



**Development Control Committee**  
**27<sup>th</sup> May 2010**

**REPORT OF HEAD OF PLANNING AND BUILDING CONTROL**

**11 Leighs Road, Pelsall, WS4 1BX**

**1.0 PURPOSE OF REPORT**

To request authority to take planning enforcement action in respect of the erection of canopy structure and fencing.

**2.0 RECOMMENDATIONS**

- 2.1 That authority is 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 below in 2.3.
- 2.2 To authorise 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.
- 2.3 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 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:

**Details of the Enforcement Notice**

**The Breach of Planning Control:-**

Operational development comprising the erection of 1.8 metre fencing and canopy structure.

**Steps required to remedy the breaches:-**

- a. Completely dismantle the canopy structure

- b. Removal of the fencing and supporting posts from the land, as shown on the attached plan
- c. Remove all resultant components and debris from the land.

Period for compliance:-

2 months

Reasons for taking Enforcement Action:-

By reason of its height, appearance, construction materials and prominent location to the side of the house fronting the highway, the timber canopy structure is a visually incongruous and unsightly feature which detracts from the level of amenity in the surrounding residential area contrary to Walsall Unitary Development Plan policies GP2 and ENV32.

By reason of the irregular design of the fencing, which is constructed from a mixture of recycled wooden pallets and wooden panels supported by concrete posts visible from the road, the appearance of the fencing is of a poor quality that detracts from the character of the area in this prominent location. The development is therefore contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Residential Development Standards

3.0 FINANCIAL IMPLICATIONS  
None arising from the report.

4.0 POLICY IMPLICATIONS  
The report recommends enforcement action in order to seek compliance with planning policies.

5.0 LEGAL IMPLICATIONS  
None arising from the report.

6.0 EQUAL OPPORTUNITY IMPLICATIONS  
None arising directly from this report.

7.0 ENVIRONMENTAL IMPACT  
The report seeks enforcement action to remedy adverse environmental impacts.

8.0 WARD(S) AFFECTED  
Rushall - Shelfield

9.0 CONSULTEES  
None

10.0 CONTACT OFFICER  
James Fox  
Planning Enforcement Team: 01922 652527

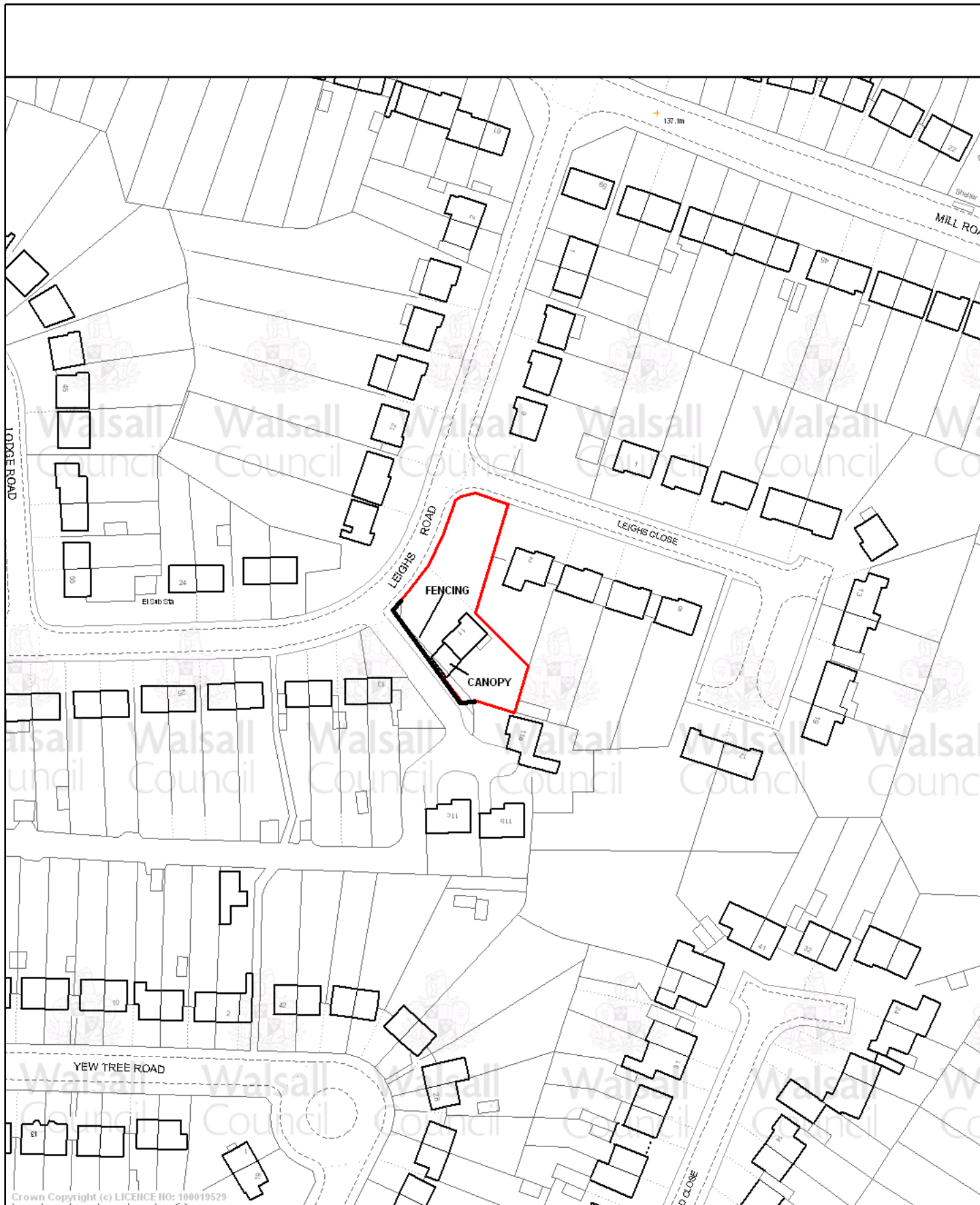
11.0 BACKGROUND PAPERS  
Enforcement file not published.

D. Elsworthy  
Head of Planning and Transportation

Development Control Committee  
27<sup>th</sup> May 2010

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 The report relates to the erection of a timber canopy structure and fencing at 11 Leighs Road first reported to planning enforcement officers during March 2009. A plan showing the location of the canopy and fencing is attached to this report.
- 12.2 11 Leighs Road is a detached dwelling on the corner of Leighs Close. The canopy projects approximately 4.9 metres from the original side elevation towards the highway and measures 3.6 metres in height. The canopy spans almost the entire length of the property (approximately 5.6 metres).
- 12.3 The canopy is to facilitate the maintenance and repair of the owners 'off road' vehicles. It is evident that the vehicles are repaired in connection with a hobby forming an ancillary use of the dwelling with no evidence to suggest the canopy is involved in a change of use.
- 12.4 Nevertheless the canopy is not householder 'permitted development' because it is closer to the highway than any other part of the house and it also exceeds the maximum allowable height of 3 metres.
- 12.5 The owners have been advised that planning permission is required to retain the canopy, however no planning application has been received. Notwithstanding the need for a planning application, it is unlikely that planning permission would be granted as it is a visually incongruous structure which is harmful to the amenity of the area. On this basis the owner was advised in a letter during September 2009 to dismantle the canopy building, however the situation remains unresolved.
- 12.6 A second breach of planning control involves the erection of fencing stretching approximately 30 metres or 15 panels along the perimeter of 11 Leighs Road. A section of the fencing originally erected stood at a height of approximately 3 metres. Following a letter from the Case Officer the fencing was reduced to 1.8 metres. Even at its reduced height all of the fencing still requires planning permission because it is adjacent to the highway and it also exceeds the maximum allowable height of 1 metre.
- 12.7 The owner has been advised that the fencing will require planning permission in order to be retained, however it is considered that the design and condition of the fencing is harmful to the amenity of the area and therefore it is unlikely that planning permission would be granted.
- 12.8 On this basis the owner was also advised to either remove the fencing adjacent to the highway, reduce its height to no more than 1 metre, or obtain planning permission for a replacement fence over 1 metre. The owner has chosen not to do any of these.
- 12.9 In relation to both the canopy structure and the fencing the owner has chosen not to regularise the situation and unauthorised development remains on the site. In the circumstances enforcement action is required as set out in the recommendations.



**Walsall Council**

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LICENCE NO: 100019529

Scale 1/1250 Date 19/5/2010

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