

Report of	Meeting	Date
Director of Customer and Digital	Development Control Committee	7/11/2017

ENFORCEMENT ITEM UNAUTHORISED USE OF 1-3 MOOR ROAD CHORLEY PR7 2LW AS A HOT FOOD TAKEAWAY

PURPOSE OF REPORT

1. To seek authority to take enforcement action in respect of the unauthorised use of 1-3 Moor Road Chorley PR7 2LW and the unauthorised installation of 2no. extraction flues. The ground floor of the property is being used as a hot food takeaway Use Class A5 (Town and Country Planning Use Classes Order 1987) and 2no. extraction flues have been installed on the rear elevation of the property .

RECOMMENDATION(S)

2. That it is expedient to issue an Enforcement Notice under section 172 of The Town and Country Planning Act 1990.

Remedy For Breach

Cease the use of the ground floor 1-3 Moor Road Chorley PR7 2LW as a hot food takeaway, Use Class A5, and remove 2no. extraction flues.

Period For Compliance

Four Months

Reason For Issue Of An Enforcement Notice

To abate a breach of planning control that has an adverse effect on the amenity of the occupiers of neighbouring properties and the visual amenity of the immediate area.

EXECUTIVE SUMMARY OF REPORT

3. The site has been visited and photographs taken.
4. 4no. letters have been sent to the occupiers and owners of 1-3 Moor Road Chorley with regards to the unauthorised use of the premises and the unauthorised installation of the extraction flues. Despite requests for a planning application to be submitted to regularise matters, none has been forthcoming.
5. It is considered, therefore, given the unauthorised change of use of the ground floor and installation of the two extraction flues, that it would be expedient to issue an Enforcement Notice in this case in order to remedy the breach of planning control.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

6. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

7. This case relates the use of the ground floors of nos. 1 and 3 Moor Road Chorley. The properties were originally built as separate units in the 1960's but would appear to have been combined into one unit sometime in the 1970's. The original use of the units is unknown. Planning permission was sought to change the use of the properties to a youth club in the early 1980's and the application was refused. Planning permission was granted in 1983, 83/00606/FUL, for a change of use to a light joinery workshop and evidence would suggest that this was implemented.
8. In 1996 the Council dealt with a retrospective application for a first floor rear extension and the Officer report notes that both ground floors are used as separate takeaways. This use appears to have continued until the premises became vacant at some time in the early 2000's. The land registry confirms that the property was purchased in 2008 and had remained vacant until 2016

ASSESSMENT

9. The property is situated on Moor Road at its junction with Weldbank Lane. The building comprises brick walls and a slate roof. The upper floor is divided into two apartments that are currently unoccupied; the ground floor comprises 2no hot food takeaways operated by the same proprietor. There are residential properties adjacent to and opposite the property and a church is adjacent to the southern boundary.
10. The property has been in various uses up to the early 2000's
11. There is very limited parking available as the property sits adjacent to the cross roads of Moor Road, Weldbank Lane, Tootell Street and Pall Mall.
12. Although the last use of the property was as two hot food takeaways this use does not benefit from the specific grant of planning permission and the use of the ground floor of the property was never regularised through the planning system. This unauthorised use ceased a number of years ago.
13. It is considered that the property is in a 'nil' use. The legal framework on the issue of abandonment is as follows. The mere cessation of a use is not development, but if a building or land "remains unused for a considerable time, in such circumstances that a reasonable man might conclude that the previous use had been abandoned", (per Lord Denning, in *Hartley v MHLG* [1970] 1QB 413) then the concept of abandonment applies. It involves a cessation of use in such a way, and for such a time, as to give the impression to a reasonable onlooker, (applying an objective rather than a subjective test), that it was not to be resumed, (*Nicholls v SSE and Bristol CC* [1981] JPL 890, J.363). The land may be left with a nil use.
14. Despite requests for a planning application to be submitted, none has been forthcoming and the use of the ground floor of the property as hot food takeaways continues and the two

extraction flues remain in place. It would appear that neither the landowner nor occupiers are willing to comply with the Council's requests to regularise the use of the property and the installation of the two extraction flues. It is, therefore, considered appropriate to serve an Enforcement Notice in this case.

IMPLICATIONS OF REPORT

15. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

16. No comments

COMMENTS OF THE MONITORING OFFICER

17. Section 172 of the Town and Country Planning Act 1990 permits a local planning authority to issue an enforcement notice where it appears to them that there has been a breach of planning control and that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
18. The owner and/or occupier have not obtained planning permission in respect of the change of use and installation of two extraction flues therefore making this unauthorised and unlawful.
19. Section 174 of the Town and Country Planning Act 1990 provides a right of appeal to a person having an interest in the land to which an enforcement notice relates or a relevant occupier against the notice. Any appeal must be submitted to the Secretary of State prior to the date on which the enforcement notice takes effect.

ASIM KHAN
DIRECTOR OF CUSTOMER AND DIGITAL

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
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