

Committee: PLANNING

Date: 9 October 2007

**Report: UNAUTHORISED USE OF BARN AND UNAUTHORISED SITING AND
OCCUPATION OF CAMPERVAN AT SCABBAGATE BARN,
KETTLEWELL**

Purpose of the report

1. To advise Members of the current situation in respect of the above, and to seek Members' authority to prosecute for the non compliance with the terms of the enforcement notice, served 9th March 2007, Scabbagate Barn, Kettlewell

Strategic Planning Framework

2. The information and recommendation(s) contained in this report are consistent with the Authority's statutory purposes and its approved strategic planning framework.
3. The following are relevant Yorkshire Dales National Park policies:

Policy GP1	National Park purposes
Policy VF4	Sites for touring caravans
Policy H3	Conversion of traditional buildings to housing within settlements
Policy B5	Open Spaces in Settlements
Policy B8	Conservation areas
Policy B15	Conversion of traditional Buildings

Background

4. Scabbagate Barn, formerly in use as a garage and store, is located within the village of Kettlewell. It is within Kettlewell Conservation Area and abuts land designated as Important Open Space. The barn lies within the village development boundary on the south side of the beck running through the centre of the village. The site has a long planning history. In 1979 an application for the conversion to residential accommodation was refused. A further four planning applications for domestic and workshop office uses have been refused since that time.
5. The most recent application for residential use of this barn; submitted by the present owners, was refused in July 2005, for the following reasons:

The proposal, by virtue of the design, patio area and external domestic accoutrements likely to be associated with it would introduce an unacceptable

residential element to the location, that would be detrimental to the character and appearance of the Kettlewell Conservation Area and the area of Important Open Space. As such the proposal would be contrary to policies BC3, BC8, BC9, BC12 and H5 of the Yorkshire Dales Local Plan.

6. An appeal against this decision was subsequently dismissed on 4th April 2006. In his letter the appeal inspector stated:

“Although I consider the proposed changes to the elevations would not in themselves harm the appearance of the building, the appeal site is located on the riverbank which currently has a natural ‘unaltered’ appearance along that side of the river. In my view the residential appearance of the barn together with the creation of the paved and garden area together with other features, such as washing lines and dustbins, normally associated with a dwelling would introduce a domestication to the riverbank setting”
7. In June 2006 a complaint was received in respect of the siting of a campervan at the barn and the erection of a chimney upon it. A site inspection revealed that the campervan was sited on land to the south west of the barn; within its curtilage, but at this stage it was not evident that it was being occupied. The owner was advised that to simply park the campervan, unoccupied, planning permission would not be required.
8. In June 2007 complaints were received in respect of unauthorised developments at Scabbagate Barn. After investigation it was ascertained that the site was being used to provide residential accommodation, both in a campervan which had been sited on the land adjacent to the barn, and also within the barn itself.
9. Modifications had been carried out on the barn in connection with providing residential accommodation. A chimney had been erected and a garage doorway had been blocked with plywood within which a UPVC domestic door had been fixed.
10. Following fruitless discussions and negotiations with the owners, an enforcement notice was served. Six months was given for compliance with the notice. The date for compliance is 20 October 2007. The notice required the following:-
 1. Stop using any part of the land (including the barn) for residential purposes
 2. Stop using the land for the stationing of a campervan for residential purposes.
 3. Remove the campervan from the land together with all other domestic items and materials connected with the residential use of the land.
 4. Dismantle and remove the chimney and aerial from the barn making good any damage to the roof of the barn caused as a result
 5. Dismantle and remove the plywood garage door (including the UPVC door inserted therein) from the barn.
11. As with all enforcement notices the recipient has right of appeal, however the notice wasn't appealed and the notice took effect on 20 April 2007. The owners were contacted by letter on 27 April 2007 outlining the date the notice took effect and when the site would be inspected.

12. In early September enquiries from members of the public and Parish Council suggested that the notice terms were not complied with, with 6 weeks of the compliance period to run. The occupier was reminded of the requirements of the notice, both verbally and in writing.
13. The site was inspected in late September and none of the required terms had been met. A further letter was sent to the owners outlining the Authority's position.
14. Although at the time of writing it is still possible for the terms of the notice to be met, it is considered expedient to report to Committee at this stage, in case it is not adhered to.

Human Rights

15. The human rights of the occupiers have been considered. It has been concluded that in this particular case the harm to the public interest in not taking enforcement action would outweigh the rights of the occupiers under the current legislation.
16. Craven District Council housing department has been contacted and the matter of the possible homelessness of the Scabbagate Barn's occupants brought to their attention.
17. However, notwithstanding this the occupiers could currently be seen as homeless, In fact correspondence dated 5 February 2007, from the owners, stated they were already homeless.

Conclusions

18. The campervan, sited and occupied in this location, and under the circumstances described above are considered to be contrary Local Plan policy (VF4).
19. The use of the barn as a dwelling house has been fully tested through the planning application process and been rejected.
21. It is considered that both the siting and use of the campervan, and the residential use of the barn are having a serious detrimental impact on the Conservation Area and the setting of the Important Open Space, and has caused a domestication of the otherwise unspoilt river bank which has detracted significantly from its character and appearance. This would be likely to be exacerbated by further change both to the building and its curtilage if residential use became established permanently.
22. Numerous opportunities have been afforded to the owners previously and as stated in paragraphs 4, 5 and 6, the planning possibilities for the site exhausted.
23. Previous assurances, from the occupiers, that they would comply with requests to cease their unauthorised occupation of the site have not resulted in progress. It is therefore considered expedient to seek authority for prosecution, in the event that the enforcement notice is not complied with.

24. Public harm has to be considered and Parish Council and residents have expressed enormous concern, considering the site to be extremely untidy and detrimental to the overall aspect of the village. The van and barn have been of concern to residents for over 16 months and it is considered that additional delay exacerbates the situation and increases public harm by virtue of time.

RECOMMENDATION

25. That the Authority's solicitor be authorised to pursue prosecution for failure to comply with the terms of the enforcement notice served on 9 March 2007 in the event that the requirements of the notice are not complied with by 20 October 2007.

Marion Brown
Enforcement Officer

24 September 2007

Background documents:

Planning files C/46/69-D

Planning appeal file C/46/69D

Enforcement file EC/46/54 (private)

Enforcement Notice – served 09.03.07

Attachments

PC comments