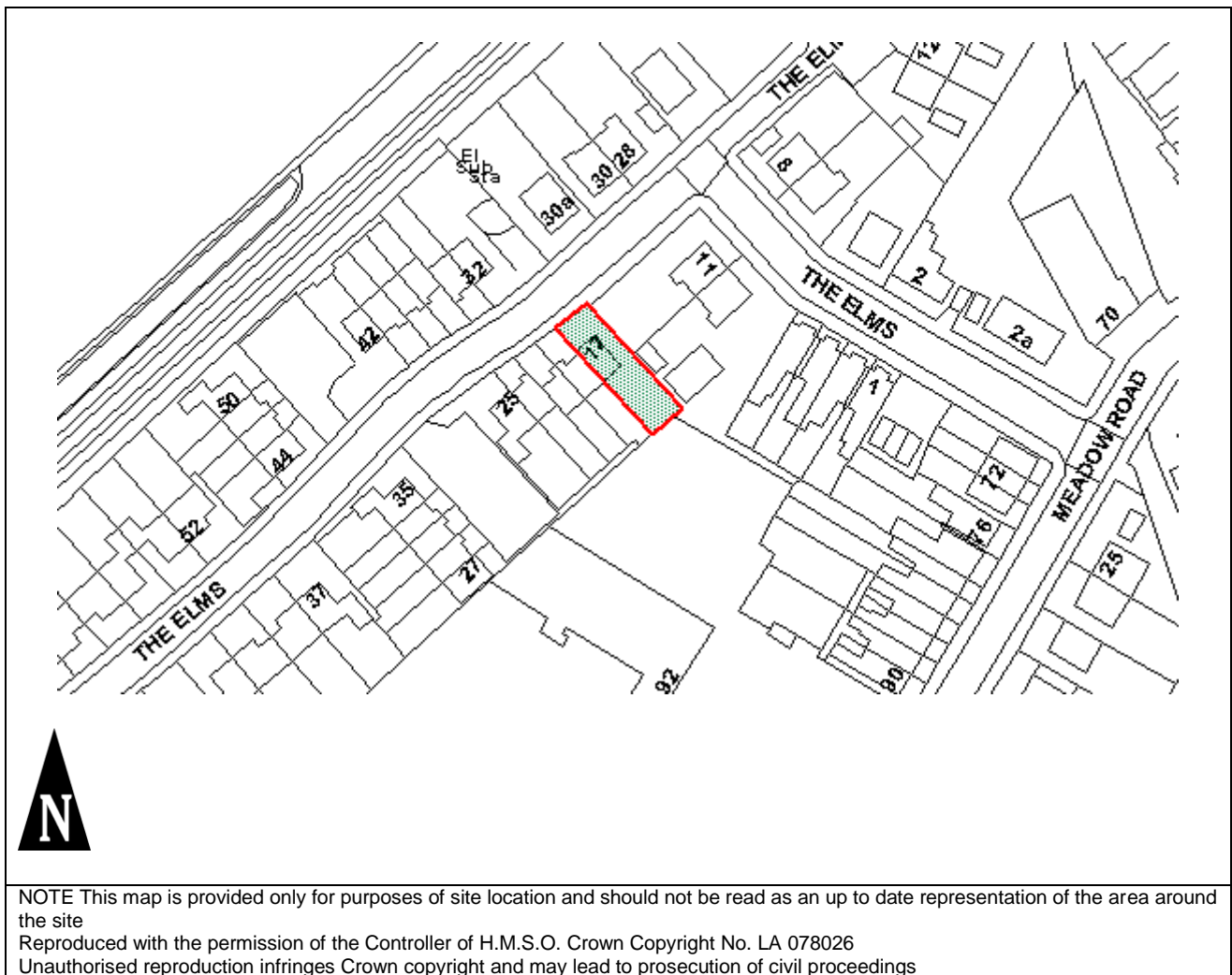


## Item for Decision

**Planning Enforcement Reference: 0027/2010**

**Location: 17 The Elms Netherfield**

**Breach of Planning Control: Use of residential property for car repair business**



## Site Description

17 The Elms is an end of terrace property located in an established residential street in Colwick. The property has a front garden with a driveway to the side of the property leading to a rear garden.

## Relevant Planning History

The Borough Council has received numerous complaints that 17 The Elms is being used by the occupant for a car repair and servicing business. Investigations have revealed that the property regularly has 2-3 vehicles parked on the front garden or driveway in various

states on repair. The vehicles parked and being repaired was different at each inspection, which is indicative that a commercial vehicle business is being operated from the property.

A Planning Contravention Notice (PCN) was served against the property, requesting details regarding the use of the property and the operation of the business. Despite numerous requests, the PCN has not been returned.

During an inspection of the site in September, the property owner confirmed that he had previously operated from a commercial property on the Colwick Industrial Estate, but operating issues had resulted in a relocation of the business to 17 The Elms. The Borough Council received assurances during this meeting that the unauthorised use of the site would cease within a specified period.

Subsequent investigations have revealed this not to be the case and, despite a written reminder of the agreement reached on site the level of activity has continued at the previously recorded level.

### **Breach of Planning Control**

Although Planning Permission may not be required for the occupant to repair their own vehicle from the property, providing that the use is domestic in scale or a home based hobby, the current level of activity goes beyond the kind of activity that may be expected in a residential area and is no longer incidental to the enjoyment of the dwelling house. Planning Permission is required for the material change of use of the land which is defined as development within Section of 55 of The Town and Country Planning Act 1990. Further, the occupant admitted that he is carrying on a business at the property.

### **Planning Considerations**

In terms of Government guidance, Planning Policy Guidance Note 18 (PPG18) 'Enforcing Planning Control' states at paragraph 5 that:

- in considering any enforcement action, the decisive issue for the Local Planning Authority (LPA) should be whether the breach of control would unacceptably affect public amenity or the existing use of land;
- enforcement action should always be commensurate with the breach of planning control to which it relates;
- where the LPA's initial attempt to persuade the owner or occupier of the site voluntarily to remedy the harmful effects of unauthorised development fails, negotiations should not be allowed to hamper or delay whatever formal enforcement action may be required to make development acceptable on planning grounds or make it stop.

PPG18 advises that under section 173 of the Town and Country Planning Act 1990, the local planning authority may, in the serving of an Enforcement Notice, require steps to be taken for the purpose of making the development comply with the terms of any planning

permission which has been granted or of removing or alleviating any injury to amenity which has been caused by the development.

Having regard to this guidance, it is the Officer's opinion that the operation of a vehicle repair and/or servicing business from the property is having a detrimental impact on the amenity of the local area as a consequence of the numerous vehicles and parts stored on the property frontage and adjacent highway, along with the additional noise and activity created by the business use, adversely affects the amenity of the area.

It is therefore the Officer's opinion that authorisation should be given for the serving of an Enforcement Notice along with any further legal action required to regularise the position.

**Recommendation:**

**That the Head of Democratic and Community Services be authorised to serve an Enforcement Notice to require the cessation of the use of the land for the repair and servicing of motor vehicles, which is in breach of the Town and Country Planning Act 1990.**

**Authorisation is also sought to take any subsequent action that may be required.**