway development appears to be connected to the caravan compound, in that this is the area they illuminate and partition. It is considered that the structures domesticate and urbanise the external space and are of an inappropriate design for this rural location; it is also likely that they will have an adverse impact on the dark sky qualities of the area. It is considered that enforcement action in the form of an Enforcement Notice could be justified.
- 4.6. Regarding the new workshop building, the Temporary Stop Notice will prevent any further works until 11 June 2022, when it will expire. It is considered that the permanent retention of this building is unacceptable and enforcement action in the form of an Enforcement Notice can be justified. An Enforcement Notice takes effect 28 days after it is served, so it would be necessary to serve a Stop Notice simultaneously to prevent there being a time 'window' between the expiry of the Temporary Stop Notice and the Enforcement Notice coming into effect during which the operators could complete the works. Whilst this would, of course, be at their own risk, it is a pragmatic approach to seek to minimise the extent of the unauthorised development which the operators will – in due course – need to remove.
- 4.7. The small single storey shed is covered by the Temporary Stop Notice, meaning that no further works can take place currently. It may be the case that such a building is acceptable, subject to details of location, design and construction, and it will be appropriate to look at further.

5. Financial implications

- 5.1. There will be a financial cost associated with a prosecution. The extent of this will depend on whether or not the landowner pleads guilty or offers a defence; the complexity of the proceedings will also have an impact. If the matter proceeds to trial the costs are likely to exceed £5,000.
- 5.2. The threat of legal proceedings does sometimes prompt compliance.

6. Risk implications

- 6.1. There are reputational risks arising from the LPA failing to take action where there has been an abuse of its lawful processes.

7. Recommendation

- 7.1. That members authorise:
 - i. the commencement of prosecution proceedings in respect of non-compliance with an Enforcement Notice;

- ii. the serving of an Enforcement Notice in respect of the lighting columns, kerbway and workshop building, requiring their removal, and the inclusion of the single storey shed building if justified and expedient; and
- iii. the serving of a Stop Notice in respect of the workshop building.

Author: Cally Smith

Date of report: 16 May 2022

Appendix 1 – Location map

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BA20180047UNAUP3 Beauchamp Arms, Carleton St Peter

