



NORTHAMPTON
BOROUGH COUNCIL

PLANNING COMMITTEE: 1 June 2010
DIRECTORATE: Planning and Regeneration
HEAD OF PLANNING: Susan Bridge

E/2010/0207 **Groove Night Club**
8 - 10 Gold Street
Northampton
NN1 1RS

WARD: Castle

REFERRED BY: Head of Planning
REASON: Breach of Planning Control

DEPARTURE: N/A

ENFORCEMENT MATTER:

1. RECOMMENDATION

- 1.1 That the Borough Solicitor be authorised to issue an Enforcement Notice requiring the removal of the timber enclosure to the front of the site with a compliance period of 28 days pursuant to Section 171A(1)(a) of Town and Country Planning Act 1990, (as amended).
- 1.2 That the Borough Solicitor be authorised to issue a Listed Building Enforcement Notice requiring the removal of the timber enclosure to the front of the site and the unauthorised banner advertisement attached to the front of Listed Building with a compliance period of 28 days pursuant to Section 9(1) of the Conservation & Listed Building Act 1990.
- 1.3 That in the event of non compliance with either Notice, to take any other necessary, appropriate and proportionate enforcement action pursuant to the provisions within the Town and Country Planning Act 1990, (as amended) and / or the Conservation & Listed Building Act 1990 in order to bring about compliance with the Notice(s).

2. THE BREACH OF PLANNING CONTROL

- 2.1 That without Listed Building consent and planning permission, a 1.8m (approx) high timber enclosure has been erected and a large banner advertisement has been installed at the property which materially affect the character and appearance of the listed building and which in the case of the enclosure, exceeds 1m in height adjacent to the public highway.

3. SITE DESCRIPTION

- 3.1 The property is situated on the northern side towards the western end of Gold Street within the All Saints Conservation Area and forms part of a Listed Building.
- 3.2 The building has an undercroft walkway adjacent to the pavement. The unauthorised timber enclosure forms a barrier between the walkway and the pavement segregating it from the street. The banner is situated above the enclosure.
- 3.3 This type of frontage (undercroft walkway adjacent to pavement) is unique in Northampton and therefore is a critical element of the building's significance. As such the alteration impedes the visual connection between the space in the undercroft and the wider public realm and detrimentally impacts upon the heritage asset and its setting.
- 3.4 The height, appearance and materials used for the enclosure and the banner advertisement detract from the overall character of the Grade II Listed Building and the quality of the overall townscape on Gold Street. The new development fails to respond to its local context and fails to create or reinforce local distinctiveness.

4. PLANNING HISTORY

- 4.1 The Council's attention was drawn to the development by way of a number of complaints.
- 4.2 Officers from the Planning Enforcement Team have visited the site twice to meet with the proprietors and have written to the Company. However, for commercial reasons they have indicated that they do not intend to remove the unauthorised developments.

5. PLANNING POLICY

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the East

Midlands Regional Plan, the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997.

- 5.2 The erection of the timber enclosure impedes the visual connection between the space in the undercroft and the wider public realm and detrimentally impacts upon the heritage asset and its setting. The banner advertisement by reason of its siting and general appearance represents an incongruous feature detrimental to the listed building and its setting.
- 5.3 In addition the height, appearance and materials used for the enclosure and the prominent position of the banner advertisement combined with its design and general appearance, both detract from the overall character of a Grade II Listed Building and the quality of the overall townscape on Gold Street. Both the enclosure and the advertisement fail to respond to its local context and create or reinforce local distinctiveness contrary to Policies 26, 27 and MKSM SRS Northamptonshire 3 of the East Midlands Regional Plan, Local Plan Policies E20 and E26 and PPS5 Planning for the Historic Environment.

6. CONSULTATIONS / REPRESENTATIONS

- 6.1 Advice has been sought from the WNDC in respect of the development aspect and they have confirmed that they would not support a planning application to retain the enclosure structure as the local planning authority for development of this type in the town centre.
- 6.2 Listed Building consent for the advertisement would be a matter for the Borough Council as local planning authority.

7. APPRAISAL

- 7.1 The unauthorised works represent an unacceptable change in the character and appearance of the Grade II Listed Building and appears incongruous in the street scene.
- 7.2 The timber enclosure and the banner advertisement both constitute unacceptable development which is contrary to Development Plan Policy and the aims and objectives of PPS5.

8. CONCLUSION

- 8.1 The unauthorised development of the enclosure requires both planning permission and listed building consent. It is considered an unacceptable form of development and due to the unwillingness of the owner to remove the structure it appears that formal action is necessary and appropriate.

8.2 By reason of its attachment to the Listed Building by way of a series of eyelets screwed into the fabric of the building, the banner advertisement also requires Listed Building consent.

9. HUMAN RIGHTS IMPLICATIONS

9.1 The Human Rights Act 1998 introduces a number of rights contained in the European Convention on Human Rights. Public bodies such as the Council have to ensure that the rights contained in the Convention are complied with. However, many of the rights are not absolute and can be interfered with if sanctioned by law and the action taken must be proportionate to the intended objective. In this particular case Officers' views are that seeking to take action in respect of a perceived loss of amenity and detriment to the Listed Building is compliant with the Human Rights Act 1998 because the harm to the wider community clearly outweighs the harm (in human rights terms) to the owner.

10. LEGAL IMPLICATIONS:

10.1 Usual costs will be met from within the existing budget. If the event of the Notice not being complied with, the costs for the default action will be charged to the owner of the property and recorded as a Local Land Charge.

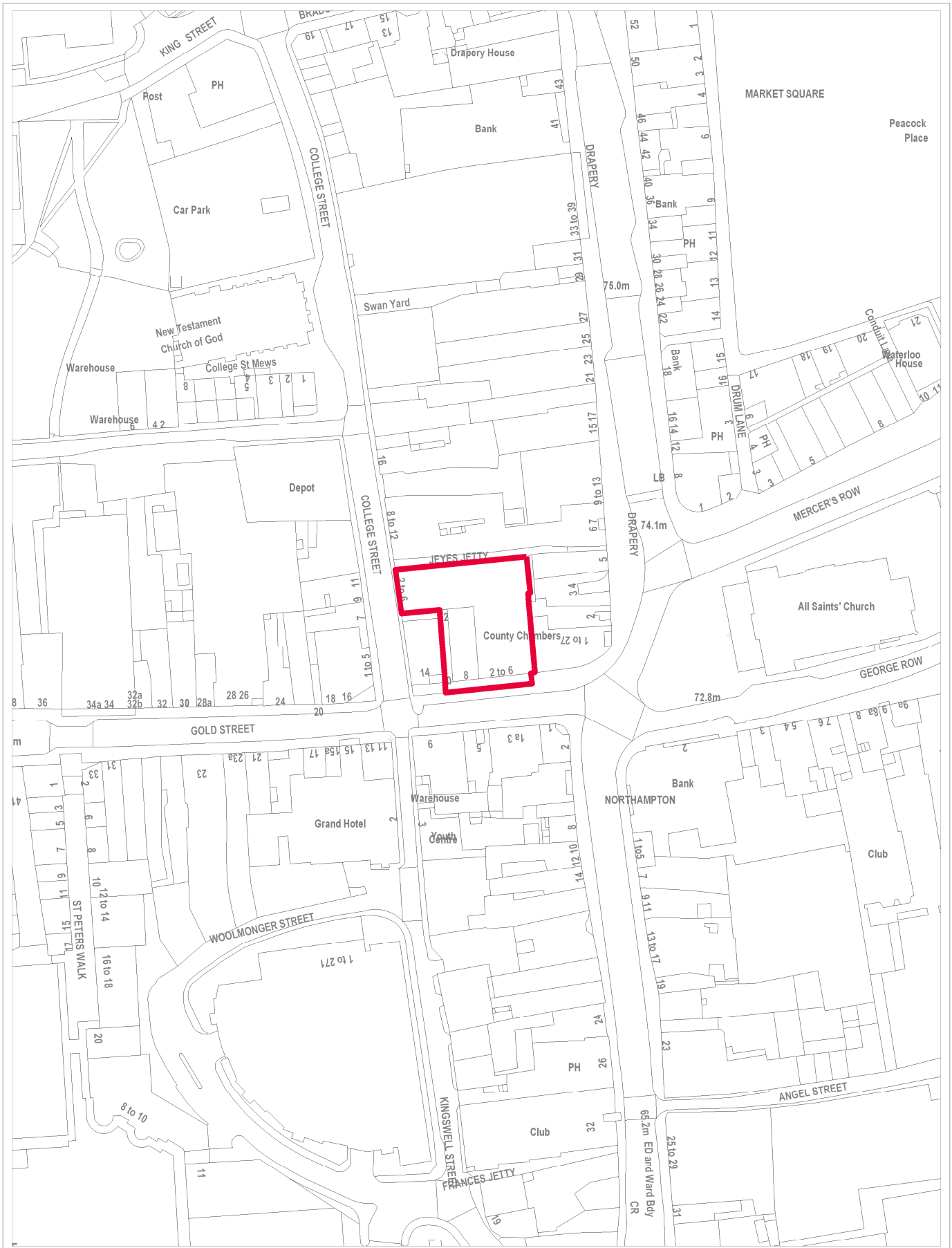
11. BACKGROUND PAPERS

11.1 E/2010/0207 & E/2010/0245

12. SUMMARY AND LINKS TO CORPORATE PLAN

12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.

Position:	Name/Signature:	Date:
Author:	Carol Tuckley	04.05.2010
Development Control Manager:	Gareth Jones	17.05.2010



Name: **Planning**
 Date: **20th May 2010**
 Scale: **1:1250**
 Dept: **Planning**
 Project: **Location Plan**

Title
Groove Night Club

Produced from the 2009 Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence number: 100019655