

Planning Enforcement Case CB/ENC/11/0384

Breach of Condition to Planning Permission MB/05/00606/FULL - use of restaurant

Recommendation that no further action is taken.

No formal enforcement action has been taken in this case, but a breach of planning control has been identified. A planning application has not been submitted and negotiations have failed to resolve the breach.

Background

This enforcement case relates to Simply Oak, Potton Road, Biggleswade. Planning permission was granted in July 2005, reference MB/05/00606/FULL, for the erection of new showroom, restaurant, workshop, boundary wall and formation of new access and car park.

Condition 10 to the above planning permission requires that "The restaurant use within the building hereby approved shall be ancillary to the principal operation of the building as a retail premises, showroom and workshop".

The restaurant is being advertised on Simply Oak website as The Oaks Restaurant as a venue for private functions including weddings and parties as well as a restaurant. This use of the restaurant has been established as not ancillary to the retail premises, showroom, and workshop. Therefore there is a breach of Condition 10.

The Council has not received any complaints regarding the use of the restaurant at Simply Oak, other than that a Council Officer noticed that the restaurant was advertised for private functions.

Action taken by the Council

Meetings and correspondence have taken place with the Manager of Simply Oak, advising that planning permission is required to continue using the restaurant at Simply Oak as a business that is not ancillary to the retail, showroom and workshop

business. A planning application has not been submitted, and the Manager has stated that the original planning permission includes a restaurant and that a license has been granted for the restaurant.

Recommendation

Government policy guidance makes it clear that enforcement action is a discretionary power to be taken by the Local Planning Authority only when it is expedient to do so. Government guidance also advises that enforcement action should not be taken simply to remedy the absence of a planning permission where development is acceptable on its planning merits.

In this case the Council has not received any complaints about the use of the restaurant for independent restaurant and private functions. Officers consider that this use would be acceptable on its planning merits.

It is therefore recommended that no further action be taken at this time and that the enforcement case be closed. This does not preclude further enforcement action in the future should circumstances change, or complaints be received, providing the use has not been in effect for more than 10 years.