

## **ENFORCEMENT REPORT**

UNAUTHORISED USE OF LAND FOR THE MIXED USE OF RESIDENTIAL FLATS, (EXISTING USE) AND FOR THE PARKING OF COMMERCIAL VEHICLES, 24-30 WALKLEY BANK ROAD.

### **1. PURPOSE OF THE REPORT**

The purpose of this report is to inform committee Members of a breach of planning control and to make recommendations on any further action required.

### **2. LOCATION**

- 2.1 The property is a block of 4 flats with basement car parking and an open tarmac surface within the grounds to provide car parking. It stands next to Lower Walkley Green, near to Elliotville Street

### **3. BACKGROUND**

- 3.1 A complaint was received from a local resident about three large removal vans being regularly parked within the grounds of the flats. The concern is that the car park is in an elevated position, (above the Lower Walkley Green) making the vans prominent and out of keeping with the area and highly visible from residential property in Elliotville Street, Stony Walk, Woodview Road and Walkley Bank Road.
- 3.2 An email dated 7 November 2013 was sent to the owner of the removals business to find out why the vans were being parked there. In response a phone call was received from the landowner, explaining that she (the landowner) was doing a favour for a friend who was just setting up the new business. She said she had given permission for the grounds of the flats to be used for this purpose.
- 3.3 The business owner and the landowner were both advised that this was considered to be an unacceptable change of use in the land and that it must cease. Letters and emails were sent to both, agreeing to hold back from enforcement action to allow a period for the new business to find alternative arrangements. The complainant was consulted and he agreed that this was a reasonable approach and he was happy to be patient for a time. A period up to 31<sup>st</sup> January 2014 was allowed and until that time only two of the three vans were to be parked at the flats with the third to be taken elsewhere.

#### 4. ASSESSMENT

4.1 The relevant policies of the Unitary Development Plan are H10 and H14

4.2 Policy H10 'Development in Housing Areas' states that a number of developments are acceptable including businesses in order to :

- Allow those that have started out as home working and need to stay in the area where they began;
- Provide local jobs, so reducing the need to travel far to work

The policy goes on to state that some businesses are best suited to Business / Institution / Leisure Areas.

4.3 Policy H14 'Conditions on Development in Housing Areas' describes that non-housing (C3) uses would be permitted in Housing Areas, provided:

- H14(k) it would not lead to air pollution, noise, smell, excessive traffic levels or other nuisance or risk to health and safety for people living nearby;
- H14(l) be on a scale consistent with the residential character of the area or meet primary local needs or (in the case of uses other than shops) occupy an existing building set in its own grounds

4.4 The use of the residential property for parking commercial vehicles is not considered to fall into any of the criteria described above. The removals business is registered at a private house several miles away with no other connection between the business and the flats. Originally, three vans were parked here in October 2013 but this has been reduced to two for the most part since then. One of the vans is similar in size to a large transit style; the other is considerably larger. They are brightly decorated in company colours / adverts and are considered to be out of character with the residential location.

4.5 The location of the block of flats where the vehicles are parked is at the top of a steep slope, just above the Lower Walkley Green. The Green is immediately adjacent to the rear boundary of the flats and it falls away, (from the elevated flats), down towards Woodview Road. The vehicles are parked at the side and at the rear of the flats and they are visible from houses on Elliotville Street, Gresham Road and Woodview Road and Stony Walk that surround the Green.

4.6 The relative size / design of the vehicular access to the flats from Walkley Bank Road, relative to the size of removal vehicles does not allow comfortable manoeuvring between the flats and the highway, which gives concern for highway safety of pedestrians and road users but not to the level that requires an immediate stop notice due to the relatively low frequency of those movements.

4.7 The lawful use of the land is residential; 4 flats with parking. This use changes the character and the use of the property to a mixed use of residential and commercial vehicle storage, which are highly visible. This is alien to the residential nature of the area. If the use went unchecked for a period of 10 years it would become 'established' and immune from planning enforcement action. Although the use has only occurred since October / November no contact has been made by the owner or occupier to explain why it has continued past 31/1/14.

4.8 No valid reason has been offered as to why they should continue to be parked here. The landowner has stated that the vans are not connected to this land or any person living there.

## 5. REPRESENTATIONS

5.1 One complaint has been received from a local resident about visual harm caused by highly visible commercial vans in a residential area.

## 6. ASSESSMENT OF ENFORCEMENT OPTIONS

6.1 Section 171C of the Town and Country Planning Act 1990 provides for the service of a Planning Contravention Notice. The notice requires information about the suspected breach of planning control and about property ownership. It also gives an opportunity for the recipient to meet with officers to make representations. Ownership is already established and regularisation is not considered appropriate.

6.2 Section 172 of the Act provides for the service of an Enforcement Notice (EN). In this case such a notice would require the cessation of the use of the land for commercial vehicle parking / storage.

6.3 Section 183 of the Act provides for the service of a Stop Notice in conjunction with an EN, (s172). In this case a stop notice isn't recommended at this time.

## 7 EQUAL OPPORTUNITIES

7.1 There are no equal opportunity implications arising from the recommendation in this report.

## 8. FINANCIAL IMPLICATIONS

8.1 There are no financial implications arising from the recommendation in this report.

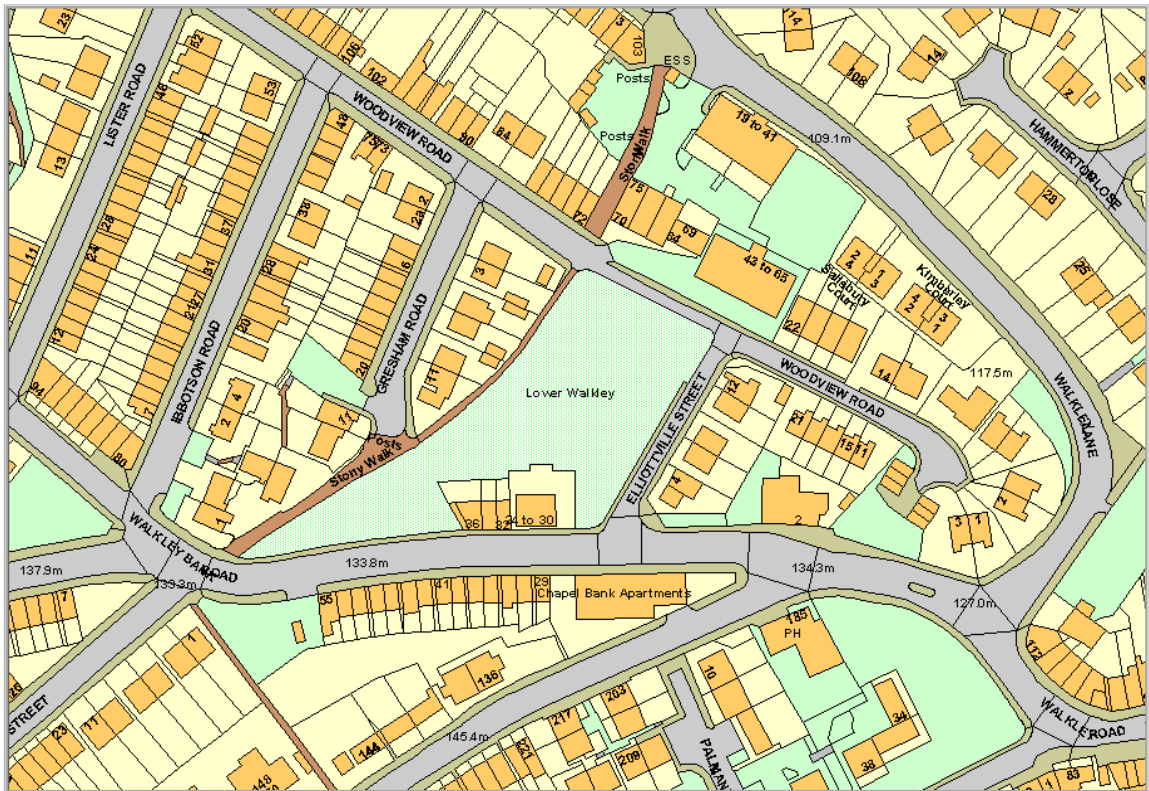
## 9. RECOMMENDATION

9.1 That the Director of Regeneration and Development Services or Head of Planning be authorised to take any appropriate action including if necessary, enforcement action and the institution of legal proceedings to secure the cessation of the use of the land at 24-30 Walkley Bank

Road for the mixed use of residential flats, (existing use) and for the parking / storage of commercial vehicles.

- 9.2 The Head of Planning is designated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

### PLAN & PHOTOS





Maria Duffy  
Head of Planning

14 February 2014

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