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<b>REPORT TO:</b>	<b>DEVELOPMENT CONTROL COMMITTEE</b>	<b>AGENDA ITEM: 6</b>
<b>DATE OF MEETING:</b>	<b>13<sup>th</sup> February 2007</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>DEPUTY CHIEF EXECUTIVE</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Linda Thornewill (595987)</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Unauthorised vehicular access at 16 Springfield Road, Midway.</b>	<b>REF: E2006/00094</b>
<b>WARD(S) AFFECTED:</b>	<b>Midway</b>	<b>TERMS OF REFERENCE: DC01</b>

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## **1.0 Recommendations**

- 2.1 It is recommended that the Development Control Committee take no action in the matter.

## **2.0 Purpose of Report**

- 2.1 The purpose of this report is to obtain the Committees instructions.

## **3.0 Detail**

- 3.1 A compliant was received stating that an unauthorised vehicular access had been formed at 16 Springfield Road, Midway. This was confirmed by site inspection. The property is within the ownership of the Council.
- 3.2 Contact with the occupier revealed that permission had been received from the Council as the Landlord (Housing Services) for the formation of the vehicular access in question.
- 3.3 Springfield Road is a classified road and as such, a planning application was required before the access was formed.
- 3.4 The occupier had been given the opportunity to submit a regularising application but has declined to do so.
- 3.5 The views of Derbyshire County Council as Highway Authority were sought on the matter and confirmation was received that had a regularising application been submitted, it was unlikely that any objection would have been raised on highway grounds.

3.6 Plan attached, see Appendix A.

#### **4.0 Financial Implications**

4.1 None.

#### **7.0 Corporate Implications**

7.1 It is important that other departments, prior to giving various consents under their functions, establish whether or not planning permission is required for the proposed works, and, if it is, that it is secured prior to that department's consent being given.

#### **8.0 Community Implications**

8.1 Not applicable.

#### **9.0 Conclusion**

9.1 The formation of a vehicular access to the classified highway constitutes a clear breach of planning control. However, the County Highway Authority has offered no objection on highway grounds to the retention of the access which would accordingly have been likely to have received an unconditional grant of planning permission.

9.2 Planning Policy Guidance Note 18 provides specific advice that an enforcement notice should not normally be issued solely to regularise development which is acceptable on its planning merits, but for which permission has not been sought.

9.3 Additionally, paragraph 14 of DOE circular 2/87 points out that it will be generally regarded as unreasonable for the Local Planning Authority to issue an enforcement notice solely to remedy the absence of a valid planning permission if it is concluded, on appeal, that there is no significant objection to the breach of control alleged in its enforcement notice.

9.4 Accordingly, LPA's who issue a notice in these circumstances are at risk of an award of costs against them in an appeal situation.

9.5 The circumstances inuring in 9.2 and 9.3 above are applicable in the situation relating to the unauthorised access at 16 Springfield Road and as such, it is concluded that enforcement action would be inappropriate in the circumstances.

#### **10.0 Background papers**

10.1 Enforcement file E2006/94.