



**NORTHAMPTON**  
BOROUGH COUNCIL

**PLANNING COMMITTEE:** 8 March 2011  
**DIRECTORATE:** Planning and Regeneration  
**HEAD OF PLANNING:** Susan Bridge

**APP:** E/2011/0054

**SITE:** Land and Buildings at  
10 Peverels Way  
Northampton  
NN5 5DD

**WARD:** St. James

**REFERRED BY:** Head of Planning

**REASON:** Breach of planning control

**DEPARTURE:** N/A

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**ENFORCEMENT MATTER:**

**1. RECOMMENDATION**

- 1.1 That the Borough Solicitor be authorised to issue an Enforcement Notice in respect of the unauthorised change of use of the garage to the rear of 10 Peverels Way for the purpose of non ancillary vehicle repairs and requiring the use to cease and the associated paraphernalia to be removed with a compliance period of 1 month pursuant to Section 171A(1)(a) of Town and Country Planning Act 1990, (as amended).
- 1.2 That in the event of non compliance with the Notice, the Borough Solicitor take any other necessary, appropriate and proportionate enforcement action pursuant to the provisions within the Town and Country Planning Act 1990, (as amended) to bring about compliance with the Notice.

**2. THE BREACH OF PLANNING CONTROL**

- 2.1 That without planning permission a material change of use of the property from a dwelling house with garage (Use class C3), to a mixed use comprising residential with non-ancillary vehicle repairs (Sui Generis), has taken place.

### **3. SITE DESCRIPTION**

- 3.1 The main dwelling house is a mid terrace property situated in Peverels Way with a detached double garage as an out building to the rear of the property which is accessed via Ross Road.

### **4. PLANNING HISTORY**

- 4.1 In 2010 the Council was in receipt of complaints that the detached garage to the rear of the property had been let by the owner as a separate planning unit for the purpose of commercial car repairs.
- 4.2 Officers visited the site and spoke to the person carrying out the car repairs and advised that it was unauthorised and unacceptable and gave 28 days for the use to cease. After that period the use appeared to cease.
- 4.3 In January 2011 the Council was contacted again and advised that the use had commenced again. Two site visits confirmed that the use was in fact again taking place and the owner, who is an away landlord, was written to.
- 4.4 It would appear from investigations that the garage has been let as a separate planning unit from the dwelling.

### **5. PLANNING POLICY**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the East Midlands Regional Plan, the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997
- 5.2 Policies T11, B19 of the Northampton Local Plan are relevant to this case.

**T11 states** that planning permission for development of commercial uses in a primarily residential area will be conditional upon the provision of adequate waiting, manoeuvring and parking facilities subject to their being no adverse effect on the primarily residential area.

**B19 states** that within primarily residential areas, planning permission will not be granted for:

A) The extension of existing business premises or the intensification of existing business uses where the development would have a significant adverse effect on residential amenity.

B) Development of storage and distribution (B8) uses where the floor

space exceeds 235 square metres

C) General industrial B2 uses or any special industrial uses

D) Uses involving notifiable quantities of hazardous materials or uses involving the collection and disposal of waste materials.

In addition to the Local Plan, National Policy PPS13 (Transport) is pertinent to this case.

## **6. CONSULTATIONS / REPRESENTATIONS**

6.1 Highway Authority (NCC) comments are that the commercial use as described would not be acceptable due to substandard access and car parking arrangements and movements, which would be to the detriment of highway and pedestrian safety in general.

## **7. APPRAISAL**

7.1 The unauthorised use has been the subject of neighbour complaints about the loss of amenity to their properties.

7.2 Such a use is considered to be unacceptable due to its proximity to residential gardens and its tendency to cause noise and disturbance together with parking congestion.

7.3 In addition, the use has resulted in the deposit of car parts and waste materials on the site, which are unsightly and detrimentally affect the character and appearance of the area.

## **8. CONCLUSION**

8.1 Given the site history and officers' efforts to resolve the breach the issue of an enforcement notice is the only avenue available to the Council to control the unauthorised use in perpetuity in accordance with the aims and objectives of the Local Plan Policies T11 and B19 and PPS13.

## **9. HUMAN RIGHTS IMPLICATIONS**

9.1 The Human Rights Act 1998 introduces a number of rights contained in the European Convention on Human Rights. Public bodies such as the Council have to ensure that the rights contained in the Convention are complied with. However, many of the rights are not absolute and can be interfered with if sanctioned by law and the action taken must be proportionate to the intended objective. In this particular case Officers' views are that seeking to take action in respect of a perceived loss of amenity to nearby residents and occupiers is compliant with the Human Rights Act 1998 because the harm to the wider community clearly outweighs the harm (in human rights terms) to the owner.

**10. LEGAL IMPLICATIONS:**

10.1 Usual costs of issue, service and any resultant appeal will be met from within the existing budget. In the event of the Notice not being complied with, a costs application can be made to the Courts in respect of any prosecution proceedings.

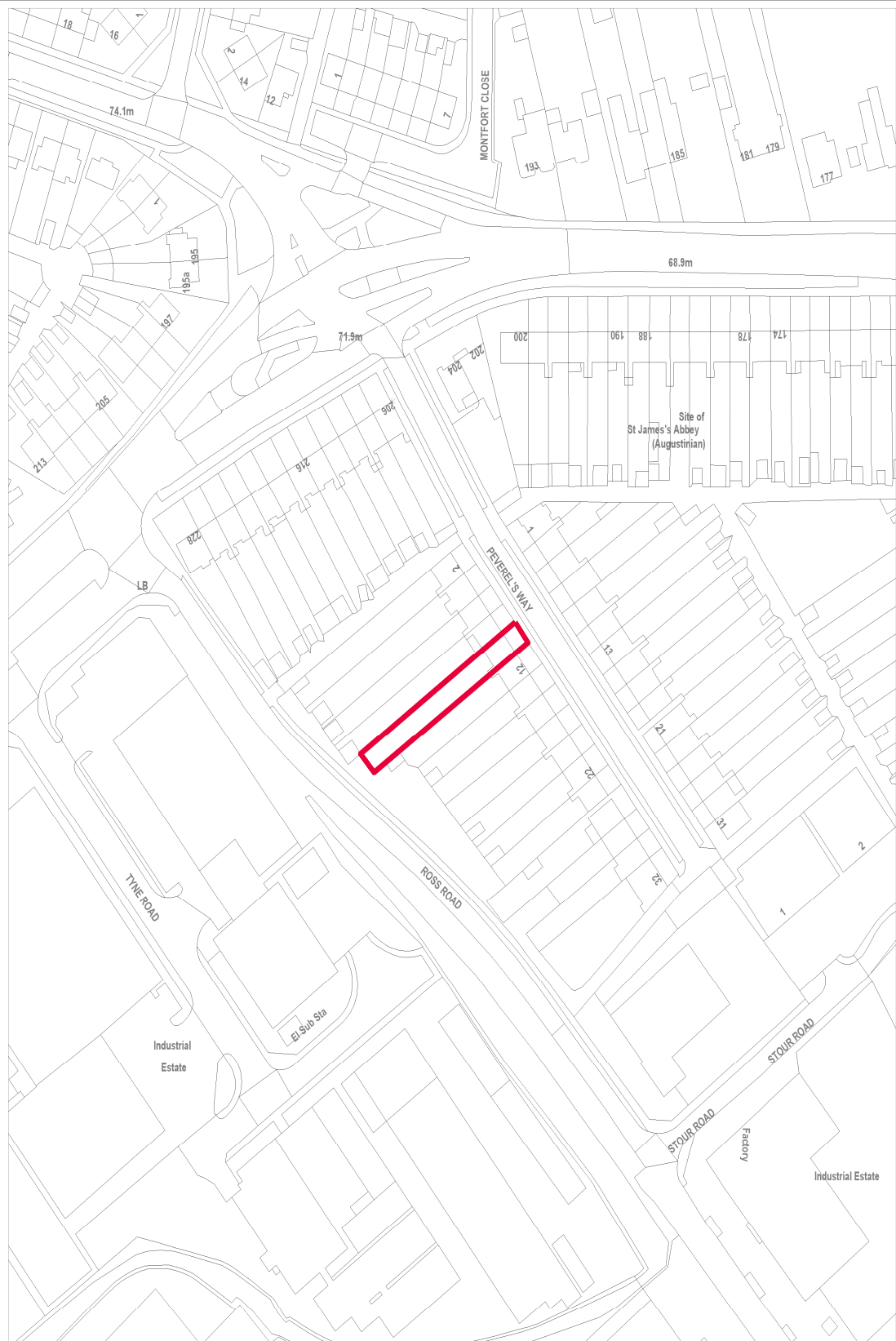
**11. BACKGROUND PAPERS**

11.1 E/2011/0054

**12. SUMMARY AND LINKS TO CORPORATE PLAN**

12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.

<b>Position:</b>	<b>Name/Signature:</b>	<b>Date:</b>
<b>Author:</b>	Carol Tuckley	16/02/2011
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Name: SW  
 Date: 17th February 2011  
 Scale: 1:1250  
 Dept: Planning  
 Project: Site Location Plan

Title  
**10 Peverels Way**

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