

**E/09/0167/B – Breach of condition 3 of planning permission ref 3/06/0940/FP requiring the opening of gates between 0800 and 1800 at the alleyway adjacent to 42 Fore Street, Hertford, SG14 1BY**

---

**Parish:**     HERTFORD

**Ward:**       HERTFORD CASTLE

**RECOMMENDATION**

That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under section 187A of the Town and Country Planning 1990 and such other steps as may be required to secure compliance with condition 3 of planning permission ref 3/06/0940/FP.

**Period for compliance:** 28 days.

**Reason why it is expedient to issue an enforcement notice:**

The failure to open the alleyway gates between the hours of 0800 and 1800 removes effective connection with existing routes and spaces within the town centre. Accordingly the breach of condition is contrary to Policy ENV1 of the East Hertfordshire Local Plan Second Review April 2007.

\_\_\_\_\_ (016709B.CA)

**1.0 Background**

- 1.1 The site is shown on the attached Ordnance Survey extract. It forms part of an alleyway that runs between the HSBC Bank and Lussman's Restaurant in Fore Street, Hertford to emerge in Church Street.
- 1.2 Conditional planning permission was granted to a local resident, who does not own the land, to erect gates to both ends of the alleyway under application number 3/06/0940/FP following his expressed concerns over anti-social behaviour during the evenings. The proposal within that application was the "Erection of two gates at each end of alleyway running alongside 42 Fore Street. Gates to be closed 1800 to 0800 daily."
- 1.3 Condition 3 attached to that permission requires that "The gates hereby permitted shall remain open between the hours of 8:00 and 18:00. Reason: In the interests of maintaining a convenient pedestrian access at reasonable hours".

## **E/09/0167/B**

- 1.4 Listed building consent was also granted under application number 3/06/0941/LB as the gates would be attached to Lussman's Restaurant, a Grade II listed building.
- 1.5 There are other premises further down the alleyway whose staff use it to access their premises. These premises are only accessible from Church Street when the alleyway gates are locked.
- 1.6 In April 2009 a concern was expressed to the Authority that the gates were permanently locked. The Enforcement Officer visited the site on a number of occasions and confirmed that the gates were locked. He then wrote to the applicant on 3<sup>rd</sup> June 2009 requesting a meeting to discuss the matter.
- 1.7 The applicant telephoned the enforcement officer on 9<sup>th</sup> June 2009 and informed him that there were also 'problems' during daylight hours and he was not prepared to open the gates at all. He was informed that it was open to him to submit an application seeking to remove the condition if he considered it to be onerous but that he should unlock the gates unless and until permission was granted.
- 1.8 The applicant stated that he was not prepared to unlock the gates as required and he also declined to issue keys to the occupiers of properties further up the alleyway.
- 1.9 The enforcement officer wrote to the applicant on 11<sup>th</sup> June 2009 requiring him to open the gates at the required times by 15<sup>th</sup> June 2009. He was further informed that a failure to do so would result in this matter being reported to Committee. To date the gates have not been unlocked as required.

## **2.0 Planning History**

3/06/0940/FP	Erection of two gates at each end of alleyway running alongside 42 Fore Street. Gates to be closed 1800 to 0800 daily.	Approved with conditions
3/06/0941/LB	Erection of two gates at each end of alleyway running alongside 42 Fore Street. Gate to be closed 1800 to 0800 daily.	Approved with conditions

## **E/09/0167/B**

### **3.0 Policy**

3.1 The relevant policy in this matter is:-

ENV1 – Design and environmental quality

### **4.0 Considerations**

4.1 In this matter, the main issue to be considered is the impact of the closure of this apparently long established pedestrian route on the occupants of other buildings in the area and on pedestrians in the town centre more generally.

4.2 Whilst adopted after the grant of this permission, Policy ENV1(I)(a) of the East Hertfordshire Local Plan Second Review April 2007 requires that development has effective connection with existing routes and spaces. It is the view of officers that the failure to open the alleyway gates closes this existing route to the detriment of pedestrians. As a result pedestrians and workers in the offices to the rear of the site have to walk around the block to reach their intended destination. Officers' consider that policy ENV1 should be considered when determining the expediency of taking enforcement action.

### **5.0 Recommendations**

5.1 It is therefore recommended that authorisation be given to issue and serve a Breach of Condition Notice requiring that the gates be opened between the hours of 0800 and 1800 as required by the planning condition.