

**ENFORCEMENT REPORT - 1 – 2009/149/ENF**

**NON-COMPLIANCE WITH PLANNING CONDITION RELATING TO  
FUME EXTRACTION SYSTEM  
EVESHAM ROAD, ASTWOOD BANK, REDDITCH**

**(Astwood Bank and Feckenham Ward)**

**1. Background / Key Issues**

- 1.1 Planning permission to partially convert these premises to a restaurant was granted by the Planning Committee in March 2006, subject to compliance with certain conditions. That restaurant closed down, and the premises subsequently changed hands in 2009 resulting in a more intense restaurant use.
- 1.2 A condition was attached to the original permission requiring the submission of a scheme for the minimisation of emissions arising from cooking odour and grease interception, with the agreed scheme to be carried out in accordance with those details in perpetuity.
- 1.3 On 7th September 2009, following a complaint from a member of the public regarding odour and noise nuisance, a site visit was made by an Enforcement Officer which revealed that the premises had re-opened as a restaurant and that the flue, originally agreed to be sited on the side of the property, had been relocated on to the roof. No details had been received to show the new fume extraction system for approval, or any application to vary the condition to allow a revised system.
- 1.4 On 29th October 2009, a Planning Contravention Notice was served on the owners of the property requesting certain information, including information as to installation of the fume extraction system.
- 1.5 On 5th November 2009, a meeting took place between the Enforcement Officer, the restaurant owners, and their agent at which an assurance was received that a detailed submission would be handed in to the Council within 7 days.
- 1.6 On 7th December 2009, a check of the records revealed that no details had been received and a reminder letter was sent.
- 1.7 On 30th December 2009, a Breach of Condition Notice was issued using delegated powers and copies served on the restaurant owners. The Notice allowed a period of 28 days for the submission of details of the new fume extraction scheme.

- 1.8 On 29th January 2010, the Enforcement Officer checked his records and established no details had been submitted as required by the Notice. He formed the opinion that the Notice was being breached.

## 2. Conclusion

- 2.1 Officers consider this to be a serious breach of planning control as the flue as it stands is adversely affecting the amenities of the adjoining properties by reason of noise nuisance and smell, and without the details of the extraction system, it cannot be assessed by Environmental Health Officers.
- 2.2 Given the reluctance of the owner to submit proper details of this new extraction system, and continuing complaints from neighbouring properties about the noise and smell, Officers consider that there is no alternative to but to undertake prosecution proceedings in this matter to try to secure compliance with the condition.

## 3. Recommendation

**The Committee is asked to RESOLVE that:**

**in relation to a breach of planning control, namely, the failure to comply with a condition attached to a grant of planning permission, authority be delegated to the Head of Legal, Democratic & Property Services, in consultation with the Acting Head of Planning and Building Control, to take enforcement action by way of:**

**the institution of legal proceedings in the Magistrates Court**