



PLANNING COMMITTEE

1st March 2012

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

Fairview Motors, Station Street, Darlaston, WS10 8BW

1.0 PURPOSE OF REPORT

To request authority to take planning enforcement action in respect of the change of use to car sales.

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 Head of Legal and Democratic 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 Head of Legal and Democratic 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 breaches and the reasons for taking enforcement action, the requirements of the Notice, or the boundaries of the site:

Details of the Enforcement Notice

The Breach of Planning Control:-

Without the required planning permission the material change of use to car sales.

Steps required to remedy the breach:-

- Permanently cease to use the land for vehicle sales and permanently remove all vehicles associated with the vehicle sale use.

Period for compliance:-

Two months

Reason for taking Enforcement Action:-

The use of the yard area wholly for vehicle sales fails to provide off street parking facilities or serving arrangements for the existing independent offices within the site. Further, the layout of the vehicles for sale results in car transporters loading and unloading within the street. As a consequence the unrestricted use is detrimental to highway safety and the free flow of traffic. The development is contrary to the aims and objectives of Walsall's Unitary Development Plan saved policies GP2, T7 and T13 and national guidance, Planning Policy Guidance 13: Transport.

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:

Black Country Core Strategy & UDP PoliciesSaved Policies of Walsall's Unitary Development Plan (2005)

GP2: The Council will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

VII. Accessibility by a choice of means of transport; traffic impact, including the adequacy of the proposed access; and the adequacy of parking facilities.

T7: All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified.

T13: Car showrooms – 10% of gross site area for car parking.
Use class B1(a) 1 car park space per 30m² of gross floorspace.

National Policy

PPG13 – Transport: Planning can also influence road safety through its control of new development. The needs and safety of all in the community should be considered from the outset, taking account of the importance of good design.

PPG18 – Enforcing Planning Control: The decisive issue for the Local Planning Authority should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings merits protection in the public interest.

The National Planning Policy Framework Consultation Draft was issued on 25 July 2011. The document has now completed its consultation and received wide-spread publicity and significant responses. Ministers have confirmed that amendments to the document will be made. The CLG Select Committee has completed its assessment with 35 key recommendations. The Government is considering these. As such, the consultation document carries very limited

weight. Officers note the intention of Government is that the planning system is plan-led and Local Plans are the starting point for the determination of any planning application.

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

Bentley and Darlaston North

9.0 CONSULTEES

Planning application 10/1435/FL for the retrospective change of use to car sales would have been subject to the normal consultation

Highways objected as there was no parking for the existing offices (9 spaces required) and the layout may have a detrimental impact on the servicing and operation of the adjoining premises. Insufficient information has been provided on how the site will be serviced.

Six objections were received from two residents, which included insufficient parking on site, staff park on the road, and car transporter delivering vehicles parks on the street causing traffic problems.

10.0 CONTACT OFFICER

Paul Hinton

Planning Enforcement Team – 01922 652486

11.0 BACKGROUND PAPERS

Enforcement file not published

David Elsworthy
Head of Planning and Building Control

Planning Committee
1st March 2012

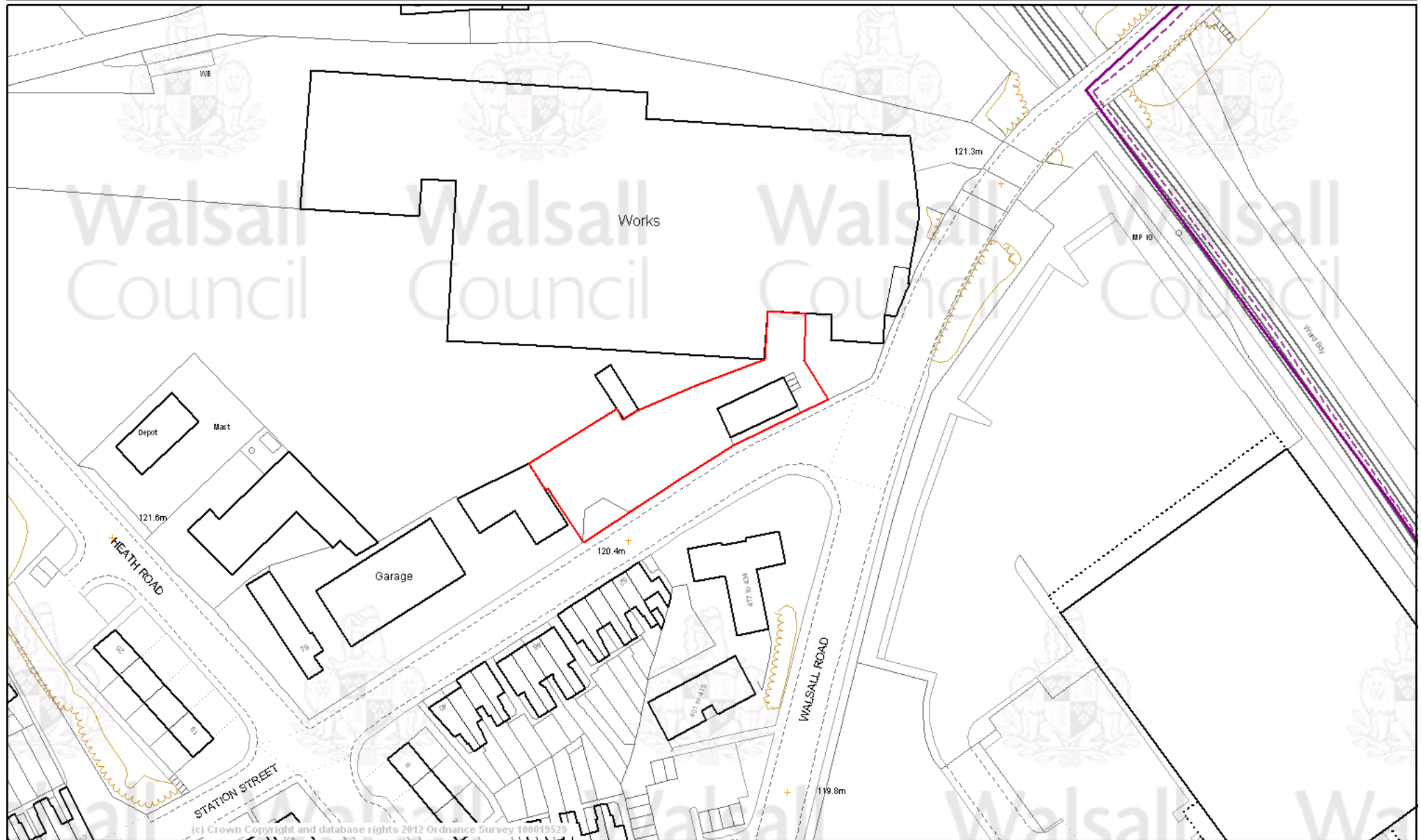
12.0 BACKGROUND AND REPORT DETAIL

- 12.1 Fairview Motors is part of a two storey office block and includes a yard area. The yard area is used for the sale of cars and the office block the administration function for the car sales. In October 2010 a retrospective planning application was submitted for the change of use of the yard area and part of the office for car sales and display. The use employs three full time staff. Following advice from Highways Officers (reported in section 9 above) the applicant was invited to make amendments to the proposal. No response was received so the planning application was refused on 5th January 2012 for the following reason:

The proposed layout provides no off street parking facilities or servicing arrangements for the existing independent offices within the site and provides insufficient information regarding the servicing arrangements for the car sales use, detrimental to highway safety and the free flow of traffic in the adjoining highway and contrary to the aims and objectives of Walsall's Unitary Development Plan (2005) and in particular saved policies T7, T13 and GP2.

- 12.2 The use of the site for vehicle sales continues despite this planning refusal. While it is recognised that there is a right of appeal to the refusal, the unrestricted use gives rise conditions prejudicial to highway safety. As a result it is considered expedient that enforcement action is now taken through the issue of an enforcement notice to rectify the breach of planning control and the harm it is causing. Officers request authorisation is given to take this course of action.

Fairview Motors, Station Street, Darlaston, WS10 8BW



Walsall Council

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