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## **BREACH OF PLANNING CONTROL AT THE CONIFERS, ROSILIAN DRIVE, LOWER ROAD, HOCKLEY, ESSEX**

### **SUMMARY**

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control, namely the change of use from residential to a mixed use for residential purposes and vehicle repairs and storage beyond that normally found at a domestic property.
- 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 INTRODUCTION**

- 2.1 This breach is occurring on land at The Conifers, Rosilian Drive, Lower Road, Hockley, Essex. This is a property located on an unmade road within the Metropolitan Green Belt. It involves the above change of use where vehicle repairs and storage take place within the residential curtilage of the property, primarily in a compound

### **3 PLANNING HISTORY**

- 3.1 This matter was brought to Officers attention following reports from members of the public in February 2001. The site was visited by planning officers, and evidence of a commercial use was found. The visit revealed approximately seven commercial vans stored within the compound, along with evidence that work was being done to them.
- 3.2 The owner of the property was subsequently served with a Planning Contravention Notice. In his response to this he admitted that the site was used for the above vehicle repairs, and had been since he bought the property in 1996. The owner also claimed that this use had occurred prior to his purchasing of the site, for a total of more than ten years.
- 3.3 To that end the resident has been invited to submit an application for a Lawful Development Certificate. In order for this to be approved it will need to be shown, on the balance of probabilities, that this land has been used for commercial vehicle repairs for in excess of ten years. The Council holds evidence to the contrary, which suggests that the commercial vehicle repairs only commenced in 1996 when the present occupier moved in.

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- 3.4 Further to this, evidence has come to light that there are a number of historical Enforcement Notices already served against the use of the site for a) the repair and re-spraying of motor vehicles and b) the parking and/or storage of motor vehicles and parts and the storage of scrap metal. These were served in the 1970's and it may well be that the authority could prosecute now for non-compliance with these Notices. The legalities of this are being considered although to ensure that Officers have the full and appropriate authority to take further enforcement action if necessary this report is brought before Members.

#### **4 PLANNING ISSUES**

- 4.1 The issue of whether or not the use of a residential property for the operation of a commercial vehicle repair business is acceptable depends upon various factors including its effect on the surroundings as well as the provisions of the development plan.
- 4.2 Policy EB6 of Rochford District Local Plan deals with non-conforming uses and states that :-

*“Where existing employment development...has a serious adverse effect on residential or rural amenities, the Council may consider using its powers...to secure its relocation or extinguishment.”*

- 4.3 It is felt that a use of this nature in this location, close to other residential properties, is unacceptable due to the undue detriment that it causes to the amenities of surrounding properties. Complaints have been received by the Council as a result of the number and nature of deliveries to the property. The impact that this has on the residential amenity of the surrounding properties can not be considered reasonable.
- 4.4 In addition to this is the negative visual impact resulting from the parking of such a number of clearly commercial vehicles within a residential curtilage. In some instances reports have been received that vehicles are parked on the highway, causing additional annoyance and disruption to other residents and road users within this confined road.
- 4.5 Policy GB1 of the Rochford District Local Plan refers to changes of use within the Green Belt. It states that permission will not be granted, except in exceptional circumstances, for the change of use for purposes other than agriculture, forestry or recreation. Whilst this has to be considered alongside the policy advice from Central Government e.g. PPG 2 where the re-use of existing buildings is generally promoted, there are important planning reasons here why the use is unacceptable. The open use is contrary to policy and the effect on the amenity of nearby dwellings warrants further Enforcement action

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- 4.6 Policy EB6 refers to the availability of enforcement powers to secure the relocation or extinguishment of non-conforming uses. In view of the detrimental impact that this use has on its surrounding area, authorisation for formal enforcement action is now sought.

**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 now reported. (HPS)

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