

**E/09/0157/A – Unauthorised material change of use of the land at 53 Honeybourne, Bishop's Stortford, CM23 4EE**

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**Parish: BISHOP'S STORTFORD**

**Ward: BISHOP'S STORTFORD CENTRAL**

**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 industrial use.

Period for compliance: 6 months.

Reason why it is expedient to issue an enforcement notice:

The mixed residential/general industrial (B2) use of part of the residential site and outbuildings generates noise and dust that has a negative impact on the amenity of residents. It is thereby contrary to policies ENV1 and EDE6 of the East Herts Local Plan Second Review April 2007; and PPG4 at paragraph 33.

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**1.0 Background**

- 1.1 The site is shown on the attached Ordnance Survey extract. It is situated in a cul-de-sac at the end of Honeybourne about 250 metres from the junction with Villiers-sur-Marne Avenue, adjacent to a block of three garages. Honeybourne forms part of a densely populated residential area.
- 1.2 Enforcement officers investigated complaints relating to a business use of outbuildings at the site in 2002, 2004 and 2008. These complaints concerned the use of the property for the manufacturing of items, using a range of powered woodworking tools.
- 1.3 In each of these cases it was considered that the use, at a maximum of two hours a week, fell within the category of running a small business from home and did not represent a breach of planning control. The business was then described as principally the erection of sheds which were delivered and erected at customers' addresses. The use of the site was restricted to the manufacture of hardwood corner features and similar small items.

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- 1.4 In April 2009 a further complaint was received regarding the erection of an outbuilding for business purposes and a more intensive use of the site for the manufacture of bespoke furniture.
- 1.5 The enforcement officer visited the site and found that a lined wooden workshop 8 metres by 3 metres had been erected across the full width of the bottom of the garden and connected to an existing outbuilding/workshop previously erected behind the garage.
- 1.6 The owner had written to a planning officer asking whether planning permission was required for a “shed” where the workshop was sited. The officer replied informally giving the physical limitations imposed by Class E of the General Permitted Development Order (GPDO).
- 1.7 The enforcement officer visited the site and explained to the owner that as the building had been erected for a business purpose it could not benefit from permission granted by the householder GPDO. The owner stated that he would apply for planning permission for the outbuilding.
- 1.8 The enforcement officer continued to receive telephone calls complaining of the noise and dust created by the commercial woodworking use of the land, especially as at that time there were no doors fitted to the new building. The owner stated that he was not going to apply for retrospective permission for the outbuilding as it was his intention to use it for residential storage.
- 1.9 On a further pre-arranged site visit in June 2009 the enforcement officer found that the building had been emptied, although it was now physically attached to the other workshop building and there were no doors or other physical barrier between them. At that time there were a number of bespoke kitchen cupboard doors being dried in the original workshop following manufacture and spraying.
- 1.10 The owner admitted that these doors were manufactured on site as part of his recent expansion into bespoke kitchen manufacture/fitting. He also stated that his commercial use of the site had increased since officers’ had visited the site in 2008.
- 1.11 In order to establish the usage of the site in a form that could be legally relied upon, a planning contravention notice was issued and served on 10<sup>th</sup> June 2009 requiring details of the commercial use of the property.
- 1.12 In the owner’s written response, dated 24<sup>th</sup> June 2009, he stated that the “shed” was being used for the “manufacture of diverse wooden products, for purposes that are not incidental or ancillary to the enjoyment of the

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dwellinghouse as such". He further stated that no employees used the land for that purpose and the average time spent on this manufacturing process was 15 hours per week. This time is not evenly spread throughout the week but tends to be 2 full days, with the remainder of the week being spent on site.

- 1.13 The enforcement officer wrote to the owner on 25<sup>th</sup> June 2009 informing him that it was the view of officers that the current level of industrial use exceeded that which could be reasonably considered ancillary or incidental to the dwellinghouse. They considered that the woodworking activities had now changed the character of the site to the extent that a material change of use had occurred. The letter also stated that officers' were of the view that planning permission for a mixed residential and industrial use was not likely to be granted by the Council in such a residential area.
- 1.14 The letter also stated that as the relocation of the business was necessary, the Council would be prepared to agree a reasonable period in which the owner could source, and relocate to, suitable premises. The owner was asked to contact officers within 21 days to discuss his proposals for relocation.
- 1.15 The owner wrote on 13<sup>th</sup> July 2009 stating that he was short of work and that he had no option other than to work from home. The enforcement officer responded on 21<sup>st</sup> July 2009 stating that whilst officers' sympathised with his personal circumstances, they still required his proposals to cease the unauthorised industrial use.
- 1.16 No response to this letter has been received to date.
- 1.17 Photographs of the site will be available at the meeting.

## **2.0 Planning History**

3/03/0277/FP	2 storey side extension and front porch	Refused
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## **3.0 Policy**

- 3.1 The relevant policies in this matter are:-

ENV1 – Design and environmental quality

EDE6 – Home Working

PPG4 – Industrial and Commercial Development and Small Firms at paragraph 33.

**4.0 Considerations**

- 4.1 The main consideration in this matter is the impact of the unauthorised use on the amenity of neighbouring householders, a number of whom have contacted the enforcement officer. The intensive use of the wooden buildings for 15 hours a week for the commercial manufacture of wooden products has led to these complaints of noise and dust nuisance.
- 4.2 It is the view of officers that the recent intensification of the business use represents a material change of use of the land to a mixed use of residential/general industry (B2), as the commercial activity causes detriment to the amenity of the residential area. Accordingly the use is contrary to the above national and local policies.
- 4.3 Whilst the recently erected outbuilding was not constructed for purposes incidental to the enjoyment of the dwellinghouse it is the view of officers that it is the use of the building that is unacceptable. As any enforcement notice for operational development would have a fall back position on appeal, as acceptable under Class E for use incidental to the enjoyment of the dwellinghouse, officers do not consider that it would be expedient to issue and serve such a notice requiring the removal of the building.

**5.0 Recommendations**

- 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.