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<b>REPORT TO:</b>	<b>Development Control Committee</b>	<b>AGENDA ITEM:</b> 5
<b>DATE OF MEETING:</b>	<b>27<sup>th</sup> November 2001</b>	<b>CATEGORY:</b> <b>DELEGATED</b>
<b>REPORT FROM:</b>	<b>Deputy Chief Executive</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Adrian Kirkham (Ext: 5743)</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Alleged un-authorized retail use of Units 5, 6 and 27, George Holmes Industrial Estate, Swadlincote.</b>	<b>REF:</b>
<b>WARD AFFECTED:</b>	<b>Swadlincote</b>	<b>TERMS OF REFERENCE: N/A</b>

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#### **1.0 Reason for Exempt**

1.1 Not Applicable.

#### **2.0 Recommendations**

2.1 That no further action is taken at this time.

#### **3.0 Purpose of Report**

3.1 To advise members concerning the receipt of a complaint regarding the alleged use of three units on the George Holmes Industrial Estate for retailing activities.

3.2 To seek members views on the matter.

3.3 To obtain members agreement to take no further action at this time.

#### **4.0 Detail**

4.1 A complaint has been received that three units on the George Holmes Industrial Estate in Swadlincote are being used for retail activities. The units have an extant consent for use as industrial premises. This would include use for the storage or warehousing of products etc.

4.2 The matter has been investigated. Information has been obtained on this matter and a Planning Contravention Notice (PCN) served on the owners seeking information on the activities on the site.

4.3 The information collected clearly shows that some level of retailing activity takes place from two of the units, units 5 and 6. Indeed, it is not disputed that retailing in some form takes place from units 5 and 6. Unit 27 is only used for storage of materials.

- 4.4 However, the applicant has stated in the information given in response to the PCN that no more than 10% of sales from the two units takes the form of retail sales with the remainder being in the form of wholesale activity. Significant weight should be attached to the information given on the PCN as not only is it completed by a solicitor, but, if it is not completed correctly, it can form the basis of legal prosecution of the individual filling it in.
- 4.5 The retailing activity has only been in operation for a period of 10 months and there is, therefore, no accounts that can back up the assertions of the owner.
- 4.6 In general terms, it has been accepted that if 10% of sales are through retail business this is ancillary to the main business operation. In such cases the activity does not require planning consent.

## **5.0 Financial Implications**

- 5.1 The Council is the owner of the units concerned. Therefore, as landlord, the Council has an interest in the property. Therefore, if it was determined that there had been a material change of use of the premises, the Council, as landlord may be liable for costs either in terms of action by the current tenant or by re-letting the property.

## **6.0 Conclusions**

- 6.1 A level of retailing activity takes place from Units 5 and 6.
- 6.2 No retailing takes place from Unit 27.
- 6.3 There is no evidence to counter the tenant's information that no more than 10% of sales are retail based. This information is given in a legally restricted document that has been filed by a solicitor.
- 6.4 At that level there has been no material change of use and, therefore, planning consent is not required.

## **7.0 Background Papers**

- 7.1 E2001/0176