



North Devon Council

Title of Decision Requested: Enforcement Notice for structure on south and east elevations at Woodpecker Bar and Kitchen, West Down ref 13648

Decision requested by decision maker: Agreement to issue Enforcement Notice for structure on south and east elevations at Woodpecker Bar and Kitchen, West Down, Ilfracombe, EX34 8NU

1. BACKGROUND / REASONS FOR THE DECISION REQUEST

1.1. The breach of planning control alleged that is within the last 4 years construction of structure on south and east elevations.

1.2. An Enforcement Notice should be issued to remedy the alleged breach of planning control. The Council considers it expedient to issue this notice for the following reasons:

1.3. The operational development, being the structure constructed on the south and east elevation of the building, appears at odds with the character and appearance of the building, projecting beyond its principle elevation and in a corrugated sheet metal finish which is not in keeping with the existing material prevalent on the building or within the local setting as such it would be contrary to Policies ST04, and DM04 of the North Devon and Torridge Local Plan and paragraph 130 of the National Planning Policy Framework.

2. FINANCIAL IMPLICATIONS

2.1. There are no immediate financial costs involved with this action. Should the owner not comply with the Notice served, there may be cost involved with taking prosecution action for non-compliance with the Notice or direct action, but this is a decision which can be made at a later time and will only occur if the owner does not comply.

3. ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3.1. There are no other actions the Council can take to remedy this breach of planning control. The owner has not willingly complied with requests to remedy the breach and no application has been submitted to regularise the structure.

4. ANY CONFLICT OF INTEREST DECLARED

4.1. None

5. DISPENSATION IF GRANTED

5.1. Not applicable

6. BACKGROUND PAPERS

6.1. The enforcement case was opened on 9 March 2023. A site visit was carried out on 10 March 2023 and photos taken.

6.2. Outside adjacent to the main entrance the visiting Officer found a small enclosed area constructed of reclaimed wooden trees with a green tarpaulin on the roof and sides containing a number of tables and chairs again for use in connection with the premises. There was a marquee in the car park too (this has now been removed)

6.3. On 13 March 2023 an email was received from the operator and license holder stating that the use has always been the same it has not changed and that there was a license for the building before the current one was applied for.

6.4. On 2 June 2023 Land Registry Searches were completed to establish the owners of the site. A Planning Contravention Notice (PCN) was issued on 23 August 2023. The owner responded to this on 14 September 2023. This only established ownership details.

6.5. A letter was sent to the owner on 13 October 2023 stating that an Enforcement Notice was now being prepared for the ongoing breaches at the site including for the siting of a bus in the car park and the unauthorised structure. A response from the owner on 14 October 2023 stated that the alleged unauthorised structures and bus was the first time this had been raised with them.

6.6. On 16 October 2023 an email was sent to the operator and license holder to advise them that we were now preparing an Enforcement Notice.

6.7. On 2 November 2023 an email to the owner was sent advising them they could submit a pre-app with regards to a new proposal for the canopy structures.

6.8. A further PCN was issued on 5 January 2024. This was responded to by both the owner and operator/license holder on 25 January 2024. This asked specific questions about the types of uses operating, the history of the uses

at the site and percentage of sales from food and drink. It also asked questions about when the bus was first placed on the land, what it was used for and also asked when the canopy structure was completed.

6.9. A meeting was held with the Planning Officer, Planning Enforcement Officer and Legal Officer on 21 February 2024 to discuss the PCN responses. It was concluded that no further action would be taken against the use but the canopy structure and bus would need to be removed and one final chance should be given to the owner and operator to remove these.

6.10 An email was sent to the owner and operator on 3 March 2024 requiring the canopy structure and bus be removed from the land by 26 April 2024 otherwise we would continue with serving a formal notice. The email advised that we would not be pursuing the use at the current time but would have to review this if the situation changed.

6.11 On 2 May 2024 a site visit was carried out via the public highway (no photo taken) and the bus was found to have been removed from the car park. On 9 May 2024 a further site visit was carried out via the public highway, this found the canopy structure was still insitu at the site and had not been removed.

7. CONSULTATION UNDERTAKEN

7.1 The Lead Planning Officer Jenni Meakins has instructed the Planning Enforcement Officer to serve a Notice and drafted the reasons for doing so.

8. OFFICER REQUESTING DECISION TO BE TAKEN: Stacey Salter, Planning Enforcement Officer

9. NAME OF DECISION TAKER: Tracey Blackmore Service Manager (Development Management): Head of Planning, Housing and Health

10. DATE DECISION TAKEN: 1st July 2024

11. APPROVED BY DECISION TAKER: Yes /

12. DECISION TAKER'S COMMENTS: