

**E/09/0103/A - Unauthorised alteration works to and unauthorised advertisements on a Grade II listed building at The Tamarind Tree Restaurant, Millars II, Southmill Road, Bishop's Stortford, Herts**

**Parish: BISHOP'S STORTFORD**

**Ward: BISHOP'S STORTFORD CENTRAL**

**RECOMMENDATION**

- a) That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to prosecute the owner of the above site for the alteration of a listed building in a manner adversely affecting its character as a building of special architectural or historic interest and/or to take enforcement action under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and any such further steps as may be required to secure works to restore the building to its former state.
- b) 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 the removal of the unauthorised structures from the building.
- c) That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to commence legal proceedings under 224 of the Town and Country Planning Act 1990 for the unauthorised display of advertisements on the listed building.

Period for compliance: 3 months.

Reasons why it is expedient to prosecute and/or issue an enforcement notice:

1. The unauthorised works and advertisements are detrimental to the historic character and appearance of this Listed Building and have led to substantial harm to the Listed Building that is not outweighed by the criteria detailed in policy HE9 of PPS5. As such, the development fails to sustain and enhance the significance of this designated heritage asset, contrary to policies HE7 and HE9 of PPS5.
2. The development, by reason of the materials used and the detailed appearance, is of a poor standard of design, unsympathetic to the context of the site and fails to take the opportunities available for improving the

character of the area. It is thereby contrary to saved policy ENV1 of the East Herts Local Plan Second Review April 2007 and national planning guidance in PPS1 'Delivering Sustainable Development' para. 34.

3. The signage by reason of its size, siting, materials of construction and illumination is detrimental to both the character of the Grade II listed building and the visual amenities and character of the area. It is thereby contrary to saved policy ENV29 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 situated on the north side of Southmill Road about 50 metres east of the junction with South Street. The site comprises a ground and first floor and forms part of the Grade II listed buildings, which are former malshouses.
- 1.2 In March 2009 a Planning Inspector's decision letter relating to premises adjacent to the Tamarind Tree Restaurant (the Herts and Essex Mosque) was received by the Council. In that decision letter, and on his site visit, the Inspector made observations regarding the lawful use of the restaurant and also regarding physical changes to the exterior of the listed building.
- 1.3 An enforcement officer visited the site and noted that there were a number of air conditioning units and a beer cooling unit attached to the rear of the building with associated cabling and pipework drilled through the external brickwork. These items were on the public facing wall by the entrance to the Southmill Trading Estate. Also on that elevation was a large advertising sign on the white weatherboarding illuminated by a swan neck light fitting.
- 1.4 The south elevation of the building has had three green canopies erected above the sash windows and also has a large advertising sign, again illuminated by a swan neck light unit. The front (west) elevation of the building has a further illuminated sign, two green canopies bearing advertisements for the restaurant and three pairs of dwarf brick walls with associated concrete paviour ramps to doors. A number of other external lighting units have also been attached to the fascia. There is no listed building consent, advertisement consent or planning permission for any of these items.

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- 1.5 The enforcement officer wrote to the owner on 15<sup>th</sup> April 2009 detailing the concerns of the Authority. Following that letter officers' corresponded with an agent appointed by the owner. Initially a planning application was received (3/09/1213/FP) for a change of use of part of the building to restaurant use. This was granted on 15<sup>th</sup> September 2009.
- 1.6 Following further discussions with the agents two further applications were received for listed building and advertisement consents (3/10/0041/AD and 3/10/0042/LB). These applications were not for the building in its existing form but were for a revised scheme involving the removal of many elements and the encasing of others. The initial advice from the Conservation Officer was that the proposals were still unacceptable.
- 1.7 Before the applications could be determined the architect withdrew them and informed officers that neither he nor the planning agent were now employed by the owner and that the premises were being offered for sale.
- 1.8 The enforcement officer wrote to the owner on 26<sup>th</sup> April 2010 and informed him that in the matter would now be referred to the Development Control Committee. No reply to that letter has been received.
- 1.9 Photographs of the site will be available at the meeting.

## **2.0 Planning History**

- 2.1 The most recent planning history for the site can be summarised as follows:-

3/05/0529/FP	Change of use from offices to A3	Approved.
3/06/1769/FP	Conversion of part of first floor office to restaurant	Approved.
3/09/1213/FP	Retrospective application for part change of use of the ground floor to A3 restaurant use.	Approved
3/10/0041/AD	3 illuminated name signs, 6 non illuminated signs and 1 glass fronted menu board (retrospective)	Withdrawn by applicant

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3/10/0042/LB	Replacement of canvas canopies with timber pentice boards and tiled lean to porch, boarded up window painted black and provision of mesh surround on 5 no. remaining air conditioning units - retrospective	Approved with conditions
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### **3.0 Policy**

3.1 The relevant saved policies of the Local Plan in this matter are:-

- ENV1 - Design and Environmental Quality
- ENV29 - Advertisements Outside Conservation Areas

3.2 Planning policy guidance in respect of listed buildings within the District is now contained within national policy PPS5 – Planning for the Historic Environment. The following policies are of particular relevance:

- HE7.4 of PPS5
- HE9.2 of PPS5

3.3 National Planning Policy guidance also relevant to this matter is paragraph 34 of PPS1.

### **4.0 Considerations**

4.1 In this matter the main issue to be considered is the impact of the unauthorised works and advertisements on the listed building and the surrounding area.

4.2 Officers' consider that the air conditioning units, with the associated cabling and pipework; the dwarf walls and ramps; the advertisements with associated lighting units and the canopies are uncharacteristic of the design and form of this former malthouse building and are thereby detrimental to its setting and historic character and appearance. The development would thereby be contrary to national planning policy guidance contained in PPS5.

4.3 Officers also consider that the unauthorised advertisements, by reason of their size, siting, materials and illumination are, in addition to their impact on the character of the building, also unduly prominent in the street scene and

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detrimental to the character and appearance of the surrounding area contrary to policy ENV29 of the East Herts Local Plan Second Review April 2007.

### **5.0 Recommendation**

- 5.1 It is therefore recommended that authorisation be given to issue and serve a Listed Building Enforcement Notice, a Planning Enforcement Notice and to commence legal proceedings with regard to the unauthorised advertisements and unauthorised works to the listed building.