

**PLANNING
COMMITTEE**

2nd November 2011

APPEAL OUTCOME REPORT FOR INFORMATION

**APPEAL MADE AGAINST REFUSAL OF PLANNING PERMISSIONS AND
AGAINST AN ENFORCEMENT NOTICE**

PLANNING APPLICATION DETAILS: 2011/039/S73 & 2011/052/S73

ENFORCEMENT NOTICE DETAILS: 2010/195/ENF

**PROPOSAL VARIATION OF CONDITIONS RELATING TO THE
SOURCE OF PRODUCE SOLD IN THE FARM SHOP,
OPENING HOURS OF THE FARM SHOP AND TEA ROOM
AND NUMBER OF COVERS IN THE TEA ROOM
ENFORCEMENT NOTICE ALLEGED CHANGE OF USE
OF ANCILLARY SHOP FLOOR TO RETAIL, OF FIELD TO
CAR PARKING, ERECTION OF STORAGE UNITS, WC
EXTENSION AND CANOPY PORCH, AND INSERTION OF
WINDOWS IN TEA ROOM**

**LOCATION STABLES FARM SHOP, ASTWOOD LANE, ASTWOOD
BANK**

WARD ASTWOOD BANK & FECKENHAM

**DECISION PLANNING DECISIONS MADE BY OFFICERS USING
DELEGATED POWERS**

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Discussion

Both the planning permission refusals and the enforcement notice were appealed, and the planning inspectorate linked all three appeals so that they were considered in one informal hearing on 6th September 2011. Members of the public and Councillors were present at the hearing.

The site lies within the Green Belt adjacent to the defined village settlement of Astwood Bank and is surrounded by residential properties on three sides, with fields to the fourth.

The applications for variation of conditions had been considered by Officers and refused as proposed, because the terms put forward by the applicants could not be varied. The opening hours were considered to be acceptable, but the delivery hours so early in the morning were considered likely to cause harm to surrounding residential amenities by causing disturbance at an

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unsociable hour. Further, the original use of the site was allowed as ancillary to the farm and to be of a small scale use. As such, the conditions regarding the number of seats in the tea room and the sourcing of local produce were attached to restrict the use on that basis.

Over time, the use on the site has become a successful local business and expanded incrementally beyond the terms of its original planning consents which were granted in 2007 and 2008. As a result, variations to some of the restrictive conditions were sought, and other retrospective development was not granted consent, thus resulting in the issuing of an enforcement notice seeking to rectify the position and protect local amenities.

The inspector considered the cases for the Council and the appellants, and also heard from local residents and Members at the appeal hearing. He conducted an accompanied site visit and then wrote his decision letter.

Appeal Outcome

The planning appeal was allowed in part in that the terms of the conditions were varied and the Enforcement Notice was varied. Costs were neither sought nor awarded.

The opening hours were varied to allow for them to be aligned so that the farm shop and the tea room could open for the same periods, and a window at the beginning and end of each day when deliveries are allowed and staff can be present on site was also defined. This, however, was not allowed as early as the appellants had requested, in order to protect residential amenity.

The sourcing of local produce in the farm shop was clarified through the redrafting of the condition, however essentially the vast majority of goods for sale in the shop must be from the immediately local area.

The tea room was allowed an increase in the number of seats that it can operate, however the area within which these must be placed was defined by the Inspector, to restrict sprawl across the site and protect residential amenities and the safety of customers.

The car park extension was not considered to be acceptable, and the Enforcement Notice upheld and clarified in this respect, so that the appellants have three months in which to return the car park extension to its former state and reinstate the boundary treatment to prevent its use.

The Inspector found that the WC extension was not harmful, and as such allowed it to remain and granted it planning permission. The Enforcement Notice was varied accordingly.

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The storage sheds to the rear of the shop were considered by the Inspector not to require planning permission on a legal technicality, and as such the requirement to remove them from the site was deleted from the Enforcement Notice. As a result of that decision, the Inspector found that the use of the whole of the internal shop floor area for the display and sale of goods was acceptable and granted planning permission for it, and varied the notice accordingly.

The Council chose not to pursue the canopy porch to the tea room and the insertion of windows as it did not consider these harmful, and this approach was supported and endorsed by the Inspector.

Further Issues

As a result of the appeal decision, ongoing monitoring of the site will continue to ensure that the remaining elements of the Enforcement Notice are complied with in the timescales prescribed by the Inspector. The timeframes proposed by the Council were agreed by the appellant and the Inspector, and thus have not been altered.

Recommendation

**The Committee is asked to RESOLVE that
the item of information be noted.**