

# Southend-on-Sea Borough Council

Agenda  
Item

Report of the Corporate Director of Place  
To  
Development Control Committee  
On  
13<sup>th</sup> April 2016

## Report(s) Enforcement of Planning Control

A Part 1 Public Agenda Item – Town and Country Planning Act 1990 Section 172

Reports prepared by: Enforcement Officers

### 1 Introduction

1.1. This report relates to alleged breaches of planning control. Recommendations are made at the conclusion of each item.

WARD	APP/REF NO.	ADDRESS	PAGE
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Enforcement Report			
Victoria	14/00054/UCOU_C	196E Hamlet Court Road Westcliff on Sea	2
West Leigh	15/00242/UNAU_B	15 Aberdeen Gardens Leigh on Sea	11
Eastwood Park	15/00251/UCOU_B	22 Parkway Close Eastwood	15

<b>Reference:</b>	14/00054/UCOU-C
<b>Ward:</b>	Victoria
<b>Breach of Control</b>	Without planning permission, the change of use of the land from storage within Class B8 of the Town and Country (Use Classes) Order 1987 (as amended) to dwellinghouse (Class C3).
<b>Address:</b>	196E Hamlet Court Road, Westcliff-on-Sea, Essex, SS0 7DE
<b>Case Opened:</b>	10 <sup>th</sup> March 2014
<b>Case Officer:</b>	Neil Auger
<b>Recommendation:</b>	<b>AUTHORISE ENFORCEMENT ACTION</b>



## **1 Site and Surroundings**

- 1.1 Single storey building with ridged roof located to the rear (north) of 311 to 315 London Road accessed from Hamlet Court Road by way of a narrow track which also serves adjacent commercial units and upper floor residential properties in London Road.

## **2 Lawful Planning Use**

- 2.1 The lawful planning use is for storage purposes within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

## **3 Present Position**

- 3.1 On 10<sup>th</sup> March 2014, an enforcement case was opened as a result of a complaint received from a local resident in which it was alleged that the building was being used for residential purposes.
- 3.2 Site inspections were carried out but there was no evidence that any change of use of the building had taken place so no further action was taken.
- 3.3 In January 2015, a telephone call was received from the original complainant who alleged that the building was definitely being used as a dwellinghouse.
- 3.4 The case officer carried out a further site inspection on 14<sup>th</sup> January 2015 but was unable to gain access to the building. Again, there was no substantive evidence that a residential use was taking place.
- 3.5 On 15<sup>th</sup> January 2015, a Planning Contravention Notice (PCN), which is essentially a legal request for information, was served on the owner of the land at the address registered with the Land Registry.
- 3.6 The PCN was not completed and returned so a reminder was sent dated 31<sup>st</sup> January 2015. This was eventually returned as “not known at this address”.
- 3.7 A copy of the PCN was sent to the owner care of 196E Hamlet Court Road on 8<sup>th</sup> June 2015. This was eventually completed and returned dated 1<sup>st</sup> July 2015.
- 3.8 In the response to the PCN, the owner admitted that the land was being used for residential purposes and that this use had taken place for approximately 1 year. In response to the question: “do you intend to remedy the breach of planning control”, the owner stated “we wish to apply for residential use as soon as possible”.
- 3.9 An application for planning permission for a change of use of the land was received on 26<sup>th</sup> October 2015 and was given the reference 15/01748/FUL.
- 4.0 On 18<sup>th</sup> March 2016, Application reference 15/01748/FUL was refused under delegated powers for the following reasons:

The proposed residential use of the building, by reason of its siting in close proximity to commercial uses, and lack of amenity space and refuse storage provision, poor internal layout, lack of information to demonstrate accessibility and adaptability of the dwellinghouse in accordance with Building Regulation M4 (2), lack of fenestration, poor relationship with the neighbouring buildings and the associated noise and activity from neighbouring occupiers; would result in an unacceptable form of residential accommodation to the detriment of the amenities of the future occupiers contrary to the NPPF, policies CP4 and KP2 of the Core Strategy DPD Policies DM1, DM3 and DM8 of the Development Management Document DPD2 and the Design & Townscape Guide.

The proposal would result in the loss of floorspace for employment use, which would impair economic led regeneration contrary to the National Planning Policy Framework, Policy CP1 of the Southend on Sea Core Strategy DPD1, Policy DM11 of the Development Management Document DPD2, which seek to promote building a strong, competitive economy.

The proposed development has no access to the site and would be isolated from the highway and by reason of insufficient parking will cause additional on street parking in an area of parking stress to the detriment of highway safety and the local highway network contrary to policy DM15 of the Development Management Document DPD2.

## 4 Appraisal

### Principle of Development:

National Planning Policy Framework; DPD1 (Core Strategy) Policies KP1, KP2 and CP4; Development Management DPD2 policies DM1, DM3, DM7, DM11 and the Design and Townscape Guide SPD1 (2009).

### Employment:

- 4.1 The site is located in an area of previously developed land, and in a residential area. Amongst the core planning principles of the NPPF include to:

*“Encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value”.*

- 4.2 Policy CP1 of the Core Strategy states that permission will not be granted for proposals involving the loss of business use. Part 5 of policy DM11 of the Development Management Document DPD2 states that outside of employment areas, proposals for alternative uses on sites used (or last used) for employment purposes, including sites for sui-generis uses of an employment nature will only be permitted which it can be demonstrated that:

- (i) it will no longer be effective or viable to accommodate the continued use of

the site for employment purposes; or

(ii) Use of the site for B2 or B8 purposes gives rise to unacceptable environmental problems.

It will need to be demonstrated that an alternative use or mix of uses will give greater potential benefits to the community and environment than continued employment use. This is in accordance with the NPPF.

4.3 Policy CP1 of the Core Strategy states that permission will not normally be granted for development proposals that involve the loss of existing employment land and premises unless it can be clearly demonstrated that the proposals will contribute to the objective of regeneration of the local economy in other ways, including significant enhancement of the environment, amenity and condition of the local area.

4.4 Part C, Appendix 4 of the Development Management Document requires an analysis of identifying the advantages and limitations of the site or premises in question to accommodate employment uses. For each limitation that is identified, a justification should be provided as to why it could not be overcome having regard to the introduction of alternative employment uses, general investment or improvements, or through competitive rental levels.

4.5 In addition, the appraisal should include, but is not limited to, the following analysis:

1. The relevant national, regional, local planning and economic policy context;
2. The quality of the buildings/ site;
3. The accessibility of the site and its ability to serve a range of employment uses having regard to private and public transport; and
4. Any constraints that will limit the future use of the site or premises for employment uses.

Additional marketing and market demand information, reflecting Part A and/ or Part B as set out above, may be used to support the appraisal.

Comparison with other employment sites or areas within the locality should discuss issues that are relevant to the site or premises.

4.6 Insufficient evidence has been submitted to demonstrate the site is no longer viable as a Class B8 use and therefore contrary to policy CP1 of the Core Strategy, Policy DM11 of the Development Management Document.

**Residential:**

4.7 Policy DM3 of the Development Management Document DPD2 states that *“All development on land that constitutes backland and infill development will be considered on a site-by-site basis. Development within these locations will be resisted where the proposals:*

*(i) Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents; or*

*(ii) Conflict with the character and grain of the local area; or*

*(iii) Result in unusable garden space for the existing and proposed dwellings in line with Policy DM8; or*

*(iv) Result in the loss of local ecological assets including wildlife habitats and significant or protected trees”.*

- 4.8 The site is located in a backland site surrounded by properties to the north, east and west. A dwellinghouse in this Residential use in this location is incompatible given the proximity to commercial premises to the south of the site, poor living standards and limited outlook as such the principle of residential use would not be acceptable in this location as per the previous applications contrary to policies KP2 and CP4 of the Core Strategy, policies DM1 and DM3 of the Development Management Document DPD2.

#### **Design and Impact on the Streetscene**

**National Planning Policy Framework; DPD1 (Core Strategy) Policies KP2 and CP4; Development Management Plan DPD2 policy DM1 and the Design and Townscape Guide SPD1 (2009).**

- 4.9 The only design changes include the windows, which have changed in shape but not in the number or positioning of the openings. The external alterations will not have a detrimental impact on the character and appearance of the surrounding area.

#### **Standard of Accommodation for Future Occupiers**

**National Planning Policy Framework, Development Management Document policy DM8, The National Technical Housing Standards DCLG 2015 and Design and Townscape Guide (SPD1)**

- 4.10 It should be noted from the 1<sup>st</sup> October 2015 the National Housing Standards have been adopted and state 86sqm internal floorspace per three bedroom dwelling (5 bed spaces) is required to ensure the development is in line with providing suitable living accommodation. The proposed internal size of the dwellinghouse at 68sqm fails to comply with current policy and will therefore result in a cramped living accommodation. Furthermore, the dwelling does not benefit from sufficient outlook or daylight, which is not acceptable given the windows face out onto a boundary wall to the north with limited outlook or daylight.
- 4.11 Part M4(2) of the Building Regulations adopted by the National Technical Housing Standards 1st October 2015 requires the need to provide accessible and adaptable dwellings. Insufficient information has been submitted to demonstrate that the proposal meets the criteria for the Building Regulation M4 (2). Thus the development fails to prove that it will not result in accessible and adaptable dwellings for older people or wheelchair users, contrary to the NPPF, Policy DM8 of the Development Management DPD and National Housing Standards 2015.
- 4.12 One of the core planning principles of the NPPF is that the planning system should *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.*

4.13 Policy DM8 of the Development Management Document DPD2 states that all new dwellings must make provision for useable private outdoor amenity space for the enjoyment of intended occupiers; for flatted schemes this can take the form of a balcony or semi-private communal amenity space.

4.14 Whilst the Council's Design and Townscape Guide states:

*“Outdoor space significantly enhances the quality of life for residents and an attractive useable garden area is an essential element of any new residential development”.*

4.15 No amenity space is provided for the 3 bedroom dwelling, and there is no scope within the site to accommodate any amenity space. Given the 3 bed unit sought to be retained is capable of being occupied by a family which would require some useable outdoor space for children, it is considered contrary to policy DM8 of the Development Management Document DPD2.

4.16 Furthermore, there no refuse storage within the application site. This would give rise to domestic refuse from the proposed residential house being stored on the public highway to the detriment of the amenities of neighbouring occupiers.

### **Traffic and transportation**

**National Planning Policy Framework; DPD1 (Core Strategy) policies KP2, CP4, CP3; policy DM15 of the DPD2 (Development Management Document) and the Design and Townscape Guide SPD1.**

4.17 The site is located off Hamlet Court Road only served by an access road for commercial premises to the south of the site. There appears to be no legal access to the site as per the previous application 09/00785/FUL and the site would therefore be isolated from the highway. Policy DM15 of the Development Management Document requires at least two parking spaces per dwelling. Whilst it is noted the site is in close proximity to London Road, the area suffers from parking stress and given the level of accommodation i.e. with a 3 bedroom unit the proposal will result in on street parking to the detriment of highway efficiency and safety, contrary to the NPPF, policy CP3 of the Core Strategy; policy DM15 of the Development Management Document and advice contained within the Design and Townscape Guide SPD1.

### **Impact on residential amenity**

**National Planning Policy Framework, Development Management DPD2 policy DM1, Core Strategy Policies KP2 and CP4, Development Management Document DPD2 policy DM1 and the Design and Townscape Guide (SPD1)**

4.18 Policy DM1 of the Development Management Document states that any new

development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Paragraph 343 of SPD1 (under the heading of Alterations and Additions to Existing Residential Buildings) states, amongst other criteria, that extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties.

- 4.19 The neighbouring buildings, in particular the building to the north and the access way, would only be some 2.5m from the site (window to window distance), which would lead to overlooking and loss of privacy to the detriment of future occupiers. In addition, the surrounding commercial uses are likely to have a detrimental impact upon the amenities of future occupiers of the dwelling in terms of activity, noise and disturbance.
- 4.20 The neighbouring buildings, in particular the building to the north and the access way, would only be some 2.5m from the site (window to window distance), which would lead to overlooking and loss of privacy to the detriment of future occupiers. In addition, the surrounding commercial uses are likely to have a detrimental impact upon the amenities of future occupiers of the dwelling in terms of activity, noise and disturbance.

#### **Community Infrastructure Levy (CIL) Charging Schedule.**

- 4.21 This application is CIL liable. If the application had been recommended for approval, a CIL charge would have been payable. If an appeal is lodged and allowed the development will be CIL liable. Any revised application may also be CIL liable.
- 4.22 For the reasons given, it is considered that the change of use of the land from storage (Class B8) to dwellinghouse (Class C3) is unacceptable in that a residential use of the building, by reason of its siting in close proximity to commercial uses, lack of access and amenity space, insufficient off-street parking, lack of refuse storage provision, poor internal layout, lack of information to demonstrate accessibility and adaptability of the dwellinghouse in accordance with Building Regulation M4 (2), lack of fenestration, poor relationship with the neighbouring buildings and the associated noise and activity from neighbouring occupiers would result in an unacceptable form of residential accommodation detrimental to the amenities and character of the area and to the amenities of any future occupiers contrary to the NPPF, policies CP1, CP4 and KP2 of the Core Strategy DPD Policies DM1, DM3, DM8 DM11 and DM15 of the Development Management Document DPD2 and the Design & Townscape Guide.
- 4.23 Taking enforcement action in this case may amount to an interference with the owners' and/or occupiers' Human Rights. However, it is necessary for the Council to balance the rights of the owners and/or occupiers against its legitimate aims to regulate and control land within its area. In this particular case it is considered

reasonable, expedient, proportionate and in the public interest to pursue enforcement action on the grounds set out in the formal recommendation.

## 5.0 Relevant Planning History

- 5.1 15<sup>th</sup> November 2005 – Enforcement Notice served requiring the cessation of the use of the land for residential purposes (06/00262/COU). The requirements of the Notice were discharged.
- 5.2 Permission refused to use vacant unit as residential dwelling (Class C3) (06/00207/FUL).
- 5.3 Permission refused to retain use of vacant unit (Class B8) as residential dwelling (Class C3) (Retrospective) (09/00785/FUL)
- 5.4 Permission refused to convert existing outbuilding into dwellinghouse (15/01748/FUL)

## 6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (NPPF) 2012.
- 6.2 Development Plan Document 1: Core Strategy Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP8 (Dwelling Provision)
- 6.3 Development Plan Document 2: Development Management Document Policies DM1 (Design Quality), DM2 (Low carbon development and efficient use of resources), DM3 (The Efficient and effective use of land), DM8 (Residential Standards), DM11 Employment Promotion DM15 (Sustainable Transport Management)
- 6.4 Design and Townscape Guide 2009 (SPD1).
- 6.5 Community Infrastructure Levy Charging Schedule.

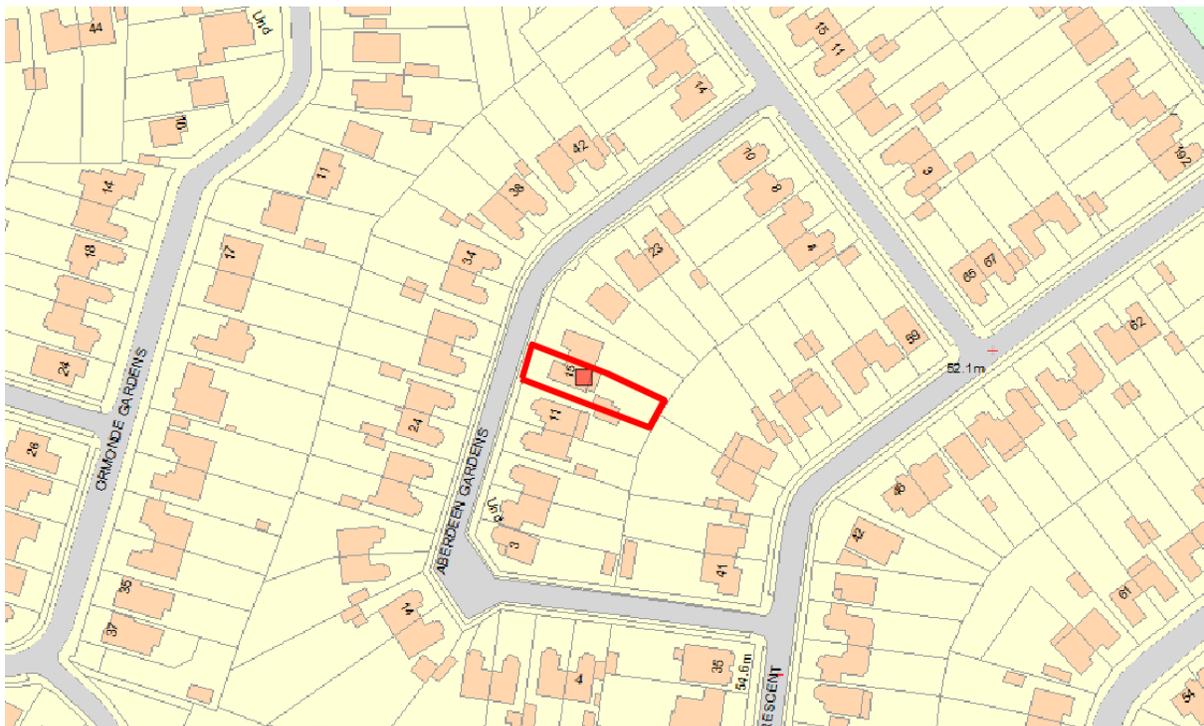
## 7 Recommendation

- 7.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION** to secure the cessation of the use of the building located upon the land as a dwellinghouse on the grounds that the use is detrimental to the amenities and character of the area and to the amenities of any future occupiers by reason of its siting in close proximity to commercial uses, lack of access and amenity space, insufficient off-street parking, lack of refuse storage provision, poor internal layout, lack of information to demonstrate accessibility and adaptability of the dwellinghouse in accordance with Building Regulation M4 (2), lack of fenestration, poor relationship with the neighbouring buildings and the associated noise and activity from neighbouring occupiers would result in an unacceptable form of residential accommodation contrary to the NPPF, policies CP1, CP4 and KP2 of the

Core Strategy DPD Policies DM1, DM3, DM8 DM11 and DM15 of the Development Management Document DPD2 and the Design & Townscape Guide.

- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case it would be necessary for the occupiers to find alternative accommodation so a compliance period of 3 months is considered reasonable.

<b>Reference:</b>	15/00242/UNAU-B
<b>Ward:</b>	West Leigh
<b>Breach of Control</b>	Without planning permission, the erection of an outbuilding which exceeds 2.5m in height and is located within 2.0m of a boundary of the curtilage of the dwellinghouse.
<b>Address:</b>	15 Aberdeen Gardens, Leigh-on-Sea, Essex, SS9 3RH
<b>Case Opened:</b>	7 <sup>th</sup> October 2015
<b>Case Officer:</b>	Neil Auger
<b>Recommendation:</b>	<b>TAKE NO FURTHER ACTION</b>



## **1 Site and Surroundings**

- 1.1 Two storey semi-detached dwellinghouse located to the east side of Aberdeen Gardens approximately 100m from its junction with St David's Drive.

## **2 Lawful Planning Use**

- 2.1 The lawful planning use is as a dwellinghouse within Class C3 of the Town and Country Planning Use Classes (Amendment) Order 2005.

## **3 Present Position**

- 3.1 On 7<sup>th</sup> October 2015, an enforcement case was opened as a result of concerns raised by a local resident about an outbuilding which had been constructed within the curtilage of this property.
- 3.2 On 14<sup>th</sup> October 2015, a site visit was carried out when it was confirmed that an outbuilding with a height exceeding 2.5m to the ridge was under construction within 2.0m of the rear and side boundaries of the curtilage of the dwellinghouse.
- 3.3 The householder advised that the outbuilding was proposed to be used for purposes ancillary to the dwellinghouse.
- 3.4 The householder was informed that planning permission was required to retain the outbuildings and a letter confirming this and inviting the submission of a retrospective application was sent on 14<sup>th</sup> October 2015.
- 3.5 An application was received on 16<sup>th</sup> November 2015 and given the reference 15/01894/FULH. This was found to be invalid by the Planning Registration Team and a letter was sent to the householder/applicant, dated 19<sup>th</sup> November 2015, explaining why the application was invalid and requesting the submission of the additional information required to validate it. This was not received and the application remains invalid.
- 3.6 The invalid application includes an elevational drawing of the proposed outbuilding which indicates its finished external height as being 3.345m to the ridge.
- 3.7 A letter dated 8<sup>th</sup> February 2016 was received from a planning agent objecting to the development on behalf of unnamed clients described as "local residents".
- 3.8 Further site visits were undertaken on 9<sup>th</sup> February 2016 and 10<sup>th</sup> March 2016 to photograph the outbuilding from neighbouring properties.

## **4 Appraisal**

- 4.1 In order for outbuildings located within 2.0m of a boundary of the curtilage of a dwellinghouse to benefit from permitted development rights under Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development)

(England) Order 2015 (formerly the Town and Country Planning (General Permitted Development) Order 1995 (as amended)), they must not exceed 2.5m in height.

- 4.2 According to the householder, the outbuilding here has a height of 3.345m which means it cannot be classed as 'permitted development' and specific planning permission is, therefore, required. As such, in planning terms, the building is unauthorised.
- 4.3 It should be noted that the adjoining properties on either side (i.e. numbers 11 and 17 Aberdeen Gardens) also have large outbuildings to the rear but these do not exceed 2.5m in height and, as such benefit from permitted development rights.
- 4.4 Members will be aware, of course, that the carrying out of operational development works without the necessary authorisation is not, in itself, reason for a local planning authority to take enforcement action. This must only be taken if the development in question is considered to result in demonstrable harm to the amenities of the area.
- 4.5 If the retrospective application for planning permission to retain the outbuilding had been validated, the key considerations would be the principle of the development, the design and impact on the character of the area and the impact on residential amenity.
- 4.6 Policy CP4 of the Core Strategy requires new development to contribute to a sustainable urban environment by maintaining and enhancing amenities, appeal and character of residential areas securing good relationships with existing developments.
- 4.7 In the Council's Development Management DPD, policy DM1 states that development should "add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features."
- 4.8 The outbuilding here is of a traditional form and has been finished to a high standard. Also, it is not visible from the public domain. Whilst higher than the adjacent outbuildings it does not appear over-scaled in the context.
- 4.9 If planning application 15/01894/FULH had been validated and determined on its merits, it is considered that it would have been recommended for approval for the reasons given.
- 4.10 The impact of the building on the residential amenities and character of the area is considered to be minimal due to generous garden depths and separation distances between properties.
- 4.11 For the reasons given, it is considered that the development is generally in accordance with Policies CP4 of the Core Strategy and DM1 of the Development Management DPD and it is, therefore, not considered expedient to take

enforcement action.

## 5.0 **Relevant Planning History**

5.1 None.

## 6 **Planning Policy Summary**

6.1 The National Planning Policy Framework (NPPF).

6.2 Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).

6.3 Development Management DPD Policy DM1 (Design Quality)

6.4 Design and Townscape Guide 2009 (SPD1).

6.5 Community Infrastructure Levy Charging Schedule.

## 7 **Recommendation**

7.1 **Members are recommended to TAKE NO FURTHER ACTION.**

<b>Reference:</b>	15/00251/UCOU-B
<b>Ward:</b>	Eastwood Park
<b>Breach of Control</b>	Without planning permission, the change of use of the land from residential (Class C3) to part residential, part workshop, part office (B1) which renders the overall use of the land sui generis.
<b>Address:</b>	22 Parkway Close, Leigh-on-Sea, Essex, SS9 5RL
<b>Case Opened:</b>	22 <sup>nd</sup> October 2015
<b>Case Officer:</b>	Neil Auger
<b>Recommendation:</b>	<b>TAKE NO FURTHER ACTION</b>



## **1 Site and Surroundings**

- 1.1 Two storey detached dwellinghouse located to the west end of a section of Parkway Close, serving this and other residential properties, which has not been adopted by the Council as Highway Authority.

## **2 Lawful Planning Use**

- 2.1 The lawful planning use is as a dwellinghouse within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

## **3 Present Position**

- 3.1 In October 2015, a complaint was received which alleged that a business was being operated from the residential property and that the operation was detrimental to the residential amenities of the area.
- 3.2 A site visit confirmed that the attached double garage was being used solely in connection with the operation of a business producing thermoplastic playground markings for schools. Office operations were being carried out in an area within the family summerhouse located to the rear of the property. The dwellinghouse itself and the majority of the summerhouse remained in residential use.
- 3.3 On 12<sup>th</sup> November 2015, a Planning Contravention Notice (essentially a legal request for information) was served on the occupiers of the land.
- 3.4 The completed Planning Contravention Notice was returned on 1<sup>st</sup> December 2015.
- 3.5 On 4<sup>th</sup> February 2016, consultation letters were sent to the occupiers of the directly adjacent residential properties inviting them to comment on the business activities. Altogether, 5 households were consulted. The consultation letters contained the sentence "If I do not hear from you, I will assume you have no concerns about the use of the property". Two responses were received in which objections were raised to the business operation.

## **4 Appraisal**

- 4.1 The original letter of complaint received by the Council includes a concern over the operation of a business from this property. It also contains references to matters which are not controllable under planning legislation and which are either civil matters or such that could be addressed under alternative legislation. This report focuses solely on the material planning considerations as they relate to the reported business use.
- 4.2 The Council recognises that, with the development of communications technology, opportunities for working from home are increasing and it seeks to positively encourage small business operations provided they do not impact upon the amenity of the surrounding uses and do not conflict with other development plan

policies. (Policy DM11 of the Development Management Document).

- 4.3 The intention of the policy is to ensure that business operations carried out at any residential property should cause no more disturbance than would normally be expected to result from activities carried out ancillary and/or incidental to the enjoyment of the property as a single dwelling.
- 4.4 Whether the business activities are detrimental to the residential amenities and character of the area is largely subjective. Clearly, the level of activity deemed unreasonable by one person may be considered acceptable to another.
- 4.5 The business in question is “Thermoplastic Designs and Lines Ltd” which, according to the director/householder, has operated from this address since 3<sup>rd</sup> March 2011. Research of records at Companies House revealed that the company was, indeed, established on 3<sup>rd</sup> March 2011. This appears to indicate that the business was in operation for some 4½ years prior to the receipt, by the Council, of the current complaint concerning its activities.
- 4.6 The business operations carried out in the garage, comprise cutting coloured playground markings from sheets of thermoplastic to be delivered for installation on site (schools, playgroups etc). A ‘swing arm press’ is used for the cutting process. An officer from the Council’s Regulatory Services Team has inspected the operation and was unable to identify any statutory nuisance in terms of noise or fumes resulting from the operation.
- 4.7 According to the householders, the business is largely seasonal with most of their orders received and executed in the spring and summer.
- 4.8 Insofar as staffing is concerned, the business is operated by the householders with the occasional assistance of 2 sub-contractors who are predominately site based. Reportedly, the sub-contractors will, from time to time, assist in the cutting operation and loading of the finished products but, in the main, they are at customers’ premises installing the markings.
- 4.9 It is evident that, because of the relative orientation of this property and the adjoining property at 20 Parkway Close (the frontages being at more or less 90° to each other), comings and goings to and from the garage used as a workshop are visible from the front windows of number 20. However, the information provided by the householders appears to indicate that these are not excessive for a relatively large family home which could, in theory, accommodate a grown-up family with the potential to operate several motor vehicles as well as carrying out other activities ancillary or incidental to the lawful planning use of the dwellinghouse.
- 4.10 There is no signage displayed which advertises the business use, no stock is stored outside and, according to the householders, all waste generated by the business operation is stored out of sight and is collected by a waste disposal contractor on a fortnightly basis. At the time of various site visits by the case officer, no waste materials were observed from the public domain which would appear to support the latter assertion. The use of an area within the summerhouse,

located to the rear of the property, has no impact on the amenities of the area. It is considered, therefore, that the outward appearance of the residential property is not materially affected by the business operations.

- 4.11 In terms of business vehicles, one Ford Transit van is regularly parked within the site and another, used by the sub-contractors, visits the site from time to time as necessary. (According to the householders, on average approximately 3 times per week – mainly in the spring and summer). The van regularly kept on-site is not sign written. The property has a large, paved area to the front providing off-street parking for 6 vehicles so the parking of business related vehicles is not considered to impact on access to the close or on-street parking.
- 4.12 The householders state that, on average, deliveries of materials etc. are made to the site by a 7.5 tonne goods vehicle approximately 3 times per month.

For Member's information, a typical 7.5 tonne delivery lorry has a length similar to that of an average refuse freighter (although it would generally be approximately 0.5m higher).

A comment made in a response to the neighbour consultation asserted that "it may be that you will receive assurances that these deliveries are infrequent and unobtrusive. Such an assurance, if made, would, to put it mildly, be contestable". However, the writers admit that they "are not in a position to put a precise figure on the number of heavy lorry deliveries to 22 Parkway Close".

- 4.13 There is no evidence, therefore, to suggest that the stated number of deliveries is incorrect and such a number would not seem unreasonable in the current climate given the numbers of deliveries regularly made to dwellinghouses by supermarkets, builders' merchants, furniture suppliers, the Post Office etc. not to mention others made as a result of on-line shopping.
- 4.14 Comments have also been received which allege that the deliveries cause damage to the highway. At the time of various site visits by the case officer, no damage to the adopted section of highway (Parkway Close) was observed. The unadopted section leading to numbers 18, 20 and 22 Parkway Close had suffered some damage but this could not be specifically attributed to lorries delivering to number 22. In any event, this is a civil matter as the road is privately owned.
- 4.15 Concern has also been raised about the potential danger to pedestrians, vehicles and property which could result from deliveries to the site. It is a fact that, every traffic movement has a potential for some degree of danger and the duty of care is with the driver of the vehicle in question and/or any other road user. There have been no reports of traffic accidents in Parkway Close.
- 4.16 It is quite probable that the business activities carried out at this property will, from time to time, cause a degree of disturbance to the occupiers of adjacent properties. However, whether this would be in excess of what could reasonably be expected from the occupiers of a large family home is a matter of fact and degree.

- 4.17 On balance, it is considered that the activities do not result in demonstrable harm to the amenities of the area to the extent that it would be reasonable, expedient, proportionate or in the public interest to pursue enforcement action which could severely impact on the livelihood of the occupiers.
- 4.18 Naturally, if the activities intensify significantly at any time in the future, the matter may be revisited.

## **5 Planning Policy Summary**

- 5.1 National Planning Policy Framework
- 5.2 Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).
- 5.3 Development Management DPD Policy DM11 (Employment Areas)
- 5.4 Design and Townscape Guide SPD
- 5.5 Community Infrastructure Levy Charging Schedule.

### **Recommendation**

**Members are recommended to TAKE NO FURTHER ACTION**