



DEVELOPMENT CONTROL COMMITTEE

20th November 2007

Report of Head of Planning and Building Control - Regeneration

Adverts at Kinky Boots Cabaret Bar, 3 Walsall Road, Darlaston Ref: E07/0139

1.0 PURPOSE OF REPORT

To advise members of a breach of advertisement control comprising the display of three signboards on the above building, and to request authority to take planning enforcement action.

2.0 RECOMMENDATIONS

- 2.1 To authorise the Assistant Director - Legal and Constitutional Services, to instigate legal proceedings to prosecute the owner(s) and/or occupier(s) and other relevant persons, under Section 224 of the Town and Country Planning Act 1990, in respect of displaying advertisements without the consent required under the Town and Country Planning (Control of Advertisements) Regulations 2007.
- 2.2 To authorise that the decision as to the institution of legal proceedings, in the event of the non-return of Requisitions for Information, be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control.

3.0 FINANCIAL IMPLICATIONS

None arising from the report.

4.0 POLICY IMPLICATIONS

The report recommends enforcement action in order to seek compliance with planning policies.

5.0 LEGAL IMPLICATIONS

None arising from the report.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising directly from this report.

7.0 ENVIRONMENTAL IMPACT

The report seeks enforcement action to remedy adverse environmental impacts.

8.0 WARD(S) AFFECTED

Bentley and Darlaston North.

9.0 **CONSULTEES**

Licensing Officers, Public Protection.

10.0 **CONTACT OFFICER**

Tim Pennifold / Philip Wears

Planning Enforcement Team: 01922 652411

11.0 **BACKGROUND PAPERS**

Enforcement file not published.

David Elsworthy

Head of Planning and Building Control

Development Control Committee
20th November 2007

12 BACKGROUND AND REPORT DETAIL

- 12.1 Number 3 Walsall Road is a former bank premises in a classical style, though with a small modern extension. It is a locally listed building, and is prominently located at the junction of Walsall Road with Pinfold Street and Darlaston Road, in Darlaston town centre. The Kinky Boots Cabaret Bar was opened in the building following the grant of planning permission for use as a restaurant, bar and similar uses in January 2007 (ref 06/1854/FL). Officers consider the present nature of the use is permitted, though compliance with some planning conditions is being pursued.
- 12.2 The advertisements on the building immediately attracted attention. Each of the three windows in the classical part of the building contained a photographically produced figure of a partly un-dressed male, wearing long boots (others have been added in other parts of the building, since). Local concern was expressed about the content of the advertisements. Planning control is precluded from addressing the content of advertisements, and so no significance can be attached to the comments which were made. In any event, as the advertisements comprised a transparent, printed film applied to the inside of the window glass they qualified under the regulations as advertisements inside buildings (a specific category in the Regulations) and therefore benefited from an automatic consent granted by the legislation (referred to as a deemed consent). There are no size restrictions on adverts in this category of deemed consent. Councils have the power to serve a discontinuance notice, but as the colours and sizes of the advertisements (the legitimate planning issues) were relatively restrained and the adverts fitted neatly into the window areas, action was not justified. The advertisements were satisfactory in planning terms and their content was not a matter which could be pursued under the advertisement regulations.
- 12.3 The building was vandalised, and following the breaking of the windows, the advertisement scheme was changed. On the modern part of the building adverts, comprising figures and lettering made of film were provided inside windows. As with the previous adverts of this type, they benefit from an automatic consent. On the classical part of the building the adverts comprising film inside windows were replaced with three signs on boards made of painted timber, fixed to the outside of the windows. It is these external signboards which are the subject of this report. The signboards are painted in red and white, and contain similar partly un-dressed figures as well as lettering. They are not illuminated.
- 12.4 The use of applied boards, outside the windows, brings them into a different legislative category. The relevant regulations governing automatic consent for this type of advertisement contain maximum size limits. Exceeding those limits takes an advert outside the automatic allowance. The figures displayed are in two sizes, one being 1.35 metres tall, two being 1.05 metres tall, and they all exceed the maximum 0.75 metres size limit for individual components of adverts (letters, characters etc). In addition the signboards each measure 2.15 metres by 1.4 metres overall, and therefore do not comply with the 1.55 square metre size limit for automatic consent (non-illuminated adverts) which was introduced by the

new regulations in April 2007. As these size limits are exceeded, the advertisements do not qualify for automatic consent, and consent should have been sought by submitting an application.

- 12.5 The proprietor has been advised that consent is necessary, but your officers' view is that it is unlikely to be granted. The advertisements are relatively large and strident and are obtrusive in the street scene. They cover parts of the window frames and disrupt the appearance of the windows, as well as conflicting with the overall character of the building. Officers requested the proprietor to remove the advertisements and discuss a replacement scheme of advertising. No response has been received. In the circumstances enforcement action is recommended. (This enforcement action will not relate to their content, which, like that of the previous advertisements, is not controlled by the advertisement regulations.)
- 12.6 Unlike many other breaches of planning control, displaying an advertisement without the necessary consent is a criminal offence. No enforcement notice needs to be served, and enforcement action is carried out by prosecution.

Kinky Boots Cabaret Bar, 3 Walsall Road, Darlaston

