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## **BREACH OF PLANNING CONTROL AT 90 BURNHAM ROAD, HULLBRIDGE**

### **1 SUMMARY**

- 1.1 To consider the report of the Head of Planning Services regarding the material change of use of the above property from residential to mixed use (part residential, part commercial) without the benefit of planning permission.
- 1.2 Members will need to consider whether it is expedient to serve enforcement notices, etc. and this function is discretionary. However, the mechanisms of such actions are statutorily controlled.

### **2 THE ENFORCEMENT CASE**

- 2.1 The occupier of the above property works for a wallcoating company and stores his Transit van and building equipment and material at the site. This gives the site a somewhat untidy appearance and coupled to the early morning departures and late night returns, the use is not suitable for a residential area.
- 2.2 Section 54A of the Town and Country Planning Act 1990 (as amended) gives development plan policy primary weight in the planning decision making process. Section 54A states:

"Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations dictate otherwise."

- 2.3 In this instance the development is contrary to two policies within the Rochford District Local Plan. These are policies EB6 (non-conforming uses) and H24 (safeguarding residential amenity). Although the transgressor would find it time consuming to park his vehicles and store his materials and equipment elsewhere, this is not a material planning consideration. There would appear in fact to be no material planning considerations that outweigh the policy concerns.

### **3 CONCLUSIONS**

- 3.1 A material change of use has taken place to the detriment of residential amenity. In this instance there are no material planning considerations which can be said to offset the weight afforded to the development plan policies.

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**4      LEGAL IMPLICATIONS**

- 4.1    Any action considered necessary through the Courts to remedy the breach.

**5      RECOMMENDATION**

- 5.1    It is proposed that the Committee **RESOLVES**

That the Corporate Director (Law, Planning and Administration) be authorised to take all necessary action including the issue of Notices and action in the Courts to secure the remedying of the breach of planning control now reported. (HPS)

Shaun Scrutton

Head of Planning Services

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For further information please contact Andrew Meddle on:-

Tel:-            01702 318096  
E-Mail:-        andrew.meddle@rochford.gov.uk

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# Hullbridge

Ward Bdy

Path (um)

MEADOW-ROAD

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