

DEVELOPMENT CONTROL COMMITTEE

Thursday, 18 June, 2009 at 5.30 p.m.

In the Council Chamber at the Council House Walsall

Present

Councillor M.G. Pitt (**Chairman**)
Councillor Bird (**Vice-Chairman**)
Councillor Ali
Councillor Arif
Councillor Ault
Councillor Barton
Councillor Beeley
Councillor P. Bott
Councillor Carpenter
Councillor Cook
Councillor Douglas-Maul
Councillor Munir
Councillor Robertson
Councillor Rochelle
Councillor Sarohi
Councillor Turner
Councillor Underhill

2104/09 Apologies

Apologies for non attendance were submitted by Councillor P Hughes

2105/09 Minutes

Resolved

That the minutes of the meeting held on 21 May, 2009, a copy having been previously circulated to each member of the Committee, be approved and signed by the Chairman as a correct record.

2106/09 Declarations of Interest

Councillor Bird declared a prejudicial interest in Agenda Item No. 6 (Advertisement outside Three Crowns Pub, Sutton Road, Walsall).

2107/09 **Deputations and Petitions**

There were no deputations received or petitions submitted.

2108/09 **Development Control Performance Report 2008-09**

The report of the Head of Planning and Building Control was submitted:-

(see annexed)

In relation to the performance side of the report, Members wished to congratulate Officers for their hard work and for exceeding Government targets.

Members then sought additional information on some of the outstanding enforcement cases.

In relation to Boundary Court, 35 – 49 Boundary Road, Streetly – The Committee's Solicitor and the Head of Planning and Building Control advised Councillor Douglas Maul on the latest position with regard to this case and agreed to provide further information to him outside the meeting.

With reference to 110 Bridle Lane, Streetly – The Head of Planning and Building Control agreed to write urgently to the applicant advising that the next step the Council would be undertaking was to instigate prosecution.

Following deliberations, the following enforcement cases in particular were discussed and members requested reports back on the latest positions and options available to them to pursue the matters further: -

- Mellish Road Church;
- 101 Woden Road West, Darlaston;
- 74 & 75 Stafford Street, Willenhall (Report to include Health & Safety Implications).

The Chair also requested that the Bell Inn, Market Place, Willenhall be progressed.

The latest positions with regard to further enforcement cases were discussed and officers responded accordingly.

Resolved

That the report be noted and reports be brought back to future meetings on the following cases: -

- Mellish Road Church;

- 101 Woden Road West, Darlaston;
- 74 & 75 Stafford Street, Willenhall,

2109/09 **Advertisement outside Three Crowns Pub, Sutton Road, Walsall**

The report of the Head of Planning and Building Control was submitted along with additional information and a revised recommendation as contained within the supplementary paper:-

(see annexed)

Resolved (16 Members voting in favour and 1 against)

- (1) That the Assistant Director, Legal and Constitutional Services be authorised to instigate legal proceedings to prosecute the owner(s) and/or occupier(s) and other relevant persons, under Section 224 of the Town and Country Planning Act 1990, in respect of displaying advertisements without the consent required under the Town and Country Planning (Control of Advertisements) Regulations, 2007, for the reasons set out in the report now submitted, in particular in the terms set out in paragraph 12.5 of the report and as amended by the supplementary paper now submitted;
- (2) That the decision as to the institution of legal proceedings, in the event of the non-return of Requisitions for Information, or a Planning Contravention Notice, be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control;
- (3) That the decision as to the institution of legal proceedings, in the event of an advertisement of this description and advertising the same business being displayed unlawfully at any other location in the Borough be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control.

Having declared a personal interest in this item, Councillor Bird left the room for the duration of the discussions and did not vote.

2110/09 **Struggling Monkey Public House, Northgate, Aldridge**

The report of the Head of Planning and Building Control was submitted:-

(see annexed)

During the discussion, the Committee requested that the Head of Planning and Building Control send a suitably worded letter, to be agreed by Legal Services, to Breweries in the area advising them of the implications of illegal car washes being allowed to use their land, in a hope that providing accurate

information on the proper process and requirements for setting up such a business lawfully would lead to prevention rather than cure.

Furthermore, at the request of the Chair and Vice-Chair, the Head of Planning and Building Control agreed to refer this and the following enforcement reports as well as any future cases that may arise to the Head of Public Protection for her to investigate if prosecution can be undertaken on Public Protection Grounds as a result of the drainage of chemicals.

Resolved (16 Members voting in favour and 1 against)

- (1) That authority be granted for the issuing of an enforcement notice under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as shown in paragraph 2.3. of the report now submitted;
- (2) That the decision as to the institution of 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 control, be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control;
- (3) That in the interests of ensuring an accurate and up to date notice is served, authority be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control to amend, add to, or delete from the wording set out in the report now submitted 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.

2111/09 **The Boat Public House, Bentley Road South, Darlaston**

The report of the Head of Planning and Building Control was submitted:-

(see annexed)

Resolved (16 Members voting in favour and 1 against)

- (1) That authority be granted for the issuing of an enforcement notice under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as detailed in paragraph 2.3. of the report now submitted;
- (2) That the decision as to the institution of 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 control, be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control;

- (3) That in the interests of ensuring an accurate and up to date notice is served, authority be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control to amend, add to, or delete from the wording set out in the report now submitted 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.

2112/09 81a Lichfield Road, Shelfield

The report of the Head of Planning and Building Control was submitted:-

(see annexed)

Resolved (16 Members voting in favour and 1 against)

- (1) That authority be granted for the issuing of an enforcement notice under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as shown in the report now submitted;
- (2) That the decision as to the institution of 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 control, be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control;
- (3) That in the interests of ensuring an accurate and up to date notice is served, authority be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control to amend, add to, or delete from the wording set out in the report now submitted 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.

2113/09 Confirmation of Tree Preservation Order 32 of 2008 at Langham Green, Streetly and Revocation of Tree Preservation Order 4 of 1989

The report of the Head of Regeneration - Delivery and Development was submitted:-

(see annexed)

Resolved

- (1) That Walsall Tree Preservation Order 32 of 2008 be confirmed in an unmodified form;
- (2) That the reason for making the Tree Preservation Order as set out in the report detailed in paragraph 1.4 be supported;
- (3) That it be noted that two representations had been received in respect of the Tree Preservation Order;
- (4) That Walsall Tree Preservation Order 4 of 1989 be revoked upon the confirmation of Tree Preservation Order 32 of 2008.

2114/09 **Urgent Item – Confirmation of Tree Preservation Order 1 of 2009 on Land at Richards Street and Whitworth Close, Darlaston. To Revoke Tree Preservation Order 24 of 1979**

The report of the Head of Regeneration - Delivery and Development was submitted:-

(see annexed)

The Chair advised the Committee that the reason for urgency was that the TPO was due to expire on 15th, July 2009 and the next committee was on 16th July, 2009. The site was currently being considered for residential development, with a substantial number of trees being felled prior to the submission of the application. As a result, and due to the history of the site, it had been requested that the report be dealt with by way of an urgent item. The reasons for this were that there may be further loss of trees if the TPO was not confirmed.

Resolved

- (1) That Walsall Tree Preservation Order 1 of 2009 be confirmed in an unmodified form;
- (2) That the reason for making the Tree Preservation Order as set out in the report detailed in paragraph 1.1 be supported;
- (3) That it be noted that one representation had been received in respect of the Tree Preservation Order;
- (4) That Walsall Tree Preservation Order 24 of 1979 be revoked.

2115/09 **Application List for Permission to Develop**

The application list for permission to develop was submitted together with the supplementary papers and additional information for items already on the plans list:-

(see annexed)

The Committee agreed first to deal with the items on the Agenda where members of the public had previously indicated that they wished to address the Committee. The Chair, at the beginning of each item for which there were speakers advised of the procedure whereby the speaker would have three minutes to speak and then at two minutes they would be reminded that they had a minute left.

2116 /09 **Item No. 4 - 09/0502/FL - change of use from newsagents (A1) to chip shop (A5 hot food take-away) at 305 Wolverhampton Road, Walsall, WS2 8RL**

The Planning Officer advised the Committee of the background to the report and drew Members' attention to the additional information and condition contained within the supplementary paper now submitted.

The Committee then welcomed Mr. Jones who spoke in support of the application.

The Committee then welcomed Mr Poonian who also spoke in support of the application.

There then followed a period of questioning by Members in relation to the location of the lay-by and bus stop in relation to the shop, the type of ventilation to be used and its location, the affect of the red route proposals on parking along the road in question and whether the car park to the rear of the shop could be tidied up as a part of the conditions.

The Committee proceeded to discuss the application in detail.

Members considered the application and Councillor Pitt **moved** and it was duly **seconded** by Councillor Bird:-

That planning application No. **09/0502/FL** be approved subject to the conditions as contained in the report now submitted, and subject to condition 8 of the permission requiring it to be implemented before the business is in use.

The motion having been put to the vote, was declared carried, with 16 members voting in favour of granting planning permission and 1 against.

Resolved

That planning application No. **09/0502/FL** be approved subject to the conditions as contained in the report now submitted, and subject to condition 8 of the permission requiring it to be implemented before the business is in use.

2117 /09 **Item No. 5 - 09/0331/FL - change of use to restaurant and take-away (Use Class A3 and A5) (No external changes) at Day Street, Walsall, WS2 8EJ**

The Planning Officer advised the Committee of the background to the report and drew Members' attention to the additional information as contained within the supplementary paper now submitted.

The Committee then welcomed Mr. Single who spoke in support of the application.

The Committee then welcomed Mrs. Gilbert who also spoke in support of the application.

There then followed a period of questioning by Members in relation to the need for such a business in the area, whether the new ring road had eased traffic problems, the class use of a nearby Subway restaurant, where the Gigaport would be in relation to the application site, the relationship between this site and the new college and demand that may arise from students, evidence of any traffic problems or accidents in the vicinity of the application site, parking restrictions, siting of local car parking spaces and the suitability of the location in relation to the Town Centre .

The Committee proceeded to discuss the application in detail.

Members considered the application and Councillor Robertson **moved** and it was duly **seconded** by Councillor Ault:-

That planning application No. **09/0331/FL** be approved, subject to detailed conditions in relation to the usual time limit on implementation, grease trap, extraction and filtration system; litter bins and waste disposal systems, and appropriate signage being displayed on the premises to advise on parking opposite the site, being approved by officers as the Committee were of the opinion that there was no likelihood of parking problems from on-street parking, sufficient off-street parking in the vicinity of the application site and felt that there had been a significant change in the demographics of the area

leading to a business need that would serve the local community and would therefore not be detrimental to the vitality of the town centre.

The motion having been put to the vote, was declared carried with 14 members voting in favour of granting planning permission and 3 against.

Resolved

That planning application No. **09/0331/FL** be approved, subject to detailed conditions in relation to the usual time limit on implementation, grease trap, extraction and filtration system; litter bins and waste disposal systems, and appropriate signage being displayed on the premises to advise on parking opposite the site, being approved by officers as the Committee were of the opinion that there was no likelihood of parking problems from on-street parking, sufficient off-street parking in the vicinity of the application site and felt that there had been a significant change in the demographics of the area leading to a business need that would serve the local community and would therefore not be detrimental to the vitality of the town centre.

2118/09 Item No. 6 - 09/0458/FL - two 98 sheet posters on a monopole at Axletree Way (Adj. Ikea entrance) Wednesbury, Walsall

The Planning Officer advised the Committee of the background to the report.

The Committee then welcomed Mr George who spoke in support of the application.

There then followed a period of questioning by Members in relation to the location of the proposed sign in relation to the existing sign, the size of the signs in relation to other signs in the Borough and if there was any evidence to support an increase in traffic accidents as a direct result of signs distracting drivers.

The Chair and Vice Chair reminded the Committee that it could only consider this application on Highway Safety grounds, if they agreed with officers that as recommended, there was no objection to the amenity aspects of it. In view of this it was down to Members to consider the concerns raised by the Highways Agency and weigh up if they agreed that the signs would be dangerous by way of causing drivers to divert their attention at this point on the Motorway or not. The Chair also reminded the Committee that this application was different to other similar applications that had previously come before the Committee as an Active Traffic Management system was being proposed on this section of the M6 which the sign would be adjacent to.

The Committee's Solicitor also advised the Committee to base its decision purely on the recorded objections of the Highways Agency and not to attach any weight to the fact that there was not a representative from the Highways Agency present at the meeting.

The Committee proceeded to discuss the application in detail.

Members considered the application and Councillor Pitt **moved** and it was duly **seconded** by Councillor Rochelle :-

That advertisement application No. **09/0458/FL** be refused as detailed in the report now submitted.

At this juncture in the meeting, the Chair stated that he would like a named vote on this motion.

The Clerk advised the Committee that paragraph 18.5 of the Council's Procedure Rules stipulated that 5 of the Members present at the meeting must call for a named vote in order for a named vote to take place.

In view of this advice, the Chair sought 5 members to agree to a named vote on this motion.

Councillors Pitt, Douglas-Maul, Rochelle, Underhill and Turner duly obliged and requested a named vote on the motion.

The motion having been put to the vote, was declared lost with members voting against the refusal of permission as follows: -

Councillor	In Favour of Motion	Against Motion
Pitt (Chair)	✓	
Bird (Vice-Chair)		✓
Ali		✓
Ault		✓
Beeley		✓
Bott		✓
Carpenter		✓
Cook		✓
Douglas-Maul	✓	
McCracken		✓
Munir		✓
Robertson		✓
Rochelle	✓	
Sarohi	✓	
Turner	✓	
Underhill	✓	
Total	6	10

In view of the motion failing, the Chair sought the Committee intentions on how to proceed with this application.

Members again considered the application and Councillor Ali **moved** and it was duly **seconded** by Councillor Ault:-

That advertisement application No. **09/0458/FL** be approved as the Committee felt that the sign would not be a distraction to drivers and taking into consideration the full concerns of the Highways Agency and the proposed Active Traffic Management and its proximity to the slip road, Members felt that there was insufficient road safety evidence to refuse permission.

The motion having been put to the vote, was declared carried with 10 members voting in favour of granting permission and 6 against.

Resolved

That advertisement application No. **09/0458/FL** be approved as the Committee felt that the sign would not be a distraction to drivers and taking into consideration the full concerns of the Highways Agency and the proposed Active Traffic Management and its proximity to the slip road, Members felt that there was insufficient road safety evidence to refuse permission.

Councillor Barton left the room for a short period during the consideration of this item and therefore did not take part in the deliberations and did not vote.

At the conclusion of this item, Councillor Bird moved, and it was duly seconded by Councillor Cook, that Standing Order No. 9 of the Council's Procedure Rules be suspended to enable the Committee to determine the remainder of its business. The Committee supported this motion unanimously.

2119 /09 **Item No. 1 - 09/0273/FL - change of use from former redundant nurses accommodation and part office to offices at Goscote Hospital, Goscote Lane, Walsall**

Resolved (Unanimously)

That planning application No. **09/0273/FL** be approved subject to the conditions as contained in the report and supplementary paper now submitted.

2120 /09 **Item No. 2 - 09/0432/FL - erection of 22 dwellings to plots 25-40 and 45-60 consisting of 3 bedroom semi/terraced houses including all necessary access and sewer works (revisions to earlier permission) at Stafford Road, Darlaston, Wednesbury**

Resolved (Unanimously)

That planning application No. **09/0432/FL** be approved subject to the conditions as contained in the report and supplementary paper now submitted.

2121 /09 **Item No. 3 - 09/0387/FL - alteration and extension of public house car parking and beer garden at The Navigation Inn, Fibbersley, Willenhall, WV11 3SU**

Resolved (16 voting in favour and one against)

That planning application No. **09/0387/FL** be approved subject to the conditions as contained in the report and supplementary paper now submitted.

Councillor Cook wished to have his name recorded as having voted against this resolution

Termination of meeting

There being no further business the meeting terminated at 8.40pm

Signed:

Date: