



Planning Enforcement 0011/2014
Reference:

Location:



NOTE:

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Report to Planning Committee

Planning Enforcement Reference: 0011/2014

Location: Linby House, Linby Lane, Linby

Breach of Planning Control: Unauthorised development

Case Officer: David Spencer

Site description

Linby House is a substantial detached property which has been converted to apartments. It is on an enclosed site with secure access from Linby Lane. It is located in the Linby Village Conservation Area.

Relevant Planning History

Planning permission was granted for the conversion of Linby House to apartments in 2007, application reference 2007/0540.

In granting planning permission for the proposal, the Council imposed a number of conditions, including Condition 6 which states:

“No part of the development shall be occupied until detailed plans showing the location and facilities proposed for bicycle parking and the storage of refuse within the site. The bicycle parking and refuse storage facilities shall be provided in accordance with the approved plan prior to apartments being first brought into use.”

Condition 6 was imposed in the interests of visual amenity and to accord with Policy ENV1 and Policy ENV 15 of the Gedling Borough Replacement Local Plan.

Plans and details of the proposed store and parking were submitted in November 2007 and in December 2007 a letter was issued by the Council discharging several conditions and in respect of Condition 6 it stated:

“I can confirm that the location of the bin store shown on LIN/100/07/A is acceptable. Condition 6 will be discharged on the provision of the bin store in accordance with the approved plans.”

It was reported to the Council in 2014 that since the development of the site commenced and to date the bin store had been used and continued to be used as a site office by the developer, and that another structure on a different part of the site had been added to create a new area for bin storage and cycle storage.

A planning application (2014/1282) to retain the use of the originally designated

bin/cycle store as a site office (as a change of use) and also the retention of the new bin/cycle store was submitted but was subsequently withdrawn.

Breach of planning control

The proposed bin/cycle store building was provided in accordance with the plans approved under condition 6 of planning application 2007/0540, when the apartments were first brought into use in 2009. However the Council was made aware that the bin store has been converted for use as an office and that an additional bin store has been provided elsewhere in the site.

An application was made to the Council under planning application 2014/1282 this was to be presented to planning committee on the 18th February and had been recommended for refusal. The application was subsequently withdrawn.

There currently remains a breach in relation to the erection of a new bin store, which does not have a Planning Permission.

Planning Considerations

Part VII of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) outlines the actions that a local planning authority may take if any breaches of planning control including unauthorised development occur. However before taking any enforcement action local planning authorities are advised to consider the guidance contained with the National Planning Policy Framework and Planning Practice Guidance Notes.

Paragraph 207 of the NPPF advises that:-

Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Paragraph 005 of the National Planning Practice Guidance Notes advises that:-

Effective enforcement is important to:

- tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
- maintain the integrity of the decision-making process;
- help ensure that public acceptance of the decision-making process is maintained.

The change of use of the bin store/cycle store is still occurring and the replacement bin store is still in situ. The development has been assessed and it has been concluded by Officers that the change of use and that the replacement bin store are unacceptable for the follow reasons:-

On the information received by the Gedling Borough Council the Council is not satisfied that there is a need for a site office and equipment store.

It is considered that the alterations to the approved cycle/bin store and in particular

the fully glazing of the openings on the south elevation adversely affects the amenities of the adjoining property. The use will also affect the amenities of neighbouring properties by an increased activity in the building and, with respect to the new bin store, the amenities of Linby Cottage by reason of increased activity and lights at night. The proposal would therefore not accord with Policy 10 - Design and Enhancing Local Identity - Aligned Core Strategy

It is considered that the new bin store will detract from the character and appearance of this part of the Linby Conservation Area by an intrusion into the woodland between Linby House and Linby Lane and by reason of its design. The proposal would therefore not accord with Policy ENV15 of the Gedling Borough Replacement Local Plan (certain policies saved) 2014

It is considered that the proposal will detract from the openness of this part of the Green Belt and therefore not accord with Policy ENV30 of the Gedling Borough Replacement Plan (certain policies saved) 2014

As a result of the inappropriate development that has occurred, I consider that it is necessary to seek authorisation to enable the Corporate Director in consultation with the Council Solicitor and Monitoring Officer to undertake appropriate enforcement action.

Recommendation:

That the Corporate Director be authorised in Consultation with the Council Solicitor and Monitoring Officer to take any necessary enforcement action including service of notices and issuing/defending legal proceedings if required.