

Alleged Unauthorised Development

East Peckham
East Peckham And
Golden Green

10/00416/UNAUTU

566811 148705

Location: East Peckham Social Club Rear of 11 The Freehold East
Peckham Tonbridge Kent TN12 5AA

1. Purpose of Report:

- 1.1 To report an alleged unauthorised change of use consisting of the use of the club car park for the sale of hot food from a mobile catering unit to visiting members of the public for consumption off the premises.

2. The Site:

- 2.1 The site lies within the built confines of East Peckham, within a predominantly residential street. The East Peckham Club is a single storey building constructed in the early 1980's on the north side of The Freehold. There is a large car park between the front of the building and the highway with a vehicular access onto The Freehold. There is a bungalow to the east side of the access that is in the same ownership. There are residential properties to the west and south. There is a chapel adjoining the eastern boundary with houses beyond and open land to the north.

3. History:

- 3.1 TM/80/11434/FUL Grant with Conditions 1 December 1980
Erection of single storey building to form club premises including recreational and social facilities with ancillary car park and construction of new vehicular access.

4. Alleged Unauthorised Development:

- 4.1 A trailer type catering unit currently supported on jacks with its wheels removed has been stationed on the car park to the western side of the access within 10 metres of the side of the nearest house. The unit is selling hot food between the hours of 1700 hours to 2300 hours Monday to Saturday. Late night trading to 2400 hours on Thursdays to Saturdays was proposed, but has now stopped because the proprietor does not have the necessary Premises Licence for Late Night Refreshment.
- 4.2 This use of the car park has involved a material change of use from the currently permitted use as club car park to a mixed use of club car park and the sale of hot food from a mobile catering unit to visiting members of the public for consumption off the premises, a use within Class A5 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Without the necessary planning permission this use of the car park constitutes a breach of planning control.

4.3 In addition the use is contrary to the terms of condition (v) attached to planning permission TM80/11434/FUL (TM/80/121) which allowed the construction of the club premises. Condition (v) requires the maintenance of the car parking area solely for car parking purposes in conjunction with the approved building.

5. Determining Issues:

- 5.1 Experience shows that this type of catering activity so close to residential properties is likely to cause detriment to the amenity and character of the area arising from the appearance and location of the unit close to residential properties, the hours of use, odours, noise and litter. This has been borne out in the current case, and a number of complaints have been received from local residents.
- 5.2 The club officials and the proprietor of the unit have been advised that there would be planning objections to the retention of the unit and have been asked to remove the unit by the 26 November 2010. However it is appropriate to consider enforcement action in the event that the unauthorised use does not stop to ensure that the detriment to amenity is stopped as soon as possible.
- 5.3 In addition it is proposed to use delegated powers to issue a Breach of Conditions Notice relating to the breach of condition (v) of planning permission TM80/11434/FUL (TM/80/121). This Notice will require the cessation of the use of the car park for the sale of hot food from a mobile catering unit and the removal of the mobile catering unit from the car park, because this activity is not a use that is solely for car parking purposes in conjunction with the approved building and is therefore in contravention of condition (v).

6. Recommendation:

An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Legal Services Partnership Manager, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

Breach Of Planning Control Alleged

Without planning permission the unauthorised material change of use from club car park to a mixed use of club car park and the sale of hot food from a mobile catering unit to visiting members of the public for consumption off the premises, a use within Class A5 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reasons For Issuing The Notice

It appears to the council that the breach of planning control has occurred within the last 10 years. Policy CP24 of the Tonbridge & Malling Borough Core Strategy 2007 requires all development proposals to be well designed and of a high quality. It also requires proposals to be designed to respect the site and its surroundings in terms of scale, layout, siting, character and appearance. Policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document 2010 reflects the general intent of CP24 but also requires development to respect the residential amenities of neighbouring properties and to protect, conserve and enhance the local distinctiveness and interest of the area. Policy CP1(3) of the Tonbridge and Malling Core Strategy 2007 also seeks to protect residential amenity. The continuation of this catering activity so close to residential properties is likely to cause detriment to the amenity and character of the area arising from the appearance and location of the unit close to residential properties, the hours of use, odours, litter and noise from people congregating to use the facility and additional vehicle movements to and from the site, contrary to the above policies. The Enforcement Notice is necessary to alleviate the nuisance and detriment to amenity resulting from the unauthorised development. The Council do not consider that planning permission should be granted because planning conditions could not overcome these objections.

Requirement

To permanently stop using the car park for the sale of hot food to visiting members of the public and permanently remove the mobile catering unit from the car park.

Period For Compliance

14 days from the date that the Notice takes effect.

Contact: Gordon Hogben