

08/01433/FUL: RETENTION OF SMOKING SHELTER AT THE PHOENIX, TOWNSEND ROAD, WITTERING
 VALID: 11 DECEMBER 2008
 APPLICANT: MR DAVID TURNER
 REFERRED BY: PARISH COUNCIL
 REASON: DETRIMENTAL TO THE NEIGHBOURHOOD
 DEPARTURE: NO

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1 SUMMARY/OUTLINE OF THE MAIN ISSUES

The main considerations are:

- The character and appearance of the smoking shelter and its impact on the immediate area

The Head of Planning Services recommends that the application is APPROVED.

2 PLANNING POLICY

In order to comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions must be taken in accordance with the development plan policies set out below, unless material considerations indicate otherwise.

Development Plan Policies

Relevant policies are listed below with the key policies highlighted.

The Adopted Local Plan 2005 (Saved Policies)

DA2 The impact of development on the character and appearance of the area

Material Planning Considerations

Decisions can be influenced by material planning considerations. Relevant material considerations are set out below, with the key areas highlighted:

3 DESCRIPTION OF PROPOSAL

The smoking shelter is already in place. It is of timber, with a slightly pitched roof and open areas along the upper part of the sides forming "windows". These are glazed with Perspex which can be removed in hot weather. The timber roof is attached to the main building but there is an unroofed area between building and shelter.

4 DESCRIPTION OF SITE AND SURROUNDINGS

The pub is located on the north side of Townsend Road, on the inside of a curve in the road. The walls are of pale buff stone and brick, with a small unobtrusive area of red commons. The roof is of slate.

There is a garden area to the side and a garage court and parking area to the rear. The beer garden is separated from the road by a stone wall topped with railings. The smoking shelter is along one side of the pub.

5 **PLANNING HISTORY**

Application Number	Description	Date	Decision
07/01271/FUL	Smoking and sun shelters and lean-to store	31 October 2007	Permitted
0/01063/FUL	First floor extension to public house to provide living accommodation, new roof over remainder of premises, change of use of hairdressing salon to public house and erection of detached double garage	8 November 2000	Permitted

6 **CONSULTATIONS/REPRESENTATIONS**

NEIGHBOURS

A letter of objection has been received from the Parish Council raising the following issues:

- Original permission was granted for one year to allow for review. The sketches and photographs submitted with the application do not accurately represent the condition of the site at present.
- The smoking shelter is now an aviary which has resulted in complaints by neighbouring residents of unacceptable noise, dust and risk of vermin which have already been investigated by Environment Services.
- Only 50% of the smoking shelter is not enclosed, there are fixed windows, and areas have been roofed that are not shown on drawings and photographs.
- No gutters or proper soakaways have been installed and there is no evidence that statutory fire precautions are in place.
- The whole site is considered unsightly and detrimental to the neighbourhood.

7 **REASONING**

a) **Introduction**

The smoking shelter was approved in 2007 subject to a temporary condition allowing for reconsideration after one year.

b) **Policy issues**

The relevant Policy is DA2, which requires that development does not have an adverse impact on the character of the area or on neighbour amenity.

c) **Impact on character of the area**

The shelter is of timber and blends well with the existing building, being of a similar colour. The character of the area is varied, residential, with no particular defining characteristics. The shelter does not obtrude itself into the streetscene, and is considered acceptable in this regard.

d) **Use as smoking shelter**

The compliance or otherwise with the smoke-free legislation is not a planning matter. Smoking shelters must not be enclosed or substantially enclosed. This means that no more than half of the sides must be enclosed. In this case the roof of the shelter is offset from the side building of the wall, and although there is perspex glazing in some of the window openings this is only on two sides. The Planning system cannot determine whether the shelter falls within the definition of smoking shelter as set out in The Health Act 2006.

e) **Aviary**

There is an aviary on site. It is not covered by this application.

f) **Other matters**

The Parish Council has also commented that there are no gutters, soakaways or fire precautions. These are not planning matters, although guttering and downpipes have been fitted.

8 CONCLUSIONS/REASONS FOR RECOMMENDATION

The proposal is acceptable having been assessed in the light of all material considerations, including weighting against relevant policies of the development plan and specifically:

- the shelter is unobtrusive and has no detrimental impact on the amenity of the area or the amenities of occupiers of nearby dwellings. The proposal is therefore in accordance with Saved Policy DA2 of the Peterborough Local Plan 2005 (First Replacement).

9 RECOMMENDATION

The Head of Planning Services recommends that this application is APPROVED. No conditions are considered necessary.

Copy to Councillors Holdich, Lamb

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