
BREACH OF PLANNING CONTROL AT THE LAMINATE FLOORING WAREHOUSE, 24D EASTWOOD ROAD, RAYLEIGH

1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding the change of use from Class B1 to Class A1 of the Town and Country Planning (Use Classes) Order 1987 of the above property without the benefit of planning permission. A Member has brought this case to Officers attention.
- 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 Planning permission was granted in 1977 (reference ROC/613/77) for the construction of a factory for light industrial purposes. Under the current Town and Country Planning (Use Classes) Order 1987, this equates to a Class B1 use, which in this instance can be categorised as being for "... any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.". Under the current law (General Permitted Development Order 1995) the use of such units can be changed from B1 to B8 (storage or distribution centre) without a planning application.
- 2.2 The current use of the premises is as a mixed trade supplies, telephone sales and retail use, which falls within the A1 use class (shops, retail warehouse, etc.). This has been determined as the case because the owner claims that 51% of sales are to the trade, but 31% is telephone sales and 19% retail (101%). This means that around half the sales relate to the retail side of the business, which is a significant change. Such a figure cannot be considered ancillary or incidental to the main use and therefore must result in a material change of use.
- 2.3 The site lies within an area zoned within the Rochford District Local Plan as being zoned primarily for Class B1 (Business) Use. This designation relates to Policy EB2 (Industrial Development). There is a presumption in the policy against any change of use from B1 to anything other than B1 or B8. However, the site is located immediately adjacent to a Prime Shopping area and there would appear to be no demonstrable harm being caused by this particular use given the proximity of the site to other retail uses, the town centre, public car parks, etc.

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- 2.4 The views of other bodies e.g. the County Highways Department are being sought, but it appears likely that if the owner did apply for planning permission that it would be conditionally granted. On balance and in light of these and other factors the recommendation is made.

3 CONCLUSIONS

- 3.1 It is the opinion of officers that a material change of use has taken place without the benefit of planning permission. Despite having requested that an application be made, no such submission has been made.
- 3.2 However, from an 'expediency' perspective, the local planning authority may find it difficult to justify further formal action. It is therefore necessary to bring the matter before Members to obtain a more formal view before going back to operators concerned with a view to regularising the breach. In this particular case therefore the recommendation being made is that enforcement action is *not* pursued.

4 LEGAL IMPLICATIONS

- 4.1 None, if the following recommendation is accepted. However, if enforcement action is authorised there will be further action as considered necessary through the Courts to remedy the breach if formal Notices are not complied with.

5 RECOMMENDATION

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

That no enforcement action is taken in this matter but Members considered views are forwarded to the owners and they are strongly requested to formally regularise the breach by the submission of a planning application. (HPS)

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