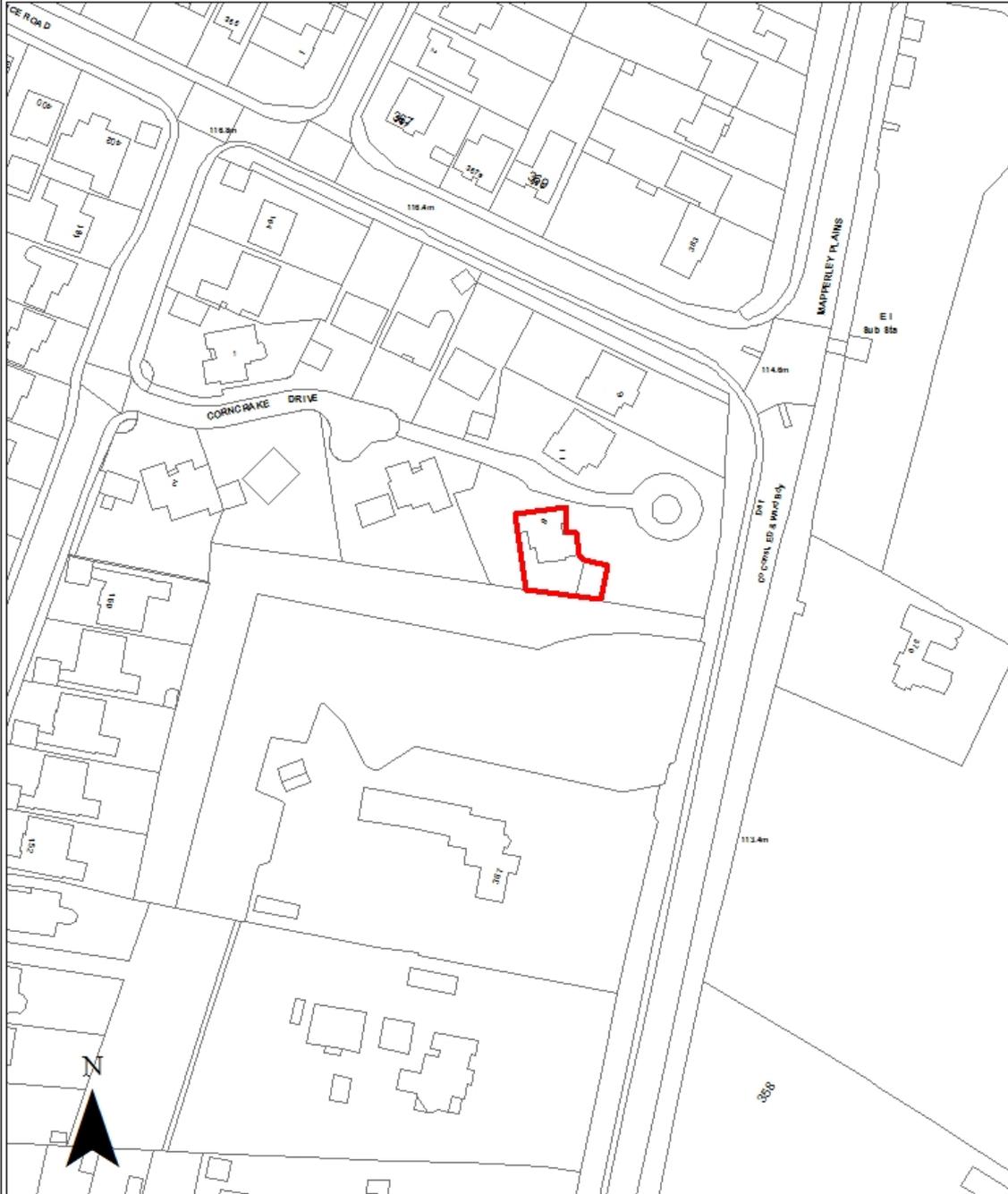


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Enforcement Reference: 0003/2018

Location

Land At Corncrake Drive
Arnold



NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site.
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Report to Planning Committee

Reference:	0003/2018
Location:	Land at No. 8 Corncrake Drive, Arnold
Breach of Planning:	Material change of use of residential dwelling to a mixed use of residential dwelling and office/internet sales business and storage of samples.

1 Background

- 1.1 The Council first received complaints about a business operating from a converted domestic garage at No. 8 Corncrake Drive on the 26th April 2013. A Planning Contravention Notice (PCN) was served on the owners of the property on the 7th June 2013 but it appears it was never completed and returned to the Council as required. A PCN is a notice which requires the recipient to respond in writing to questions contained in the notice about the suspected breach of planning control within 21 days. It is an offence to fail to comply with the requirements of the notice.
- 1.2 In addition to the PCN being issued, the owners of the property were offered a meeting at the Council Offices on the 13th June 2013 which they failed to attend. However on the 1st May 2013 the owners telephoned the Council and advised that the business provides a uniform design service. Logos are designed and then applied to uniforms for businesses supplying uniforms.
- 1.3 The owner stated the designs are all sent off to India where the garments are made/ printed and then delivered direct to customers. The owner stated that it was their intention to expand to an extent that all desks may be occupied in time. Council records show the owner was advised during the conversation that planning permission was required but no application has been received.
- 1.4 No further action was taken by the Council.
- 1.5 In December 2017, the Council received a further complaint about the business operating from the premises. A visit by officers confirmed the triple garage had been converted to offices and a store. The middle garage door of the triple garage had been replaced with glazed french doors and the building was fitted with five desks, photocopiers, computers and other office equipment. In addition there were several rails of clothing which appeared to

be in connection with the business use and there was no evidence of a domestic use taking place in the garage.

- 1.6 Officers spoke to an employee of the company who introduced himself as the 'accounts representative'. He stated the business has been running for 4 years from that location. The business is called CSI Worldwide (Complete Solutions International worldwide). He stated, they supply sports clothing and the clothing stored in the building are samples. The accounts representative stated four people are employed in the business but only two of them live at the dwelling.
- 1.7 Research on the internet identifies the company as supplying embroidered logos for sports, work and other clothing.
- 1.8 The owner was sent a letter on 10th January 2018 again advising that planning permission is required as material change of use had occurred and they should submit a planning application within 21 days.
- 1.9 On the 21st January 2018 when no response had been received, a further Planning Contravention Notice (PCN) was issued which required the owner to answer questions in writing about the ownership of the property and about the activities being carried on at the dwelling. In that PCN, the owners were also offered another meeting giving them the opportunity to make any representations about the activities taking place at the site.
- 1.10 The owners failed to attend the meeting but on the 12th February 2018 the owners contacted the Council by email to say they are paying business rates. A response from the Council was sent to remind them that they must still complete the PCN and failure to do so was an offence for which the Council could prosecute in the Magistrates Court.
- 1.11 On the 13th February 2018 the owner again contacted the Council by email to say they were abroad but that they thought they had planning permission and they would be in contact again once they had returned to the UK at the end of February.
- 1.12 On the 29th March the Council sent a letter to the owners to advise enforcement action would now be considered by Members. The Council received a response from the owners on the 9th April 2018 to advise all the information we required would be submitted later that day. However, no such information has been received and there has been no further communication.

2 Site Description

- 2.1 The property No.8 Corncrake Drive, Arnold is a two storey detached dwelling located towards the end of a cul-de-sac set in a substantial garden in an area of other similar residential properties.
- 2.2 The property is accessed from Corncrake Drive along a narrower driveway shared with four other properties. At the end of the shared drive way is a small roundabout allowing vehicles to turn and leave in a forward direction
- 2.3 There is a detached triple garage set forward of the front elevation of the property with garden areas extending to the front and rear. It is from this garage that the business is being operated.
- 2.4 The site is bound to the front by Mapperley Plains and fencing approximately 1.8 metres in height exists along this boundary with trees behind and planting in front. To the rear garden (southern side) of the site, there is a woodland area bound by a post and rail fence which is about 1.5 metres in height and a 1.8 metre high brick wall along the access road. The front garden area is bound by low hedging and a private drive way extends from the shared access drive to the triple domestic style garage building.

3 Planning History

3.1

Reference	Proposal	Decision	Date
2010/0536	Erect two storey & single storey extension with balcony and front balcony above the porch and enlarge of the proposed detached garage	Conditional Permission	26.08.2010
2009/0875	Erect two storey extension with balcony, single storey extension and porch and detached garage with room above.	Conditional Permission	16.12.2009
0073/2013	Enforcement Enquiry - Use of dwellinghouse for business	PCN issued but no further action	26.04.2013

4 Assessment

- 4.1 No. 8 Corncrake Drive is a residential property with a large garden. The triple garage was only granted planning permission in 2010 and the use of the premise to operate an office/internet sales and associated storage business at a level where other people are employed and in which there is no domestic use is not incidental to the enjoyment of the dwelling house and requires planning permission. No such permission has been applied for nor granted.
- 4.2 Although development has occurred without planning permission and is therefore unauthorised, local planning authorities are required to consider government guidance when deciding whether to take planning enforcement action. Government guidance is found in the National Planning Policy Framework (NPPF) (Paragraph 207) and states that although effective enforcement is important as a means of maintaining public confidence in the planning system, ultimately enforcement action is discretionary and local planning authorities should act proportionately in responding to breaches of planning control.
- 4.3 The main considerations when deciding whether to take enforcement action in this case are;
- i) whether the use of the dwelling for an internet office based sales business and an associated storage business has any detrimental effect on the character of the area or the environment or on the amenities of other occupiers of nearby dwellings.
 - ii) the impact on highway safety.
 - iii) whether the Local Planning Authority is within the ten year statutory time limit for taking action for a material change of use of the land.

Planning considerations

- 4.4 The NPPF attaches great importance to positive improvements in the conditions which people live, work and travel (paragraph 9), while paragraph 58 sets out the quality of development expected for an area and paragraph 123 requires the minimising of adverse impacts from new developments.
- 4.5 At the local level, Policy 10 of the Greater Nottinghamshire Aligned Core Strategy (2014) seeks to proactively promote good design and reinforce valued local characteristics. In order to achieve this, the policy approach sets

out a number of criteria to reinforce valued local characteristics. Saved policies ENV1 Policy of the Adopted Local Plan (2005) (certain saved policies) seeks a high standard of design; new developments are expected to have regard to the character of the locality and the details of their proposals in terms of their scale, bulk, form, setting, layout and materials. Policy E4 provides that change of use for businesses will only be permitted where it would not generate traffic of a type or amount inappropriate for the character of the access road and where it would not harm the character of the area or the amenity of local residents and it would not cause noise or air pollution.

- 4.6 Policy LPD 32 of the Emerging Local Planning Document seeks to protect the amenity of nearby residents or occupiers and Policy LPD 34 seeks to protect residential gardens and aims to ensure any development does not result in harm to the character or appearance of an area. The moderate weight currently attached to Policy LPD 32 and the limited weight attached to LPD 34 is noted in accordance with the advice of paragraph 182 of the NPPF.

Impact on the character of the area and the environment

- 4.7 The immediate area is entirely residential except for the unauthorised business use of the detached 'garage' style building at No. 8 Corncrake Drive. The open driveway provides a clear view to the converted garage where french doors have been installed.
- 4.8 There are at least two other people employed in the business who do not live at the property and who arrive in their own vehicles which are then either parked on the shared access road around the roundabout or in the private drive of the property.
- 4.9 As there are samples of clothing in the garage it is assumed there must be some deliveries and visitors to the business. However, the owners have declined to provide details about the business and so it is difficult to assess the impact of the additional vehicular movements including those of commercial vehicles along the narrow estate road and shared access leading to the property.
- 4.10 The complainant's letter from 2013 advises that as a result of the unauthorised business operating from the premises, large lorries and other additional traffic was being driven along the shared access causing disruption to other residents.

Impact on residential amenity

- 4.11 A further letter from the complainant received in December 2017 alleged the additional business traffic and the employees of the business were very

disruptive. It claimed there was inconsiderate parking and employees were taking cigarette breaks outside of the building. In addition the complaint alleged the owners of the business have a dog for security purposes which causes noise and disturbance.

- 4.12 It is considered that the increased number of vehicular movements associated with the use and increased visitors to the site is detrimental to neighbours' amenities and it will cause noise and disturbance to the occupiers of nearby dwellings affecting their enjoyment of their homes.

Impact on highway safety

- 4.13 Increased vehicle movements, the parking of other additional vehicles on nearby shared access and the possibility of larger commercial vehicles travelling on small residential estate roads to deliver or collect from the business is considered to be detrimental to highway safety.
- 4.14 The unauthorised office/internet sales business and associated storage operating from No. 8 Corncrake Drive is in conflict with the above policies seen at paragraphs 4.4, 4.5 and 4.6 which all seek development of a high standard and development which does not adversely affect the area in which it is located but provides good living standards and which makes a positive contribution to the public realm and sense of place.

Time Limits

- 4.15 The statutory time limit for taking action for a material change of use of the land is 10 years. In this case the evidence available to the Council strongly suggests that the business has been operating from the site for less than 10 years and the Council is within time to commence enforcement proceedings such as issuing an enforcement notice requiring the use to cease.

Human Rights

- 4.16 Under the Human Rights Act, it is necessary for the Authority to have regard to the rights of the owner and occupier of a site under Article 1 of the First Protocol to peaceful enjoyment of possessions and the protection of property and under Article 8 of the convention to respect for his private and family life, his home and his correspondence except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 4.17 In considering whether to take any enforcement action, the Council has to consider the proportionality of its actions. In other words whether the proposed action would be proportionate to the objective being pursued – here

the enforcement of planning control in support of National and Local Planning Policies. It is recognised that issuing an enforcement notice, or pursuing formal proceedings in the Magistrates Court if the notice is not complied with, will result in interference with the recipients' rights. However, it is considered that issuing a notice in the first instance would be a proportionate response to rectifying the breach of planning control taking place and depending on compliance with the notice it might well be justified to take court action.

Equalities

- 4.18 The Council's Planning Enforcement team operates in accordance with the Council's Planning Enforcement Policy and is largely dictated by legislation which reduces the risk of discrimination in this service. The Council is accountable to the public, including its stakeholders, for its decisions both to take enforcement action and not to utilise its enforcement powers. There is a legitimate expectation of the public and stakeholders that the Council will take action to address breaches of planning by such means as are appropriate in the individual circumstances and which are in accordance with the Council's policy and government legislation.
- 4.19 The Council strives for a consistent approach in targeting its enforcement action. This means that the Council will take a similar, but not the same, approach to compliance and enforcement decisions within and across sectors. It will strive to treat people in a consistent way where circumstances are similar. Each case however will be evaluated on the basis of its own facts and circumstances but will ensure that decisions or actions taken in any particular case are consistent with the law and with the Council's published policies. It should be noted that decisions on specific enforcement actions may rely on professional judgment. The Council will usually only take formal enforcement action where attempts to encourage compliance have failed as in this case.

Crime and disorder

- 4.20 The Crime and Disorder Act 1998 places a duty on the Local Planning Authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on the integrity of the planning system and the setting of a precedent if action is not taken is therefore a material consideration in the authorisation of enforcement proceedings.
- 4.21 In light of all the facts it is now considered expedient to serve an enforcement notice to require the cessation of the unauthorised business use of the land and removal of items not considered incidental or ancillary to the domestic residential use of the dwelling.

5 Conclusion

- 5.1 A breach of planning control has been identified which is detrimental to the amenities of nearby occupiers of other residential properties, highway safety and the character of the area.
- 5.2 The breach conflicts with both national and local policies. Negotiations with the owners have failed to rectify the breach and failure of the Council to act in these circumstances may leave local residents with a business which may intensify and grow and which adversely affects their well-being and is detrimental to the amenity of the area. The Council should now commence enforcement action without delay by issuing a planning enforcement notice requiring the cessation of the unauthorised business, removal of all office equipment, sample clothing and other items which are not incidental to the enjoyment of the dwelling and if the notice is not complied with proceedings should be taken in the courts if necessary.

6 Recommendation

- 6.1 That the Service Manager, Development Services, in conjunction with the Director of Organisational Development & Democratic Services, be authorised to take all enforcement action including the service of any necessary enforcement notices and proceedings through the courts if required to ensure;**
- (a) the cessation of the unauthorised business use; and**
- (b) the removal of office equipment and sample clothing and any other items not considered to be incidental or ancillary to the domestic residential use of the dwelling.**