

**E/08/0163/A – Unauthorised erection of a freestanding smoking shelter at The Bell P.H, 4 Town Lane, Benington, SG2 7LA**

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**Parish: BENINGTON**

**Ward: WALKERN**

**RECOMMENDATION**

That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under Section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure removal of the unauthorised freestanding smoking shelter.

Period for compliance: 1 month

Reason why it is expedient to issue an enforcement notice:

The smoking shelter by reason of its proximity and design is detrimental to the setting of the Grade II\* Listed Building and contrary to the provisions of policy BH12 of the East Herts Local Plan Second Review April 2007.

The smoking shelter is detrimental to the character and appearance of the Benington Conservation Area wherein the site is situated and contrary to policies ENV1 and BH6 of the East Herts Local Plan Second Review April 2007.

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**1.0 Background**

- 1.1 The site is shown on the attached Ordnance Survey extract. It is located within the centre of the village of Benington abutting the highway and commanding a prominent position with views from the north and south east. The building is Grade II\* listed dating back to the 16<sup>th</sup> century and located within the Benington Conservation Area.
- 1.2 On 1<sup>st</sup> April 2008, a concern was brought to the attention of the Enforcement team stating that a structure had been erected to the rear of the property that did not have planning permission or listed building consent.
- 1.3 On the 7<sup>th</sup> April 2008, a letter was sent to the owners of the property explaining that the structure would require planning permission as it was within the curtilage of a listed building. An email was received from the agent on the 14<sup>th</sup> April 2008, stating that an application would be submitted.

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1.4 On the 30<sup>th</sup> December 2008 a letter was again sent to the agent requesting an application as one had not been submitted.

1.5 A planning application was received on the 28<sup>th</sup> January 2009 under reference 3/09/0141/FP and, after due consideration, was refused planning permission on the 24<sup>th</sup> March 2009 for the following reasons:-

The retention of the smoking shelter by reason of its proximity and design would be detrimental to the setting of the Grade II\* Listed Building, and contrary to the provisions of policy BH12 of the East Herts Local Plan Second Review April 2007.

The retention of the smoking shelter would be detrimental to the character and appearance of the Benington Conservation Area wherein the site is situated, contrary to policies ENV1 and BH6 of the East Herts Local Plan Second Review April 2007.

1.6 Photographs of the structure will be available at the meeting.

## **2.0 Planning History**

2.0 The recent relevant planning history is as follows: -

3/09/0141/FP   Erection of freestanding smoking shelter   Refused  
(retrospective)

## **3.0 Policy**

3.1 The relevant policies of the East Herts Local Plan Second Review April 2007 are:-

- BH6 – New Developments in Conservation Areas.
- BH12 – Development Affecting the setting of a Listed Building.
- ENV1 – Design and Environmental Quality.

## **4.0 Considerations**

4.1 With regard to policies ENV1 and BH6, the structure is considered to be detrimental to the character and appearance of the existing building, sited in a position that conflicts with the existing form and entrance arrangements of the public house and appears as an alien addition against the Grade II\* Listed public house. The design of the smoking shelter is not compatible with the listed building or the other outbuildings or the listed barn in the car park area and is out of context with the existing buildings.

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- 4.2 The smoking shelter is located within a Conservation Area and is not sympathetic in terms of scale, height, form of construction, siting and materials and in relation to the general character and appearance of the locality and does not enhance or preserve its setting or status contrary to the provisions of policy BH6 of the East Herts Local Plan Second Review April 2007.
- 4.3 Policy BH12 considers the effect other development can have on the setting of a listed building. The smoking shelter fails to respect the architectural features and historic details of the Grade II\* listed building by way of unsympathetic design, position and the form of the structure. The shelter also detracts from the listed building by neither preserving its status nor enhancing the setting of the listed building.

### **5.0 Recommendation**

- 5.1 For the above reasons it is recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the removal of the unauthorised structure.