



Planning Committee
3rd September 2015

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

Unit 1A, Alvar Business Park, Straight Road, Willenhall, WV12 5QY

1.0 PURPOSE OF REPORT

- 1.1 To request authority to take planning enforcement action in respect of the use of the land for washing and valeting vehicles.

2.0 RECOMMENDATION

- 2.1 That authority is granted for the Head of Planning and Building Control to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended), to require remedial actions to be undertaken as shown below in 2.3.
- 2.2 To authorise the Head of Planning and Building Control to institute prosecution proceedings in the event of non-compliance with an Enforcement Notice or the non-return of Requisitions for Information or a Planning Contravention Notice; and the decision as to the institution of Injunctive proceedings in the event of a continuing breach of planning control.
- 2.3 To authorise the Head of Planning and Building Control, to amend, add to, or delete from the wording set out below stating the nature of the breach(es) the reason(s) for taking enforcement action, the requirement(s) of the Notice, or the boundaries of the site, in the interests of ensuring the accurate and up to date notices are served.

Details of the Enforcement Notice

The Breach of Planning Control:-

Without the required planning permission, the making of a material change of use of the land for vehicle washing and valeting.

Steps required to remedy the breach:-

- Permanently cease to use the land for the washing and valeting of vehicles.
- Permanently remove from the land all vehicles, materials, equipment and signage which are used in connection with the use for vehicle washing and valeting.

Period for compliance:-

One month

Reasons for taking Enforcement Action:-

1. The hand car wash and valeting use including the use of pressure washers, vacuum cleaners, vehicles waiting, manoeuvring and associated general activities results in noise and disturbance that unacceptably reduces the level of amenity available to the surrounding residential occupiers. In addition the use of pressure washers on the frontage in close proximity to the public footpath, bus stop and access/parking area for adjacent businesses gives rise to the potential of overspray of water to the detriment of users of the pavement and visitors/occupiers to adjacent businesses. The use is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies TRAN1, TRAN2 and ENV3 of the Black Country Core Strategy and saved policies GP2, 3.6, 3.7, ENV10, ENV32 and T13 of the Walsall Unitary Development Plan .

2. The use by virtue of its operations, use of equipment and signage has a poor visual appearance; there is no screening from the equipment used, there is no demarcation between the car wash site and the adjoining users of the business park and no clear visual indication between the waiting, washing and drying areas. It is an incongruous feature within the immediate vicinity that fails to make a positive contribution to the quality of the environment. The use is therefore contrary to the aims and objectives of the National Planning Policy Framework, policy ENV3 of the Black Country Core Strategy and saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan.

3. The site layout and access arrangements create the potential for queuing traffic onto the highway and conflicting vehicle movements with neighbouring users of the shared access causing a detrimental impact on highway safety and the free flow of traffic on the A462 District Distributor. The use is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies TRAN1, TRAN2 and ENV3 of the Black Country Core Strategy and saved policies GP2, ENV32 and T4 of the Walsall Unitary Development Plan .

4. The use due to the shared access arrangements has the potential to drag water across the parking and access ways used by neighbouring businesses to the detriment of the safety and amenity of occupiers and visitors to these premises. In addition it has not been demonstrated that appropriate mitigation measures are in place to prevent oil, soap and silt getting into the water system. The development therefore has the potential to give rise to pollution. The use is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies TRAN2 and ENV3 of the Black Country Core Strategy and saved policies GP2, 3.6, 3.7, ENV10, ENV32 and ENV40 of the Walsall Unitary Development Plan.

3.0 FINANCIAL IMPLICATIONS

An appeal against an enforcement notice could be subject to an application for a full or partial award of the appellant's costs in making an appeal if it was considered that the Council had acted unreasonably.

4.0 POLICY IMPLICATIONS

The report recommends enforcement action in order to seek compliance with planning policies. The following planning policies are relevant in this case:

National Planning Policy Framework (NPPF) www.gov.uk

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- Contribute to conserving and enhancing the natural environment and reducing pollution

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**
- **NPPF 11 - Conserving and enhancing the natural environment**

Local Policy

Black Country Core Strategy

- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island

Unitary Development Plan

- GP2: Environmental Protection
- 3.6 and 3.7: Environmental improvement
- ENV10: Pollution
- ENV32: Design and Development Proposals
- ENV40: Conservation, Protection and Use of Water Resources
- T4: The Highway Network
- T13: Parking Provision for Cars, Cycles and Taxis

Policies are available to view online:

http://cms.walsall.gov.uk/planning_policy

5.0 LEGAL IMPLICATIONS

Pursuant to section 171A(a) of the Town and Country Planning Act 1990 (as amended) the carrying out development without the required planning permission or failing to comply with a condition or limitation subject to which planning permission has been granted constitutes a breach of planning control. Section 171B adds that where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken

after the end of the period of four years beginning with the date on which the operations were substantially completed. In respect of any other breach (such as change of use or breach of condition) no enforcement action may be taken may be taken after the end of the period of ten years from the date of the breach except where the breach of planning control consists of a change of use of any building to use as a single dwellinghouse, in which case a four year period applies. It appears to officers that the breach of planning control occurring at this site commenced within the last ten years.

Section 172 of the Town and Country Planning Act 1990 provides that the local planning authority may issue an Enforcement Notice where it appears to them:

- (a) that there has been a breach of planning control; and
- (b) that it is expedient to issue the notice, having regard to the development plan and to any other material considerations.

The breach of planning control is set out in this report. Members must decide whether it is expedient for the enforcement notice to be issued, taking into account the contents of this report. Non-compliance with an Enforcement Notice constitutes an offence. In the event of non-compliance the Council may instigate legal proceedings. The Council may also take direct action to carry out works and recover the costs of those works from the person on whom the Enforcement Notice was served. Any person on whom an Enforcement Notice is served has a right of appeal to the Secretary of State.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

Article 8 and Article 1 of the first protocol to the Convention on Human Rights state that a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedom of others. In this case, the wider impact of the appearance of the land overrules the owner's right to the peaceful enjoyment of his property.

7.0 ENVIRONMENTAL IMPACT

The report seeks enforcement action to remedy adverse environmental impacts.

8.0 WARD(S) AFFECTED

Short Heath

9.0 CONSULTEES

None

10.0 CONTACT OFFICER

Paul Hinton 01922 652607
Development Management

11.0 BACKGROUND PAPERS

Enforcement file not published - E14/0519

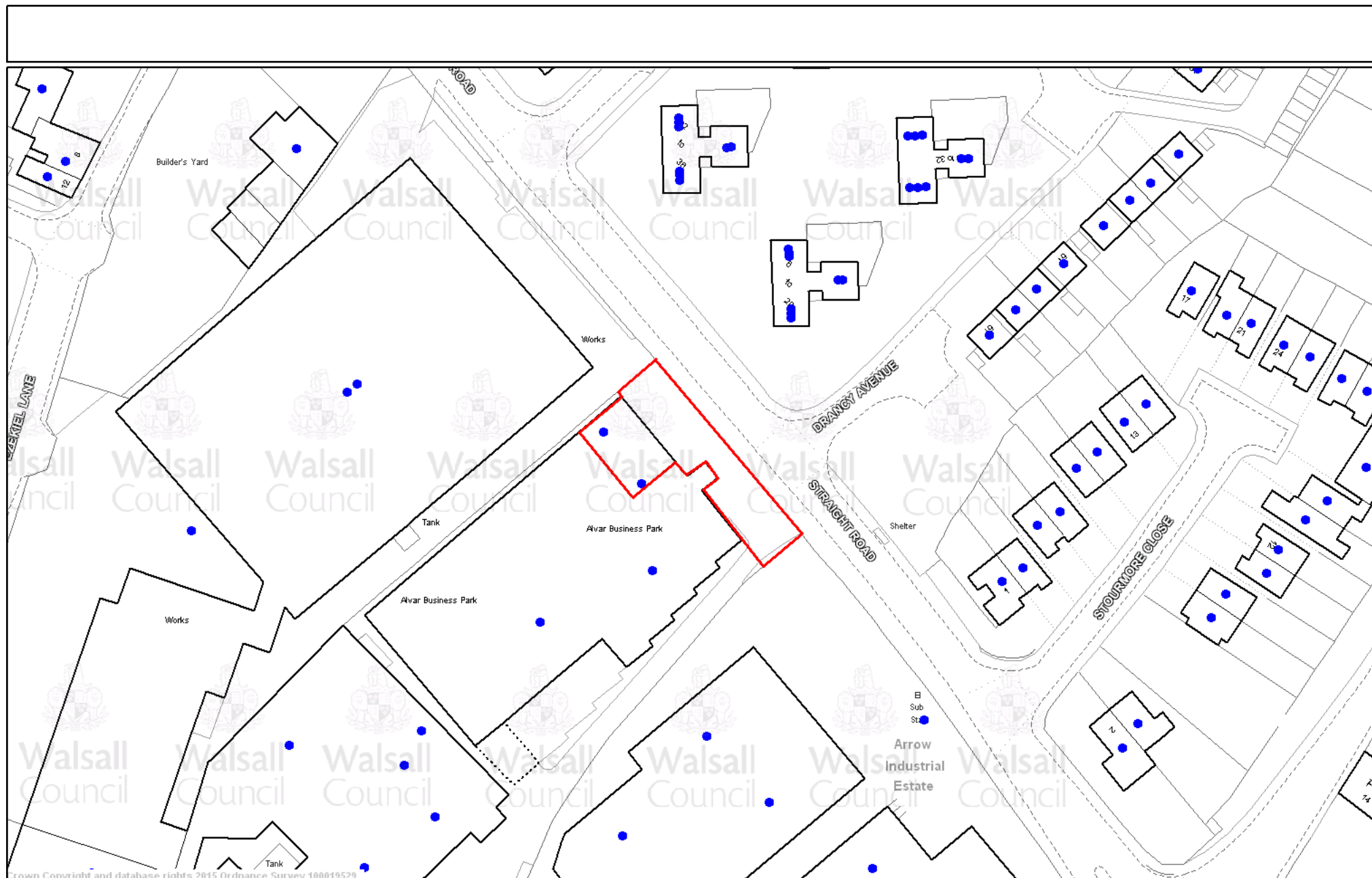
David Elsworthy
Head of Planning and Building Control

Planning Committee
3rd September 2015

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 The site is situated on the western side of Straight Road (A462 – District Distributor) and is part of a building which forms part of Alvar Business Park. Across the road are three storey blocks of flats.
- 12.2 This building is divided and used by different users including a Marshall Arts company at first floor, offices and a tyre fitting company where the car wash is operated from. The wider business park includes industrial and commercial uses with a Go-Karting and Laser Centre. The business park is served by car parking along the frontage and side with two vehicle access points. The tyre fitting company operate from the end unit with a large roller shutter door and service bay behind. The car washing operations take place within the car park to the frontage directly in front of one of the access points. The valeting appears to take place within the building next to the tyre fitting operations. There is a bus stop next to the frontage and a pedestrian crossing in close proximity.
- 12.3 Officers were first may aware of the car wash operations in May 2015 and advised the operator that planning permission was required. A planning application was submitted shortly afterwards, however the application has not been accompanied by the required information and therefore has been held as invalid.
- 12.4 For the reasons explained earlier in the report it is considered that the operations cause harm to the area. There are flats across the road which would be adversely affected by the noise of the operations, while it is recognised this is an industrial area, the operations are in the open at the frontage. The front boundary is a low wall with the pavement adjacent and the bus stop. In addition the frontage is used by other users of the business park, therefore the overspray from the washing operations would be to the detriment of the users of these areas.
- 12.5 The operations are on the front of the business park and in the open, there is no screening and a number of advertisement signs. There is no demarcation between the car wash site and the adjoining users of the business park and no clear visual indication between the waiting, washing and drying areas. It is an incongruous feature within the immediate vicinity that fails to make a positive contribution to the quality of the environment.
- 12.6 The washing area is directly in front of one of the vehicle access points, any vehicles being washed would block any other vehicles using this access and any within the tyre fitting bay trying to leave. In addition there is no area for additional vehicles waiting to be washed to queue safely within the site, therefore the site layout and access arrangements create the potential for queuing traffic onto the highway and conflicting vehicle movements with neighbouring users of the shared access causing a detrimental impact on highway safety and the free flow of traffic on the A462 District Distributor.

- 12.7 Due to the shared access arrangements the use has the potential to drag water across the parking and access ways used by neighbouring businesses to the detriment of the safety and amenity of occupiers and visitors to these premises. In addition it has not been demonstrated that appropriate mitigation measures are in place to prevent oil, soap and silt getting into the water system. The development therefore has the potential to give rise to pollution.
- 12.8 Because of the harm the development is causing, as explained above, it is considered expedient that enforcement action is now taken through the issue of an enforcement notice. Should the planning application become valid then any action could be held in abeyance to assess that application. Officers therefore request that authorisation is given to take this course of action.



Walsall Council

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