

E/08/0458/B - The unauthorised mixed use of land for a garden centre and for commercial storage at the rear of 167 Ware Road, Hertford, SG13 7DP

Parish: HERTFORD

Ward: HERTFORD KINGSMEAD

RECOMMENDATION

That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under Section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure the cessation of the unauthorised use and the removal of the commercially stored items and garden centre paraphernalia from the land.

Period for compliance: 3 months

Reason why it is expedient to issue an enforcement notice:

1. There is no demonstrable need for the development which has a detrimental effect on the vitality of Hertford town centre, contrary to policy STC6 of the East Herts Local Plan Second Review April 2007.
2. The development results in additional commercial traffic generation to and from the site which is detrimental to the residential character of the area and the amenities of nearby residents. The development is therefore contrary to policies STC10, ENV1 and TR7 of the East Herts Local Plan Second Review April 2007 and detrimental to highway safety and the free flow of traffic in Cromwell Road.

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1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. The entrance is located on the southern side of Cromwell Road, Hertford about 25 metres east of the junction with Rowley's Lane. Photographs of the site will be available at the meeting.
- 1.2 In September 2008 a concern was expressed to the Authority regarding the opening of a garden centre, known as Urban Jungle, in the rear garden of the Post Office at 167 Ware Road. The site only opened at weekends.
- 1.3 The enforcement officer visited the site on 8th October 2008 and found that the rear gates to the premises were locked but a selection of plants, hanging baskets and pallet loads of bark and soil conditioner were clearly visible on the site. Enquiries at the shop at 167 Ware Road revealed that

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the garden area was separately rented out and the use of it was not connected to either the shop or to the residents of the flats.

- 1.4 Following a letter written to the occupier, the enforcement officer visited the site by appointment and discussed the usage of the land with the proprietor of 'Urban Jungle'. He stated that the land is in a mixed use with part of it being used to store materials and plants for the proprietor's landscape gardening business. Plants are reared on the land and used to create hanging basket arrangements, some of which are used in the course of the landscape gardening business and others sold to visiting members of the public.
- 1.5 An outbuilding on the site had been converted to a small retail unit displaying ceramic wares, watering cans and other items incidental to the garden centre use. The enforcement officer informed the proprietor that he considered that there was a material change of use of the land, something which required planning permission. The proprietor stated his intention to submit a retrospective planning application seeking to regularise the development.
- 1.6 The enforcement officer wrote confirming his advice on 15th October 2008, asking that any application be submitted within 28 days. That letter was not acknowledged nor replied to and no retrospective planning application was received.
- 1.7 Further weekday site visits, when the premises were locked, indicated that the premises were still in use as described above. On 11th February 2009 the enforcement officer again wrote to the proprietor informing him that officers would have no alternative other than to recommend formal enforcement action unless an application was received in 14 days. To date there has been acknowledgement or reply to that letter and no planning application has been submitted.

2.0 Planning History

2.1 The recent planning history is as follows: -

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| 3/03/1971/FP | Change of use from existing incidental storage area into office space with parking facilities – Refused and dismissed on appeal. |
| 3/06/1383/FP | Conversion of existing 4 bed flat into 3 self contained units - Refused |
| 3/06/2079/FP | Conversion of existing 4 bed flat into 2 self contained units - Approved |

3.0 Policy

3.1 The relevant policies in this matter are:-

STC6 – Out of Centre and Out of Town Retailing

STC10 – Garden Centres and Nurseries

TR7 – Car Parking - Standards

EDE4 – Storage and Distribution uses

ENV1 – design and Environmental Quality

4.0 Considerations.

4.1 In this matter the main issues to be considered revolve around the appropriateness of the uses of the site within a residential area; the impact of the traffic generated by the development on the surrounding area and upon residential amenity; and the effect of the development on both the vitality and viability of the nearby town centre.

4.2 The proprietor of the site has commenced a mixed use of it. It was formerly the garden of 167 Ware Road, Hertford, where there was some storage use of the outbuilding ancillary to the primary use of the shop/post office. The current independent storage use falls within the “B8” class of the Use Class Order and the garden centre use is “sui generis”, not falling within one of the specific classes.

4.3 Whilst acknowledging the small scale of the development, Officers consider that the additional associated vehicle movements – deliveries, customer and staff parking etc – are detrimental to the residential character of Cromwell Road, and lead to additional kerbside parking to the detriment of the free flow of traffic and highway safety in the area.

4.4 In this respect, it should be noted that, in dismissing the appeal for limited office use of the buildings on this site in 2004 (LPA ref: 3/03/1971/FP) the appeal inspector also noted that, even a small scale development would, in his view, have a materially detrimental effect on highway safety and the free flow of traffic past the site. Officers consider that this matter is equally relevant in this case.

4.5 Although not a large retail/storage unit, officers also consider that the plants, hanging baskets and floral accessories on sale are likely to impact to some extent upon the viability of local florists and garden centres in the area. No evidence to the contrary has been put forward by the business owner in this case and it is therefore considered that the use is contrary to policy STC6 of the Local Plan which seeks to protect the vitality and viability of town centre shopping.

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4.6 Planning policy regarding garden centres and nurseries is set out in policy STC10 of the Local Plan. That policy requires that car parking arrangements, traffic generation and the likely impact on residential amenity are taken into consideration. The site is accessed from Cromwell Road where there is almost universal on street residential parking with little free space available. There is no off street parking at the site which is fully utilised for the storage of goods. The additional traffic generated by the development is considered by officers to be detrimental to the residential amenity of local residents. The lack of parking provision for vehicles is also contrary to the provisions of local plan policy TR7

5.0 Recommendation

5.1 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised use of the land and the removal of all goods and chattels associated with that use.