

Meeting:	Development Management Committee
Date:	18 th December 2007
Subject:	Raw Lasan, 154 Stanmore Hill, Stanmore
Key Decision: (Executive-side only)	No
Responsible Officer:	Andy Parsons, Group Manager, Planning and Development
Portfolio Holder:	Councillor Marilyn Ashton
Exempt:	No
Enclosures:	Site plan

Section 1 – Summary and Recommendations

Recommendation and Reason:

An enforcement investigation for the above property established that a timber decking has been erected close to the northern boundary of the curtilage of the site, without the benefit of planning permission, which is required as the decking constitutes development and the site does not benefit from permitted development rights.

It is recommended that an enforcement notice be issued.

SECTION 1 – SUMMARY AND RECOMMENDATIONS

This report relates to a site, falling within Little Common Conservation Area, comprising the premises known as Raw Lasan and its grounds. The lawful use of the site is as a restaurant falling within Use Class A3, having for many years previously been known as The Vine public house.

An enforcement investigation established that a timber decking has been erected close to the northern boundary of the curtilage of the site, without the benefit of planning permission, which is required as the decking constitutes development and the site does not benefit from permitted development rights.

It is considered that the timber decking fails to preserve the character of this part of the Little Common Conservation Area, which is characterised by open green spaces, and the decking also consists of materials that detract from the appearance of the surrounding area, and is therefore contrary to adopted Harrow Unitary Development Plan (HUDP.) policies D4, D14 and D15. Additionally, the provision of the timber decking facilitates the potential for outdoor dining close to the boundary with adjoining residential property, which is considered likely to lead to conditions that could adversely affect the amenities of the occupiers of the adjoining properties as a result of increased noise and general disturbance, contrary to HUDP policy EP25.

The unauthorised timber decking has been constructed within the last four years.

Consequently it is recommend that an enforcement notice be served requiring the demolition of the timber decking and the removal of all resultant materials and debris within two calendar months of the notice taking effect.

RECOMMENDATION

It is recommended that, having regard to the provisions of the Unitary Development Plan and all other material planning considerations (in accordance with Section 172 of the Town and Country Planning Act 1990 (as amended)), the Director of Legal Services be authorised to;

- (a) Take all necessary steps for the preparation, issue and service of an enforcement notice requiring within two calendar months;
 - (i) The demolition of the timber decking,
 - (ii) The removal from the land of all materials and debris arising from compliance with requirement (i) above.

- (b) Issue Notices under Section 330 of the Town and Country Planning Act 1990 (as amended) as necessary in relation to this alleged breach of planning control.

- (c) Institute legal proceedings, should it be considered in the public interest to do so, in the event of failure to;
 - (i) supply the information required by the Director of Legal Services through the issue of Notices under Section 330 of the Town and Country Planning Act 1990, and/or;
 - (ii) fully comply with the requirements of the enforcement notice.

SECTION 2 – REASON FOR ENFORCEMENT

- 2.1 The site that is the subject of this report, 154 Stanmore Hill, Stanmore, consists of a locally listed circa 1840 detached two-storey building used as a restaurant set within a fair sized plot, incorporating a car park and beer garden, located on northern corner of the junction of Stanmore Hill and Little Common, within a predominantly residential area.

- 2.2 The site was used for many years as a public house called The Vine, but in 2006 was renamed Raw Lasan and is lawfully (in planning terms) in use as a restaurant (Class A3).

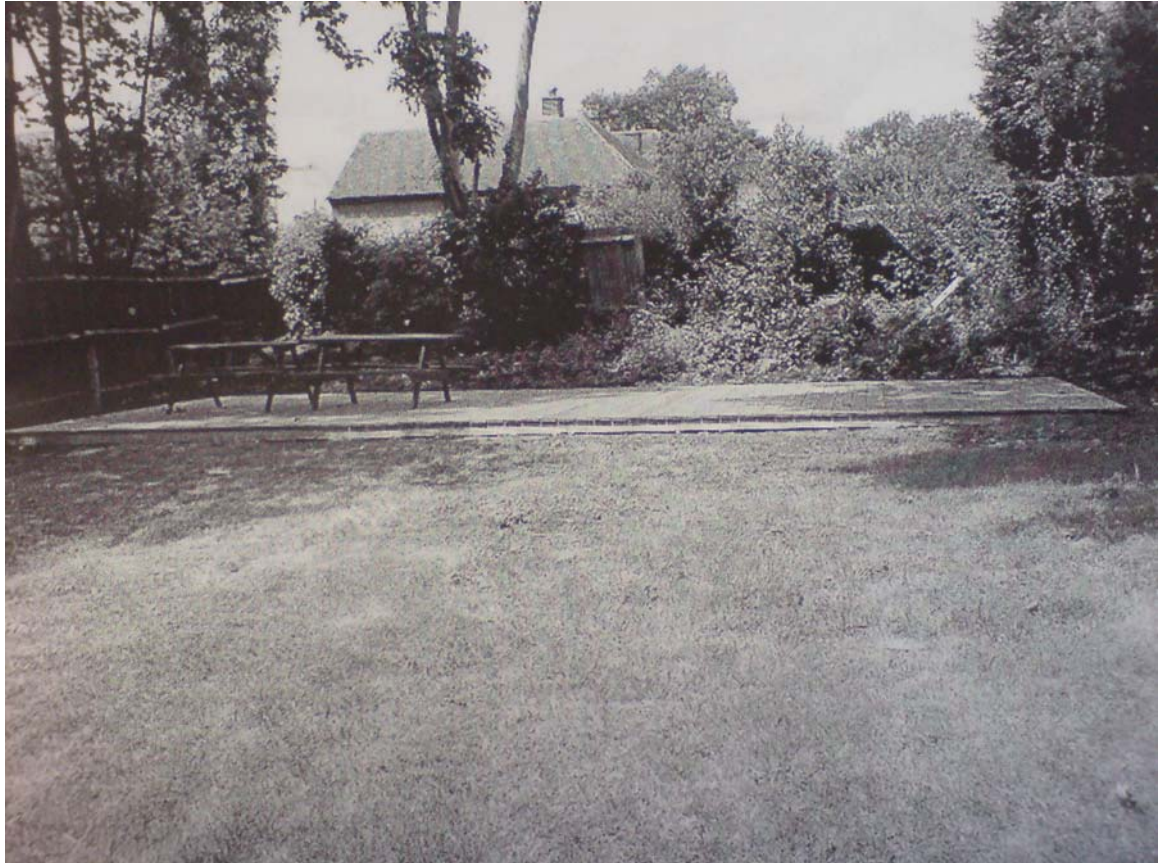
- 2.3 The site and much of the surrounding area (particularly to the south and west) fall within the Little Common Conservation Area, which was designated in 1970 and subsequently extended in 1987 and 2002. Several properties near to the site, including both residential properties immediately to the north of the site (but not the site itself), are subject

to an Article 4 Direction removing permitted development rights, including the right to provide a hard surface within the curtilage of a dwellinghouse.

- 2.4 In October 2003 planning permission was granted (application ref. P/1906/03/CFU) for the conversion of an existing barn and garage within the curtilage of the site to letting rooms ancillary to the lawful A3 use of the site.
- 2.5 In June 2006, the Planning Enforcement and Environmental Health Departments of the Council received a number of complaints relating to the provision of decking in the rear garden of the site, and the installation of an extractor system, without the benefit of planning permission.
- 2.6 A subsequent enforcement investigation established that an area of timber decking, approximately 9.7 metres wide by 4.7 metres deep and approximately 0.2 metres above ground level, had been installed close to the northern boundary of the curtilage of the site. An extractor system had also been installed without the benefit of planning permission.
- 2.7 In an attempt to regularise these breaches of planning control, in July 2006 a planning application (ref. P/2149/06/CCO) was received seeking the retention of the extractor unit and the timber decking. The timber decking was subsequently withdrawn from the application before its determination. The application was granted for the retention of the extractor unit on the 10th November 2006.
- 2.8 In respect of the timber decking, previous correspondence with the owners of the site has established that in their minds there is doubt as to whether or not planning permission is required for the timber decking. In the opinion of the Council, planning permission is required for this decking as it constitutes development under Section 55 of the Town and Country Planning Act 1990 (as amended) and the site does not benefit from permitted development rights because it is not being used as a dwellinghouse.

- 2.9 The Council has subsequently formally requested action to be taken to either remove the unauthorised decking or the submission of a retrospective application for its retention. However, neither course of action has been taken and the unauthorised timber decking remains in place.
- 2.10 The expediency of enforcement action has been assessed with reference to guidance contained in PPG18 and Circular 10/97, both entitled 'Enforcing Planning Control'. Consideration has also been given to the contents of PPG15, published in September 1994, entitled 'Planning and the Historic Environment'.
- 2.11 Expediency has also been assessed with regard to the statutory Development Plan, which for the Borough consists of the London Plan (adopted February 2004) and the Harrow Unitary Development Plan (HUDP), which was formally adopted in July 2004. HUDP policies that are relevant to this report include;
- Policy D4 (The Standard of Design and Layout)
 - Policy D14 (Conservation Areas)
 - Policy D15 (Extensions and Alterations in Conservation Areas)
 - Policy EP25 (Noise)
- 2.12 Also of relevance is the Little Common Conservation Area Policy Statement which was adopted as supplementary planning guidance on 14th October 2003.
- 2.13 The timber decking that is the subject of this report is approximately 9.7 metres wide by 4.5 metres deep, and results in the ground level being raised by approximately 0.2 metres. The decking is positioned close to the northern boundary of the site which is shared with the residential property No. 156 Stanmore Hill. A photograph of the timber decking can be found on the next page of this report.

2.14 The essential test of any development within a Conservation Area is whether that development either preserves or enhances the character of that Conservation Area. Whilst the character of the Conservation Area varies, a key component and an identified asset of the part of the Conservation Area around the site that is the subject of this report is the



setting, with open spaces forming an over-riding feature and lending the area a semi-rural ambience, with buildings grouped around the open spaces. This is emphasised within the Little Common Conservation Area Policy statement, which states that the green area that lies immediately to the south of the site *'is a transitional space between the urban and busy Stanmore Hill and the semi-rural enclave in the heart of Little Common.'*

2.15 It was the desire to preserve such open spaces and to allow the Council to have greater control over developments within the surrounding area, including both residential properties immediately to the north of the site, that resulted in the imposition of the Article 4 Direction, removing many permitted development rights usually

available to dwellinghouses, including the provision of hard surfacing within the curtilage of those dwellinghouses (such permitted development rights not being available to the site regardless due to it not being in use as a single dwellinghouse).

- 2.16 It is considered that the unauthorised timber decking fails to preserve or enhance the character of the Little Common Conservation Area, as its installation has led to the loss of a significant area (in excess of 43 square metres) of green/grassed space within the curtilage of the site. The large area of light-coloured timber decking also contrasts markedly with the green-ness of the otherwise undeveloped land within the rear (east side) of the site curtilage, and is therefore not considered to be appropriate or in keeping with the appearance of the surrounding area.
- 2.17 Consequently, the timber decking is contrary to adopted HUDP policies D14 and D15, resulting in the loss of green space and thereby failing to preserve or enhance the character of the Little Common Conservation Area and also using materials that detract from the appearance of the surrounding area, and thereby also contrary to adopted HUDP policies D4.
- 2.18 Additionally, the siting of the timber decking, close to the northern boundary of the site which is shared with the rear garden of No. 156 Stanmore Hill, is unsuitable, as the decking facilitates the use of this part of the site by diners of the restaurant. Outdoor dining within such proximity to the rear gardens of the adjoining dwellinghouses is considered to result in conditions detrimental to the residential amenity of occupiers of those dwellinghouses, in terms of increased noise and general disturbance, contrary to adopted policy EP25.
- 2.19 It is therefore not considered that planning permission would be granted for the retention of the timber decking, or that any conditions imposed upon the granting of any planning application would overcome the Council's objections to the development.
- 2.20 Accordingly it is recommended that an enforcement notice be served requiring the demolition of the timber decking and removal of all

resultant materials and debris within two calendar months of the notice taking effect.

- 2.21 It noted that under Section 174 of the Town and Country Planning Act 1990 any recipient of an enforcement notice has the right of appeal against such a notice to the Planning Inspectorate. Should the recipient establish on appeal before any Inspector that the Council has behaved unreasonably, it could lodge an application for costs in relation to this appeal. However this is unlikely and ordinarily each party bears its own costs in appeals.

SECTION 3.0 – FINANCIAL IMPLICATIONS

- 3.1 It is anticipated that if there are any costs they will be contained within the existing revenue budget.

SECTION 4 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input type="checkbox"/> Yes	Name: Steve Tingle Date: 3 rd December 2007
Monitoring Officer	<input type="checkbox"/> Yes	Name: Jessica Farmer Date: 3 rd December 2007

Site Plan

