

26.01.2014

ASK THE EXPERTS

The solicitor

My neighbour converted his house into a hairdressing business some years ago. He has now converted his garage into a beauty salon, creating parking problems. I have found in my deeds that both his property and mine have a restrictive covenant stating that they must only be used as dwellings, and not for business activities. What can I do?

WE, Staffordshire

If your neighbour's business materially changes the use of the property as a residence, then planning permission should have been obtained. To determine a "material change", one would consider issues such as the extent of the business, visible signage and any resulting increase in traffic. Contact your local authority, which may prevent or limit the use if it is in breach of planning regulations. If, however, an unauthorised change of use has been carrying on for more than 10 years, it will be immune from enforcement action. If the restrictive covenant is enforceable, you could seek to obtain a remedy preventing your neighbour from acting in breach; this may be harder to obtain if there has been a delay in objecting. You may therefore prefer to involve the local authority initially, in the hope that it will take enforcement action for a breach of planning regulations.

Nikolas Ireland is a solicitor at Forsters LLP; forsters.co.uk