



IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

**ENFORCEMENT NOTICE
(Change of Use)**

ISSUED BY: Welwyn Hatfield Borough Council ("the Council")

1. THIS IS A FORMAL NOTICE which is issued by the Council being the local planning authority for the purposes of Section 172 of the above Act, because it appears to them that there has been a breach of planning control, under section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THIS NOTICE RELATES

Land at Unit 14 Southfields, Burrowfields, Welwyn Garden City, Hertfordshire, AL7 4ST shown edged red on the attached plan (hereinafter called "the Land").

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission, the use of the land for car sales and the stationing of a portacabin and erection of boundary fences and railings associated with the unauthorised use

4. REASONS WHY THE LOCAL PLANNING AUTHORITY CONSIDER IT EXPEDIENT TO ISSUE THIS NOTICE & ALL POLICIES & PROPOSALS IN LOCAL PLANNING AUTHORITY'S DEVELOPMENT PLAN WHICH ARE RELEVANT TO THE DECISION TO ISSUE THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last 10 years.

The land is part of a larger planning unit that was previously used as a car parking area and attached to one of the adjoining units. The use of the land for car sales has created a separate planning unit and the use of the land is now for a sui generis use.

The land falls within an employment area wherein policy EMP2 applies. The use of the land for car sales does not fall within a classified use class and is therefore 'Sui Generis' and as such the use fails to comply with policy EMP2.

Policy EMP4 permits car sales and showrooms within Employment Areas, subject to a number of criteria all of which need to be met in order for planning permission to be granted. One criterion is that if the gross external floorspace is greater than 235m² then 50% shall be used for Class B uses such as vehicle servicing and repairs to ensure that employment provision remains at an appropriate level.

The land exceeds 235sqm floorspace and more than 50% of the floorspace is being used for the sale and display of motor vehicle parts and accessories. It is therefore considered that the use fails to comply with this requirement of policy EMP4.

Also included within the EMP4 criteria is that the use should not have an adverse impact on the amenity of residential areas, should not adversely affect the highway network, including highway safety and have adequate servicing facilities

Due to the constraints of the land the use fails to provide adequate parking for visitors to the land and their vehicles are parked on the adjoining highway to the detriment of occupiers of the adjoining residential dwellings and the safe and efficient operation of the highway. In addition, the loss of this area for parking for the surrounding business units has resulted in additional vehicles being parked on the surrounding highway to the detriment of highway safety.

It is therefore considered that the use is contrary to policies EMP2, EMP4 and PPG13.

The portacabin, boundary fence and railings facilitate an unauthorised use and are therefore unacceptable.

Whilst this is an employment area, with a variety of different building types and designs, due to the location and design of the portcabin, it fails to enhance the character of the area and as such, is contrary to policies GBSP2, D1 and D2 of the Welwyn Hatfield District Plan 2005 and national policy statement PPS1.

The purpose of this notice is for remedying a breach of planning control.

4A. HUMAN RIGHTS ACT 1998

The Local Planning Authority has considered the implications of the Human Rights Act 1988 ("the Act") regarding the unauthorised development. The following have been considered as relevant under the Act: -

Schedule 1 Part 1 The Convention Article 8 – the right to respect for private and family life, home and personal correspondence

Schedule 1 Part 2 The First Protocol Article 1 – the right to protection of property, including peaceful enjoyment of possessions

The Local Planning Authority considers both Article 8 of the Convention and Article 1 of the First Protocol can be interfered with where there is a need to consider the general interest and the rights and freedoms of others. In planning terms, where development infringes the rights and freedoms of others then the Local Planning Authority needs to consider if the needs of the community are greater than the needs of the individual in question.

In this case it is considered that this development has had a significant harmful impact on the area. It is considered that the rights of the community in this situation are infringed and enforcement action is warranted to control the use of the land in accordance with the general public interest.

5. WHAT YOU ARE REQUIRED TO DO TO REMEDY THE BREACH.

Time for compliance: 2 months after this notice takes effect


- Permanently cease the use of the land for car sales, AND
- Remove all vehicles for sale from the Land, AND
- Restore the Land to its condition before the breach took place, AND
- Permanently remove the constituent parts from the Land including all fixtures and fittings relating to the use of the Land for car sales and all materials arising from compliance with this requirement from the Land, including the portacabin and boundary fence and railings

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on the Fifth day of August 2011 ("the effective date") unless an appeal is made against it beforehand.

ISSUED this First day of July 2011

WELWYN HATFIELD BOROUGH COUNCIL
COUNCIL OFFICES
THE CAMPUS
WELWYN GARDEN CITY
HERTFORDSHIRE
AL8, 6AE

Signed: 
ROBERT BALDOCK
CHIEF LEGAL &
ADMINISTRATIVE SERVICES
OFFICER

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, provided the appeal is received or posted in time to be received by the Secretary of State **before** the effective date given in paragraph 6 above.

The enclosed booklet "Making your enforcement appeal" sets out your rights. Read it carefully.

You may want to use the appeal forms enclosed. Three copies have been provided for you to send to:

- The Secretary of State (including the spare copy of the enforcement notice).
- The Planning Department, Welwyn Hatfield Council.
- And one copy for your own records.

IF YOU APPEAL

If you lodge an appeal then you must submit to the Secretary of State a statement in writing specifying the grounds on which you are appealing against the enforcement notice. You must also state briefly the facts that you propose to rely on in support of each of these grounds. You must submit this statement either;

- When giving notice of appeal; OR
- Within 14 days from the date that the Secretary of State sends you a notice that requires you to send a statement.

If you wish to have your application considered as a deemed application for Planning Permission or you intend to make an appeal under Ground (A) you may be required to pay a fee.

The fee payable under Regulation 10 of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 for the deemed application for planning permission for the development alleged to be in breach of planning control in the enforcement notice is **£335**

This amount is payable both to the Council and the Secretary of State.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the effective date specified in paragraph 6 of the notice, and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 5 of the notice. **Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.**

WHO THIS ENFORCEMENT NOTICE HAS BEEN SERVED ON

The names and addresses of the persons on whom a copy of this enforcement notice has been served by Local Planning Authority is as follows: -

Name

Address

C.R. Coleman Company Secretary
North Herts Property Services Ltd

1-2 Bunyan Road
Hitchin
Hertfordshire
SG5 1NL

Mr R D Masters

1-2 Bunyan Road
Hitchin
Hertfordshire
SG5 1NL

Company Secretary
Mastercars (Biggleswade) Ltd

1-2 Bunyan Road
Hitchin
Hertfordshire
SG5 1NL



Council Offices, The Campus,
Welwyn Garden City, Herts. AL8 6AE

Title: ENF/2009/0615

Project: 14/15 Southfields, AL7 4ST

Drawing Number:

Scale:
Date: 22nd June 2011
Drawn: