

WINDRUSH RESTAURANT, ST KEVINS, HIGH ST, BOURTON ON THE WATER

17/04248/FUL and 17/04249/LBC

Matter	Planning Refs	Comments
Retention of various unauthorised works	<p>17/04248/FUL & 17/04249/LBC</p> <p>16/00922/FUL & 16/00923/LBC</p> <p>16/03958/FUL</p>	<p>Objection: The majority of the works for which permission is now sought are in direct contravention of conditions imposed for the 16/00922/FUL and 16/00923/LBC permissions. Additionally, the Appeal granted by Inspector Boffin in June 2017 was linked to those 2016 permissions as well as 3 additional drawing specifications.</p> <p>Both the above permissions have been directly contravened to such a degree that it raises serious concerns as to the legality of these works.</p> <p>The Council would consider that a prompt decision is essential in respect of the current applications, given the scale of the negative impact that some of the unauthorised works are currently having upon neighbouring businesses. In the event that it is deemed inappropriate to permit the retention of any element to the current applications which is causing a nuisance to a neighbouring property, the Parish Council urges immediate enforcement of those unauthorised elements. A continued absence of enforcement gives the applicant priority over adjacent businesses which are innocent of any wrongdoing. The planning process should be a level playing field for all and should not provide an environment whereby one business may be permitted to operate to the detriment of another.</p> <p>Whilst the applicant appears to justify the retention of various elements as now essential to the current scale of activity of the restaurant and take-away business, this is not a planning reason for permitting unacceptable development. The applicant should only be permitted to operate a business on a scale which can take place without impacting negatively on other businesses and neighbours, and which is not in contravention of normal planning policies and conditions. If this is not achievable then it seems reasonable that the scale of the business should be adjusted to satisfy planning restrictions and conditions, rather than the reverse.</p> <p>The details of the Council's objections are set out below.</p>
Retention of 2 x tower extraction flues on SW elevation		<p>These were originally required to be removed under permission granted for 16/00922/FUL, but are now used as extractors for the current take-away business only.</p> <p>In 2016 it appears this area was intended to be incorporated into the adjacent restaurant business, hence the applicant's willingness to remove the flues at that time; this is supported by drawings submitted with that application which show two doorways being opened up internally to allow access to the restaurant to provide additional seating for that activity.</p> <p>Section 3.2 of the D&A Statement submitted with 16/00922/FUL stated both flues would be removed on the basis they were unsightly, and there was a need to sensitively restore the rear of the building. The applicant's Drawing 1304_306 showed both existing flues to be removed and the drawing was referenced in the Decision Notice.</p>

		<p>The applicant's plans appear to have changed since that date and the space now operates independently of the restaurant, hence the current request for retention of the 2 flues for the take-away business.</p> <p>However, the flues are no less unsightly than described by the applicant in 2016; furthermore, the Conservation Officer's comments in this respect are in agreement, describing them as "intrusive and incongruous", and also stating that "when the extensions were approved, this was in the context of a package of visual enhancements....including the removal of these two flues".</p> <p>Objection: The need to remove the flues remains as valid today as when the condition was attached to the 2016 planning permission, and is subservient to the trading activity needs. In the event the applicant cannot provide a suitable alternative solution there is no good reason to overturn the original decision for the flues to be removed.</p>
Retention of 3 x low level extraction flues on NW elevation, adjacent to Living Green boundary		<p>Drawing 1304_306 showed just 1 single 200mm dia. extraction flue on this boundary; it is questionable whether even this proposal was feasible, or would have eliminated any nuisance caused to the adjacent owner. The 3 lower level flues which the applicant seeks to retain are of a completely different design. These flues currently serve the larger restaurant activity.</p> <p>These flues emit noise and odours throughout the entire period the restaurant is open (including into late evening) and which render the adjacent owners' garden completely unusable for its designed purpose. They could be considered a statutory nuisance and are completely unacceptable in terms of their impact. The fact that the applicant claims these are now necessary to operate the scale of the current restaurant activity is completely irrelevant. It is a requirement of the planning process that a development can only be permitted if it demonstrates it will not adversely impact upon neighbouring businesses and properties.</p> <p>Objection: In the event the business cannot re-locate the flues away from this boundary or reduce the noise and odour impact from the flues to a level deemed acceptable by Environmental Health (eg via a carbon filtration system and other means), and which will not prevent use of the neighbouring garden for its usual purpose, permission should be refused and the applicant required to operate only in a way that will not result in this nuisance. Given the scale, frequency and duration of the odour and noise intrusion from these flues and the fact that this nuisance has been created as a result of unauthorised development, their removal should be enforced immediately to prevent the unacceptable nuisance continuing throughout the summer season.</p> <p>Comment: It can be considered a major failing of the planning and appeal process that has resulted in the change of use from newsagent to take-away being permitted at appeal without appropriate conditions being attached and enforced to address issues which are a direct result of the completely new activity.</p>
Retention of 7 air conditioning units on SW elevation		<p>Seven new units have been attached to the SW elevation of the original building with no mention of them in any of the permitted planning applications. These units now result in the SW elevation being even more unsightly and intrusive than was stated on the applicant's D&A Statement for the 16/00922/FUL application; it could be argued that this statement which proposed to de-clutter this rear elevation was instrumental in the application gaining planning permission at that time.</p>

		<p>The Conservation Officer is quite clear in stating that these units "...clutter the building, and are highly incongruous and harmful and that ...fundamentally the level of harm is such that there are no public benefits that can outweigh it".</p> <p>The assertion that air conditioning units are an essential element to the successful operation of a catering business located on latitude 51 ° N is completely unjustified. In England, summer temperatures are well below those for which air conditioning could be deemed an essential commodity. Most catering businesses in Bourton and elsewhere in England operate successfully without this amenity.</p> <p>Objection: The potential benefit on a few days each year does not outweigh the significant detrimental impact these units will have in further cluttering on the rear elevation of this Listed Building, which the applicant already acknowledged was unsatisfactory prior to their installation.</p>
Retention of 2 stone walls and gates		<p>The first is a large 2.2m wall that can be clearly seen from Sherborne Street and is attached only to the former Windrush Restaurant. The Conservation Officer objects to this wall on the grounds that it heavily subdivides the historic curtilage of the Listed Building and impedes its appreciation. The applicant seeks to retain the wall on the basis it provides a necessary separation between the public and service areas. However, the artist's impression attached to the 16/00922/FUL 2016 application shows no such wall existing and the public freely wandering and appreciating the rear of the building. This wall cannot therefore be considered a necessary alteration.</p> <p>The second wall is of shorter length but similar height, and is attached directly to the Motor Museum wall – it is, in effect, a gatepost/pier. The gatepost has been attached to the wall of the Motor Museum without the Museum's permission – clearly, this is not acceptable.</p> <p>The Conservation Officer objects to both the gatepost and the gates as neither respect the historic character of the building, the setting of other listed buildings (including the Motor Museum) nor the character and appearance of the Conservation Area.</p> <p>One set of metal gates is attached to this pier and are set back from the road. They are insufficiently wide to allow large delivery vehicles to pass through and enter the service area in a forward motion, as they cannot then turn within the site. They would therefore have to reverse out across the busy public footpath, an obvious safety hazard on this footpath with very high footfall. Equally, the many large delivery vehicles cannot reverse into the internal services area, as was previously the case before the gates were installed. Hence, delivery vehicles are now either forced to park on adjacent Sherborne Street when delivering to the rear of the property, thereby blocking the street and causing a traffic safety hazard; alternatively, they deliver to the front of the property on the High St by mounting the pavement and parking on the paved area and public footpath, an equal and obvious safety hazard, particularly for pedestrians. These vehicles can block access to the adjacent High St bus-stop and will also cause damage to the kerb and footpath maintained by the public purse. Equally, the double yellow lines to the front of the property apply to the area between the road and the building line, and vehicles are not permitted to park anywhere off-road in between.</p>

		<p>Another set of smaller gates has been installed immediately adjacent to the road on Sherborne St, and these block the Motor Museum entrance when opened; they cannot open inwards due to the raised level of the paving the applicant has installed.</p> <p>In the 2016 Design and Access Statement the applicant stated in 4.1 that “Vehicular access to the property from Sherborne Street will remain largely as existing, with adequate turning space for vehicles to enter and exit the property in a forward gear.” This is clearly not the case, as the on-site parking area is now negligible, rendering on-site car movement difficult, and lorry movements in forward gear impossible.</p> <p>Objection: The new gatepost and all gates should be immediately removed due to the nuisance they are causing to the adjacent business, and which are hindering deliveries to the interior of the site. An alternative solution must then be identified which will allow deliveries to be made safely to the internal services area with lorries being able to enter <u>and</u> leave in a forward motion, as stated by the applicant themselves in 2016.</p>
Retention of detached refrigeration unit and gas box.		<p>The internal on-site delivery and services area has not been provided in line with the original application details, and the services area has now been greatly reduced in size, as a result. The new walls, gateposts and gates are all impeding delivery vehicles accessing the site, and various new alterations such as the installation of an external refrigeration unit, as well as sheds, bins and part of the new build kitchen have contributed to reducing the available services area.</p> <p>This has resulted in the above problems associated with on-street deliveries, and the historic and ongoing problems with the appropriate storage and disposal of refuse. Whilst a commercial waste collection service is now in place, bins are being stored directly under the windows of the adjacent holiday let cottage, with a negative impact upon this business activity from odour pollution.</p> <p>The 2016 application showed the refrigeration unit incorporated into the new building housing the kitchen. This has not been done, instead a new, stand-alone unit has been located adjacent to the Motor Museum wall, with the compressor attached to the wall. This has been done without permission from the Motor Museum owner, and in contravention of the 2016 permission which provided for this to be an internal provision. As this further clutters and reduces the already restricted parking area and is an inappropriate addition to the adjacent Listed Building it should be relocated to an appropriate and pre-approved location.</p> <p>There are also concerns as to whether gas bottles are being stored in a safe and appropriate manner and location.</p> <p>Objection: The need for an appropriately sized and located services area is a standard element to a catering business of this size and is as valid a requirement now as when the 2016 application was granted permission.</p>
Insertion of new windows and doors		<p>In the D&A Statement to the 2016 application, the applicant acknowledges the need, in section 3.2, for “the replacement of UPVC windows on the first floor of the SW elevation with traditional timber frame sash windows in keeping with the property”. These have not been replaced and it’s difficult to understand why UPVC windows would be considered inappropriate in 2016 but not today.</p>

		<p>In the same 2016 application, the proposed door and window profiles show the ground floor bi- fold doors (the large, glass doors that form the left hand corner of the building as seen from Sherborne St.) as being of a timber construction. They are in fact aluminium, which the Conservation Officer describes as “not a traditional treatment and gives a...harsh appearance, which detracts from the historic character of the building”.</p> <p>Objection: All UPVC windows should be replaced with timber windows – materials and design to be approved by the Planning Authority.</p>
Additional unauthorised works requiring investigation/enforcement		
Guttering		<p>The 2016 permission was granted for cast iron guttering, however, the current guttering is plastic. The permission has not been enforced, and this is an integral element to the preservation of the appearance of a Listed Building.</p> <p>Soonest enforcement of the 2016 permission is sought to replace all plastic rainwater goods with appropriate items in cast-iron.</p>
Signage	17/04664/ADV Traditionally styled elevated hung signage mounted on black painted timber post incorporating integrated lighting	<p>Additional signage has appeared across the width of the property elevation on Sherborne St, which doesn't appear to have been granted planning permission. This is inappropriate in terms of size and scale in the Conservation Area.</p> <p>The 2017 permission should be enforced to remove unauthorised signage.</p>
Trading hours	18/00294/PRMA New premises licence application	<p>The trading hours stated on the application are 10.00-23.00 but the Council understands that the planning permission granted for the Change of Use restricted trading to much shorter hours, particularly on evenings and Sundays.</p> <p>The web-site does not provide information relating to the trading hours for which permission was originally granted. The Council would ask that the permission is checked and trading is limited to within permitted hours only.</p>
Garden kiosk		<p>The Council would be grateful for information as to whether this structure requires planning permission; if so, it seeks soonest enforcement to address this unauthorised activity. The kiosk is currently sited adjacent to the public footpath on Sherborne St, serving hot food. Customers therefore queue on and block the narrow public footpath by the junction with the very busy High St, raising concerns as to pedestrian safety as they are obliged to pass queuing customers by walking into the road.</p> <p>If this structure is permitted to be retained, the Council asks that it's required to be set back into the garden area to ensure customers can queue away from the public footpath, for reasons of public safety.</p>



Photo No 1 – extraction ducts currently overlooking garden of Living Green at low level



Photo No 2 – extraction flues and air conditioning units cluttering the rear of property



Photos 3, 4 & 5
Lorries delivering/collecting from the restaurant causing

traffic problems on Sherborne St



Photo No 6 – vehicle delivering to front of property parking on paved area/public footpath – April 18



Photo No 7 – refuse bins stored directly below holiday cottage windows at rear of property



Photo No 8 – signage across entire width of Sherborne St elevation