



South Staffordshire Council

Report and Authorisation for Enforcement Action

THE AUTHORITY TO AUTHORISE THE ACTIONS PROPOSED IS DELEGATED TO THE CORPORATE DIRECTOR INFRASTRUCTURE AND BUSINESS GROWTH, BY VIRTUE OF PART 3 OF THE CONSTITUTION.

ENFORCEMENT REFERENCE: 23/00247/UNCOU

ADDRESS: 15 Sytch Lane, Wombourne, Wolverhampton, WV5 0NF.

LAND TO WHICH THE NOTICE RELATES:

15 Sytch Lane, Wombourne, Wolverhampton, WV5 0NF ("the Land"), shown edged red on the plan attached to the notice.

BREACH OF PLANNING CONTROL:

- i) Without planning permission, the material change of use of the Land from a dwelling house to a mixed use as a dwelling house and food preparation associated with food delivery business which includes the production, distribution and storage of cobs.
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POLICY CONSIDERATION

South Staffordshire Council Adopted Core Strategy 2012

Policy EQ9: Protecting Residential Amenity

Policy EV12: Parking Provision

NPPE

Paragraph 128 – subsection (d)

RELEVANT PLANNING HISTORY:

2012 - First floor and single storey rear extensions – **approved** – (12/00939/FUL)

2000 - Detached garage, hall, lounge, kitchen, conservatory and bedroom extensions and new vehicular access – **approved** – (00/00614/FUL)

Enforcement History

TO BE READ IN CONJUNCTION WITH THE ATTACHED NOTICE

23/00052/ENQ - Alleged running of bakery business from a residential address without planning permission – **closed** due to lack of information from complainant.

CASE SUMMARY:

On 19th October 2023 complaint received reporting that a bakery business was being run from the residential address which involved large lorries making deliveries to the property early in the morning and commercial waste being produced.

19th October 2023 - Photos were requested from the complainant to establish the type of lorries that were delivering to the property and to gain further information relating to the case.

24th October 2023 - Photo received showing a delivery of bread being made to the property.

Letter sent to the tenant, Mr Warren Davies, dated 28th November 2023 requesting contact by 8th December 2023 to discuss the case further.

1st December 2023 - Phone call received from Mr Warren Davies the owner of the business, it was advised that the property is residential with four family members. Staff working for the business are five family members and four part time staff that walk to the property to work. The business runs on a Tuesday, Thursday and Saturday from 8.30am – 1.30pm. A box van delivering the bread rolls arrives between 8.00am – 8.30am on a Tuesday, Thursday and Saturday and is parked on the driveway to offload for approximately 15 minutes.

Further information regarding the business set up and quantities of cobs produced obtained from Food Safety and Licensing Officer following an inspection of the property in 2022. This inspection found that there were approximately 1,000 cobs produced on each working day all of which are prepared in the outbuilding in the rear garden of the property. Further information regarding the level of business activity is detailed below following an email from Ms Tustin on 5th April 2024.

Email sent to Warren Davies 3rd January 2024 requesting an application to be submitted for a change of use of the property from residential to a mixed use of business/commercial due to the volume of cobs produced and the number of staff employed at the business.

Telephone conversation on 2nd February 2024 with Warren Davies who advised he had passed the details onto his planning agent and requested an extension for submission of the application to 23rd February 2024 which was agreed.

27th February 2024 – email sent to agent to chase up submission of the application.

29th February 2024 – Agent advises that the job is booked in but not complete yet, provides extract from an email sent by the owner of the property stating that the property has a commercial permission to create a livelihood as passed down in the deeds of the property, so therefore does not believe his clients need to apply for planning permission for a change of use and instead could provide a declaration of truth to prove the commercial use has been in existence for 10 years.

6th March 2024 – Email sent to the agent to advise that the permission detailed within the deeds of the property is a completely separate matter and does not carry any planning merit. Further extension of 7 days given for submission of an application.

26th March 2024 – Email sent to agent to chase up submission of application.

4th April 2024 – Called Mr Warren Davies to see what the current situation was regarding submission as no contact received from agent, owner advised due to meet his agent w/c 08th April 2024 to discuss details for submission.

4th April 2024 – Mr Warren Davies partner Julie Tustin called to advise she does not believe they need to apply for planning permission and will instead look to submit a certificate of lawfulness. Email received advising that they believe they are operating a legal development as the commercial use detailed in the deeds of the property would mean that planning permission for a change of use is not required.

5th April 2024 – Email sent to explain that planning permission will be required, and final submission date set for Friday 12th April 2024, failure to submit by this date would lead to Enforcement action. Site visit arranged for 10th April 2024.

5th April 2024 – Email received from Ms Tustin to explain that there are 9 members of staff that work for the business in total, 5 of which are family, and the remaining 4 members of staff walk to and from the property to work. The cobs are made on the premises 3 times a week which are a Tuesday, Thursday and Saturday between the hours of 9am – 1pm. Delivery of the cobs are then subsequently made to local businesses 3 times a week, a van leaving the property between 7am-8am 3 times a week on a Tuesday, Thursday and Saturday. A delivery of salad, ham and cheese are made to the property twice a week on a Tuesday and Thursday.

10th April 2024 – Site visit carried out, photos taken, and further information given by both Mr Warren Davies and Ms Julie Tustin. Both parties advised that they would not submit an application by the deadline date and would appeal the enforcement notice that would subsequently be issued.

18th April 2024 – confirmation email sent to Ms Tustin explaining that as they had advised they do not wish to submit a change of use application we will now start to prepare the enforcement notice.

REASONS FOR ISSUING THE ENFORCEMENT NOTICE

1. It appears to the council that the unauthorised material change of use of the Land has occurred within the last ten years and is therefore not immune from enforcement action.
2. The unauthorised material change of use has occurred by the use of a building to the rear of the Land now comprising of a business/commercial use. The current use of the ground floor of the outbuilding is to produce approximately 1,000 cobs three times a week. This operation involves deliveries of bread to the property three times a week, sandwich fillings deliveries twice a week and a van leaving the property three times a week to deliver the cobs. Nine members of staff work for the business at the property, 5 of which are family members of the household and 4 staff that walk to the property. Given the nature and operation of the unauthorised use as a matter of fact and degree it is not considered that the unauthorised use is incidental to the use of the dwelling house situated on the Land.
3. The unauthorised material change of use of the Land is having a negative impact on the amenity of local neighbours who have reported increased noise and disturbance from the deliveries made to the property and is contrary to Policies EQ9 and EV12 of South Staffordshire Council Adopted Core Strategy 2012 and paragraph 128 subsection (d) of the NPPF.

STEPS TO BE TAKEN

- i) Cease the mixed use of the Land for the purposes of a food preparation in association with a food delivery business including the production, distribution and storage of cobs associated with the business.
- ii) Remove from the Land all equipment fixtures and fittings, plant and machinery and paraphernalia used in association with the unauthorised use.

EXPEDIENCY OF ENFORCEMENT ACTION:

A breach of planning control has occurred which requires formal enforcement action.

The landowner has been given ample opportunity to submit a planning application for a change of use of the property although after initially advising a planning application was in process have since advised that a planning application will not be submitted as the owners do not feel one is necessary. It has been explained that due to the scale of the business running from the property this activity would amount to a material change of use requiring planning permission. Therefore, it can be shown that it is both expedient and within the public interest to proceed with formal enforcement action to remedy the harm caused by this unauthorised change of use.

CASE OFFICER DECLARATION:

I hereby declare that I have adhered to the Council's Planning Enforcement Policy & Procedures, and that based on the evidence gathered during my investigation, it is both expedient and in the public interest to serve the notice attached to this form, subject, where relevant, to the amendments made by the named Officers below.

I have given consideration to [South Staffordshire Council's Planning Policies](#), the [National Planning Policy Framework](#), and to the Government's [Enforcement and post-permission matters](#) guidance during the course of my investigation and in the drafting of the attached notice, ensuring that it is a proportionate and reasonable response to the breach of planning control.

CASE OFFICER: Jenny Thompson
POSITION: Planning Enforcement Assistant
DATE: 26th April 2024

*Jenny
Thompson*

Signed:

LINE MANAGER COMMENTS:**DECLARATION:**

I hereby declare that I have reviewed the case and support the Case Officer declaration above.

Based on my review of the evidence gathered during the investigation, it is both expedient and in the public interest to serve the notice attached to this form, including, where relevant, my amendments detailed above, and those made by the other named Officers.

TO BE READ IN CONJUNCTION WITH THE ATTACHED NOTICE

I have given consideration to [South Staffordshire Council's Planning Policies](#), the [National Planning Policy Framework](#), and to the Government's [Enforcement and post-permission matters](#) guidance during my review of the investigation and my amendments to the attached notice, ensuring that it is a proportionate and reasonable response to the breach of planning control.

NAME: Catherine Gutteridge
POSITION: Planning Enforcement Team Manager
DATE: 04.06.24

Signed:



DEVELOPMENT MANAGEMENT COMMENTS, INSERTIONS OR REVISIONS:

DECLARATION:

I hereby declare that I have reviewed the case and support the Officer declarations above.

Based on my review of the evidence gathered during the investigation, it is both expedient and in the public interest to serve the notice attached to this form, including, where relevant, my amendments detailed above, and those made by the other named Officers.

I have given consideration to [South Staffordshire Council's Planning Policies](#), the [National Planning Policy Framework](#), and to the Government's [Enforcement and post-permission matters](#) guidance during my review of the investigation and my amendments to the attached notice, ensuring that it is a proportionate and reasonable response to the breach of planning control.

NAME: Michael Brown
POSITION: Strategic Projects Assistant Team Manager
DATE: 07/06/2024

Signed:



LEGAL SERVICES COMMENTS, INSERTIONS OR REVISIONS:

DECLARATION:

I hereby declare that, subject to the previous legal advice, the comments in this report and authorisation form, and on the attached notice, the notice attached is in a legally acceptable form.

NAME: Pardip
Sharma
POSITION:
Solicitor
DATE: 03 07 2024

Signed : Pardip Sharma

AUTHORISING OFFICER COMMENTS, INSERTIONS OR REVISIONS:

TO BE READ IN CONJUNCTION WITH THE ATTACHED NOTICE

DECLARATION:

I hereby declare that I have reviewed the case and support the Officer declarations above.

Based on my review of the evidence gathered during the investigation, it is both expedient and in the public interest to serve the notice attached to this form, including, where relevant, my amendments detailed above, and those made by the other named Officers.

I have given consideration to [South Staffordshire Council's Planning Policies](#), the [National Planning Policy Framework](#), and to the Government's [Enforcement and post-permission matters](#) guidance during my review of the investigation and my amendments to the attached notice, ensuring that it is a proportionate and reasonable response to the breach of planning control.

Annette Roberts

Corporate Director Infrastructure and Business Growth

DATE: 31/07/2024

Signed:


