



Planning Committee
31st March 2011

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

Land to the rear of 9 and 11 Lichfield Road, Rushall, Walsall, WS4 1NP

1.0 PURPOSE OF REPORT

- 1.1 To request authority to take planning enforcement action in respect of the change of use of pasture land to residential garden.

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 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 planning permission the change of use from pasture land to residential garden.

Steps required to remedy the breach:-

- Permanently cease to use the land as residential garden.
- Permanently remove those features that give the land the appearance of a residential garden.

Period for compliance:-

Two months

Reasons for taking Enforcement Action:-

The use of this Green Belt land for residential garden is inappropriate development, which encroaches into the countryside and reduces the openness of the Green Belt. The use is therefore contrary to the aims and objectives of policy CSP2 of the Black Country Joint Core Strategy, policies 3.3 and ENV2 of the saved Unitary Development Plan and Planning Policy Guidance 2: Green Belts.

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:

Joint Core Strategy

The Joint Core Strategy was adopted by the Council on 3rd February 2011 and now forms part of the statutory development plan. It replaces certain "saved" policies in the UDP. It sets out how the Black Country should look in 2026 and establishes clear directions for change in order to achieve this transformation.

CSP2: Green Belt boundaries will be maintained and protected from inappropriate development.

Saved Policies of Walsall's Unitary Development Plan (2005)

3.3: inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

ENV2: the making of any material change in the use of land, is inappropriate development in the Green Belt if it conflicts with the openness and purposes of the Green Belt

National Policy

PPG2: The purpose of the Green Belt, amongst others is to safeguard the countryside from encroachment (para 1.5). The making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt (para 3.12).

5.0 LEGAL IMPLICATIONS

None arising from the report.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising directly from the 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**

Paul Hinton 01922 652486

11.0 **BACKGROUND PAPERS**

Enforcement file not published.

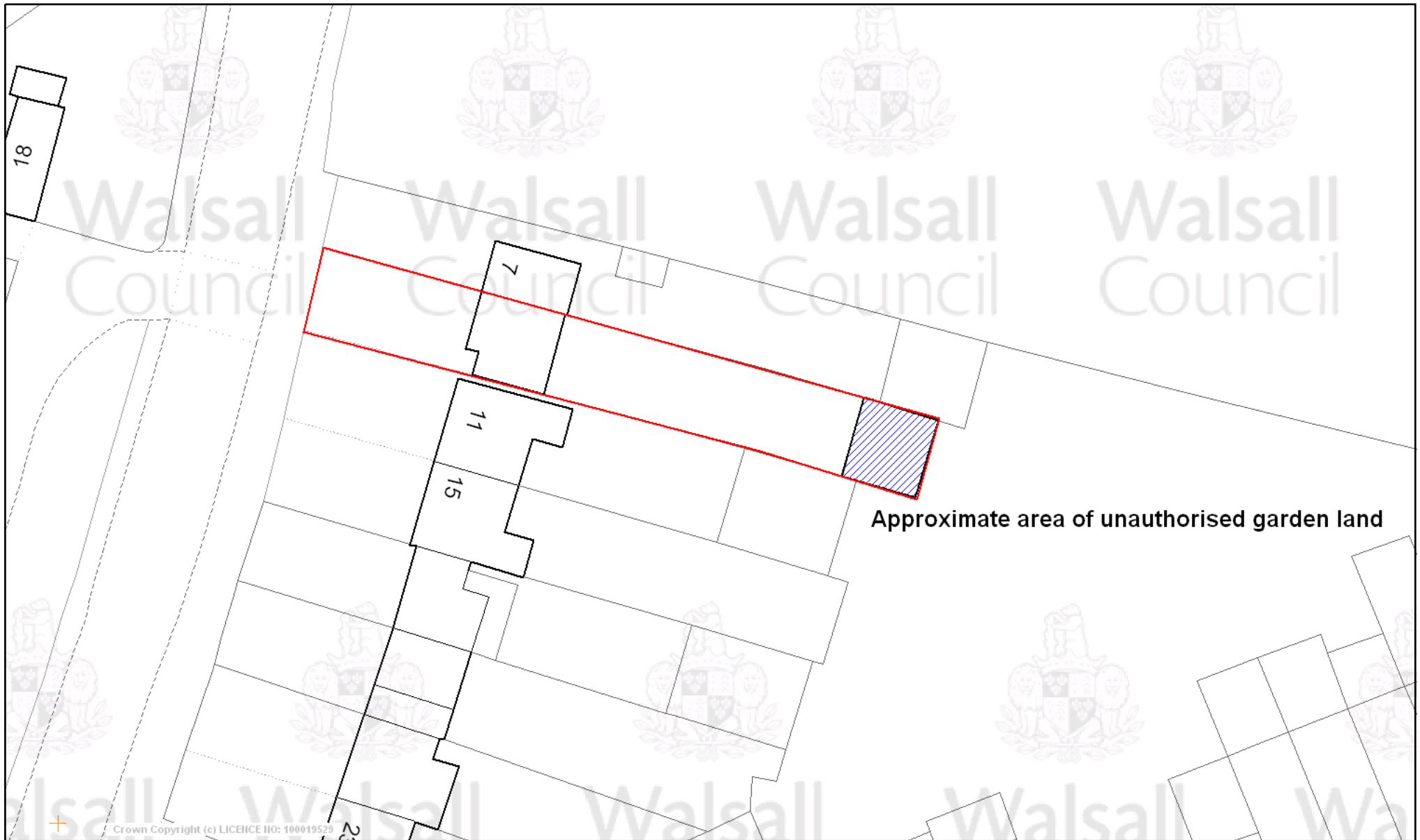
David Elsworthy
Head of Planning and Building Control

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12.0 BACKGROUND AND REPORT DETAIL

- 12.1 9 and 11 Lichfield Road, Rushall are semi-detached houses located on the busy strategic highway on the edge of this residential area. To the rear of the houses is a piece of unoccupied pasture land, which is located within the West Midlands Green Belt and accessed from Barns Lane. Both of these houses have, without planning permission, extended their rear gardens into the pasture land.
- 12.2 Aerial photographs show that between 2004 and 2006 the garden to number 9 was extended by approximately 6m into the pasture land. The area of land is now enclosed by boundary fencing and has a decking area, grass lawn and planting. Between 2006 and 2009 the rear garden of number 11 was also extended into the pasture land by approximately 6m. This area of land is enclosed by boundary fencing and has a patio area and garden buildings.
- 12.3 Officers have contacted both owners/occupiers and advised to cease to use the land for residential purposes and to remove all features that give the land the appearance of a residential garden. The owner of number 11 has expressed that the extended area of land has been used as a vegetable patch for more than ten years and that its domestic use has become lawful. The evidence of the aerial photographs held by the Council show that the area of land has not been physically part of the residential curtilage for a period of time that would make it immune from enforcement action.
- 12.4 The change of use of Green Belt land is inappropriate development unless it maintains the openness of the Green Belt and is consistent with the purpose of including land in the Green Belt. The extension of these gardens fails to maintain the openness of the Green Belt and encroaches into the countryside. The use is inappropriate development which is contrary to the aims and objectives of policy CSP2 of the Black Country Strategy, policies 3.3 and ENV2 of the saved Unitary Development Plan and Planning Policy Guidance 2: Green Belts.
- 12.5 Despite Officer's advice the land continues to be used for residential purposes which has unacceptable harm on the Green Belt. 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. Officers therefore request that authorisation is given to take this course of action.
- 12.6 Separate enforcement notices would be served on each offending property.

9 Lichfield Road, Rushall, Walsall, WS4 1NP



Walsall Council

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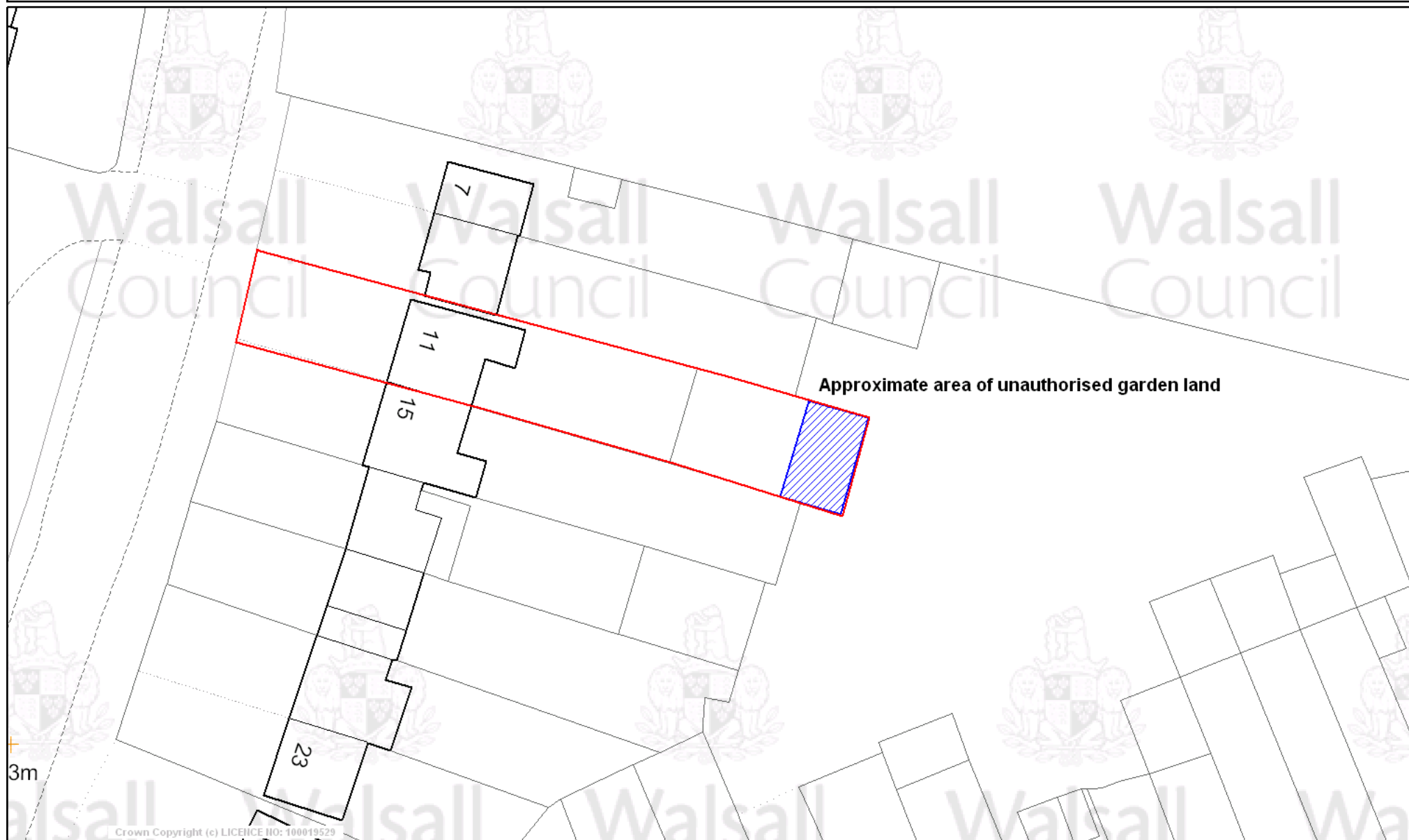
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Centre = 403055 E 301437 N

Date 10/3/2011



11 Lichfield Road, Rushall, Walsall, WS4 1NP



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