

Decision under Delegated Powers

Officer Requesting Decision

Team Leader Planning Enforcement

Officer Making the Decision

Head of Planning and Regeneration

Recommendation

That a Community Protection Notice (CPN) is served in respect of the commercial storage and sales of vehicles on and in the vicinity of the property at 1 Hanover Drive, Sileby, Leicestershire, LE12 7PL.

Reason

The vehicles consist of private cars and vehicle transporters parked in and around the property. Despite being served with a Community Protection Warning Letter in March 2019 and numerous written warnings previously, the owner has not curtailed or reduced the activities.

Authority for Decision

The Head of Planning and Regeneration has delegated authority (under 'Delegation to Officers Executive Functions' section 8.3 para 10. To serve a Community Protection Notice.

Decision and Date



16 July 2019

Background

The breach of planning control relates to the storage and sale of vehicles from a residential property. The garden at the front of the property is hard surfaced and is used for the storage of the vehicles. There is a shared driveway between the neighbouring property 87 Highgate Road, Sileby, with garages to the rear, and access to the rear gardens. The vehicles are parked all over the hardstanding and in and around the area and do not have any sales particulars advertising them For Sale. However details of the vehicles being sold have been witnessed on web sites and the photographs of the vehicles are clearly taken at the property in question.

The owner claims he does not buy and sell the vehicles for commercial purposes but buys them to undertake his hobby of stock car racing. However the evidence does not support this claim. The vehicles are good quality higher end vehicles and not damaged or non-roadworthy vehicles. Despite many attempts to contact the owner in the past he has not been forthcoming until the first steps of formal action were undertaken with the service of a planning contravention notice. No response has been received to the Planning Contravention and this in itself is an offence.

Since this time vehicles are constantly changing and being stored at the property. Checks with DVLA have confirmed vehicles are being bought and sold. A recent site visit has confirmed there were 7 cars and one pick-up truck with a car stored on the back and another pick-up truck parked outside the property on the street and a car associated with the storage use. Formal action is required to ensure the car storage and sales cease and the residential character of the area is protected.

It is considered the conduct which is persistent and continuing is having a seriously detrimental impact on the quality of lives of others because of firstly; the visual detriment caused by the appearance of the number of vehicles parked in and around the property and secondly; the disturbance and anguish and intimidation caused to residents due to the behaviour of visitors and customers in connection with the commercial activities at the residential property. This storage and associated sale of vehicles is believed to be unreasonable and action should be taken immediately to resolve this breach of planning control.

Action could be taken under the provisions of the Town and Country Planning Act S172 to serve an Enforcement Notice in relation to the breach of planning control however this would only relate to the private land of 1 Hanover Drive, Sileby. Any vehicles and associated activity around the property on the Highway and in the local vicinity would not be covered by an enforcement Notice. The service of a Community Protection Notice to deal with this breach will be more effective as it can be used to control an area rather than just land within the recipient's ownership.

A CPN is intended to deal with unreasonable behaviour, ongoing problems or nuisances which negatively affect the community's quality of life by targeting the person responsible. The notice can direct any individual, business or organisation responsible to stop causing the problem and to take reasonable steps to ensure it does not happen again.

Legal Implications

A CPN can be appealed in the Magistrates Court within 21 days of service. Failure to comply with the Notice is an offence and may result in a fine or penalty.

A person issued with a community protection notice may appeal within 21 days to the magistrates' court. Grounds for appeal include that the conduct

specified in the notice did not meet one of the limbs of the test for issuing a notice or that the person could not reasonably be expected to control the behaviour. While an appeal is pending, any requirements in the notice for the person to stop doing certain things will have effect, but positive requirements to do certain things will not. For example, where rubbish has accumulated in someone's front garden and a notice issued to the owner, a requirement to stop adding to the rubbish would continue in effect but a requirement to clear the garden would not.

Risk Management

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
Costs associated with any court case	medium	low	These costs would also be relevant with any challenge regarding serve of an enforcement Notice

Key Decision: No

Background Papers: None