

**Application No:** ENF 234/26/10

**Case Officer:** Rajinder Lalli  
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**Star and Garter, 4-6 Warwick Street, Leamington Spa, CV32 5LL**

Erection of a timber fence to enclose flat roofed area at rear of the public house.

Property Owner(s) Green King Pub Partners

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This report is brought before committee to request that enforcement action be authorised.

**BACKGROUND**

In June 2010 it was brought to the attention of the enforcement section that a timber fence of heights varying between 1.24 and 1.55 meters had been erected on top of a two storey flat roofed area at the rear of the Star & Garter Public House.

The proprietor was informed that planning permission was required but a planning application has not been submitted or the fence removed.

**RELEVANT POLICIES**

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)  
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)  
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

**PLANNING HISTORY**

W00/1086. Retention of rear service yard as a beer garden. Refused and appeal dismissed by reason of the impact on residential amenity: 12/9/01

W06/1805. Erection of metal railings. Withdrawn.

W07/0622. Change of use of part of rear yard to external seating area and construction of covered smoking area. Refused and subsequent appeal dismissed (26/3/08) on grounds of increased noise and disturbance arising from the introduction of the covered smoking area and the resultant unacceptable impact on residential amenity.

ACT/091/08/08 Erection of a timber and plastic roofed structure in the rear yard without planning permission resulting in the service of an enforcement notice which was complied with 29/12/08.

## **KEY ISSUES**

### **The Site and its Location**

The enforcement site is located within the Leamington Spa Conservation Area. This investigation relates to a fence that encloses a flat roofed area, two storeys high at the rear of the public house which lies close to a number of residential properties and is clearly visible from Westbrook House an 11 storey block of flats.

### **Assessment**

The timber fence is clearly visible from street level and the flats in Westbrook House. It is considered to be of a poor standard of design and appearance to the detriment of the character and appearance of the Conservation Area.

The stated purpose of the structure is to enable the enjoyment of outside space for private domestic use; however, its design and appearance is detrimental to the amenities of immediately adjacent residential properties and the character and appearance of the Conservation Area whilst the resulting increased use of this flat roof area has resulted in noise and disturbance to local residents.

### **Justification for Enforcement Action**

Extensive contact has been made with the owners of the property and the situation fully explained but the matter has not been resolved. The service of an Enforcement Notice is now considered to be the only option available to remedy the visual harm arising from the presence of this unsightly feature and the increased potential for noise and disturbance.

## **RECOMMENDATION**

That officers be authorised to proceed with appropriate enforcement action directed at the removal of the fence with a compliance period of 2 months.

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