

Alleged Unauthorised Development

Aylesford
Aylesford

13/00305/WORKM

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Location: Holtwood Farm Shop 365 London Road Aylesford Kent ME20
7QA

1. Purpose of Report:

- 1.1 To report the unauthorised stationing of a mobile catering unit within the car park of these retail premises.

2. The Site:

- 2.1 The Holtwood Farm shop is a single storey brick building with access gained from the London Road. The building is also occupied by two other retail businesses, Aylesford Aquatics and Fellows Flowers. The site has its own car park which can accommodate 17 vehicles and is shared between the three businesses. The site is surrounded on three sides by residential properties with a mature hedge marking the boundary.
- 2.2 The mobile catering unit is located adjacent the side wall of the building which serves as the main entrance for the customers. The unit is orientated towards the parking area with the service hatch opening outwards over the parking space. A table and umbrella have been placed in front of the service hatch occupying a further parking space.

3. History:

TM/58/10442/OLD Refuse 1 January 1958

Outline Application for residential development

TM/59/10526/OLD Refuse 31 December 1959

Outline application for Extension to Retail Sales.

TM/60/10301/OLD Grant with conditions 8 August 1960

Alterations and additions to shop and store

TM/60/10677/OLD Grant with conditions 24 March 1960

Alterations and continuation of use as retail sale and storage

TM/69/10916/OLD Grant with conditions 19 March 1969

Erection of a canopy

TM/75/10447/FUL	Grant with conditions	3 December 1975
Improvement of both access to A20, provision of better car parking facilities and the levelling and tidying of the whole of site.		
TM/79/10606/FUL	Grant with conditions	30 October 1979
Temporary sitting of caravan.		
TM/84/10082/FUL	Refuse	27 July 1984
Single storey extension to farm shop, to form butcher's shop, cold store and preparation area and carry out alterations to existing front elevation.		
TM/85/11304/FUL	Grant	8 July 1985
Retrospective application to erect boundary fence.		
TM/86/11397/FUL	Refuse	13 October 1986
Single storey extension to form storage area.		
TM/91/10218/FUL	Grant with condition	9 July 1991
Demolition of existing separate buildings and replacement with one new building of same total area and new external works.		
TM/13/03356/AT	Refuse	10 January 2014
Advertisement consent for 3no. fascia signs		
TM/13/03491/FL	Invalid	12 November 2013
Retail		

4. Alleged Unauthorised Development:

- 4.1 Without the benefit of planning permission, the material change of use of land to a use falling within Use Class A5 of the Town and Country Planning (Use Classes) Order 1987 (as amended), being a use for the sale of hot food for consumption on and off the premises, by the stationing of a mobile catering unit.

5. Determining Issues:

- 5.1 The catering unit is located adjacent to boundary of the property and placed against the side elevation of the main building on an existing paved area. The area has previously been used for the storage of items for sale within the Holtwood Farm shop. The catering unit sells fresh fish and cooked shellfish. By virtue of the nature of this use, it is considered to fall within Use Class A5, rather than Use Class A1 which is applicable to the existing retail use of the rest of the premises. The unit

appears to operate as a separate entity, independent of any of the other businesses at the site. It is considered that due to the nature of the development a material change of use has occurred without the benefit of planning permission. Although the unit has been *in situ* for at least 6 months and does not appear to move on and off the site, no building works or other operation development appear to have taken place.

- 5.2 The catering unit has been set back from the main road and is mostly hidden visually from the dwellings by a well established hedge. It is not considered that it has a detrimental visual impact on the amenity of the surrounding area.
- 5.3 The main considerations are whether, with the loss of parking spaces, there would still be sufficient parking for the operation of the businesses on site and whether the development will harm the residential amenity of the nearby dwellings.
- 5.4 Concerns have been raised by a number of local residents that the development has caused harm to their amenity through the cooking smells that emanate from the unit and undue disturbance as a result of the noise from the patrons and the staff using the unit. The closest neighbouring residential properties are immediately adjacent to the unit with the buildings less than 15 metres away from the unit. It is apparent that the cooking smells, in particular, have a detrimental impact on the residential amenity of the nearby dwellings. The development therefore does not accord with policies CP1 & CP24 of the TMBCS as it would affect the residential amenity of the neighbouring dwellings. For similar reasons it fails to meet the objectives set out in paragraph 17 of the NPPF 2012, as it does not secure a good standard of amenity for all existing and future occupants of land and buildings.
- 5.5 In terms of the loss of parking on site, the area in front of the serving hatch and the associated seating are sited over two of the limited number of spaces available on site. The car park is used by both staff and customers for Aylesford Aquatics, Fellows Flowers and Holtwood Farm shop in addition to the customers for the mobile catering unit which are all located on site. It is considered that the development would not comply with policy SQ8 of the MDE PDP as the loss of parking would leave inadequate parking for the businesses on site.
- 5.6 Following a number of requests by officers for the operator to remove the mobile catering unit he attempted to resolve the unauthorised development through the submission of a planning application (application reference TM/13/03491/FL received on the 21 November 2013) for 'Retail'. However, the application still remains invalid awaiting a number of further details, and cannot therefore be progressed to a decision.
- 5.7 For the above reasons, I believe that it is expedient to take enforcement action to seek the removal of the mobile catering unit.

6. Recommendation:

An Enforcement Notice **be issued**, the detailed wording of which to be agreed with the Director of Central Services, requiring the removal of the unauthorised mobile catering unit.

Contact: Paul Batchelor