

**Alleged Unauthorised Development**

Ditton

09/00366/UNAUTU

571666 158080

Ditton

Location:

56 Primrose Drive Ditton Aylesford Kent ME20 6EQ

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**1. Purpose of Report:**

- 1.1 To report the alleged unauthorised change in use from residential to a mixed residential and business use, the business element involving the preparation of hot food for delivery

**2. The Site:**

- 2.1 The site forms a semi detached property on the west side of Primrose Drive. There is no vehicular access to the front of the site with only on road parking on Primrose Drive and pedestrian access. Vehicular access to the property is to the rear and is accessed off a private road which serves a number of properties in Primrose Drive.

**3. History:**

- 3.1 TM/09/02899/FL - Change of use of garage to storage in association with catering business - Undetermined

**4. Alleged Unauthorised Development:**

- 4.1 Without planning permission the unauthorised change of use from residential use to a mixed residential and business use, the business element involving the preparation of hot food for delivery.

**5. Determining Issues:**

- 5.1 The site first came to our attention when information was received that a food delivery business was being operated from the site. After an initial investigation it was determined that planning permission was required for the use of the garage for storage for the business. When planning permission was granted for the property a condition was imposed that required parking or garaging of one car per dwelling to be kept available. The storage use for the business is in breach of this condition.
- 5.2 At this time the application for the change of use of the garage has not been determined as it appears the nature and the scale of the business has increased. This has resulted in a Planning Contravention Notice being served and further site meetings held with the owners. The result of this was the determination that a change of use of the whole property had occurred and that a mixed use of residential and business use is occurring.

- 5.3 The owners of the site have informed us that they are looking to move the business to an existing commercial property in the area. The property that has been proposed will also require the benefit of planning permission for a change of use as at the current time it benefits from an A1 (shop) use and will require permission for A5 use (for the sale of hot food for consumption off the premises). The application for this change of use has now been submitted.
- 5.4 The use of the site has increased the amount of traffic coming and going from property and thus increases the use of the private access from Primrose Drive. This causes a loss of amenity for the neighbouring properties particularly as, by its nature, most of the traffic occurs during the evening and does not meet the criteria of Core Strategy Policy CP24 and for this reason it is expedient to take enforcement action to seek the cessation of the unauthorised development.

## 6. Recommendation:

An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Legal Services Partnership Manager, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

### **Breach Of Planning Control Alleged**

Without planning permission a material change of use of the property from residential to a mixed residential and business, use the business element involving hot food preparation for delivery.

### **Reasons For Issuing The Notice**

It would appear that the above breach of planning control has occurred within the last ten years. The use of the site for the preparation of hot food for delivery off site causes a loss of residential amenity to neighbouring properties by virtue of increased traffic movements and is contrary to Policy CP24 of the Tonbridge and Malling Core Strategy. The Enforcement Notice is necessary to alleviate the nuisance and detriment to the amenity of the area resulting from the unauthorised development. The Council does not consider that planning permission should be granted because planning conditions could not overcome these objections.

### **Requirement**

To cease the use of the site for preparation of hot food for delivery.

**Period For Compliance**

6 Calendar months from the date the Notice becomes effective.

Contact: Richard Edmonds