



Planning Committee

27th May 2010

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

2 St Michael's Close, Pelsall, WS3 4JH

1.0 PURPOSE OF REPORT

- 1.1 To request authority to take planning enforcement action in respect of the construction of a 1.97m high boundary wall with pillars and railings at a house which is located on the inside of a 90 degree bend at the mouth of a of a cul-de-sac.

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:-

The construction without planning permission of a boundary wall with pillars and railings which exceeds the limits of permitted development because it is 1.97m in height above ground level and adjacent to the highway. The wall creates an obstruction to the view of persons using the highway.

Steps required to remedy the breach:-

Demolish the boundary wall, remove all rubble and make good the ground.

Period for compliance: 2 months after this notice takes effect

Reasons for taking Enforcement Action:-

1) The boundary wall obstructs highway visibility at the access to a house located on the inside of a 90 degree bend of a cul-de-sac and is therefore contrary to saved policy GP2(vii) of the Walsall Unitary Development Plan, and government guidance given in "Manual for Streets" with regard to vehicle and pedestrian visibility requirements.

2) The boundary wall is visually intrusive and of a scale and design that is overbearing, unduly dominant and harmful to the character of the street scene. It is therefore contrary to saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

3.0 FINANCIAL IMPLICATIONS

None arising directly 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 directly from this 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

Pelsall

9.0 **CONSULTEES**

9.1 Transportation Officers have been consulted on this case.

10.0 **CONTACT OFFICERS**

Alexander Keen or Paul Hinton 01922 652527

11.0 **BACKGROUND PAPERS**

Enforcement file not published.

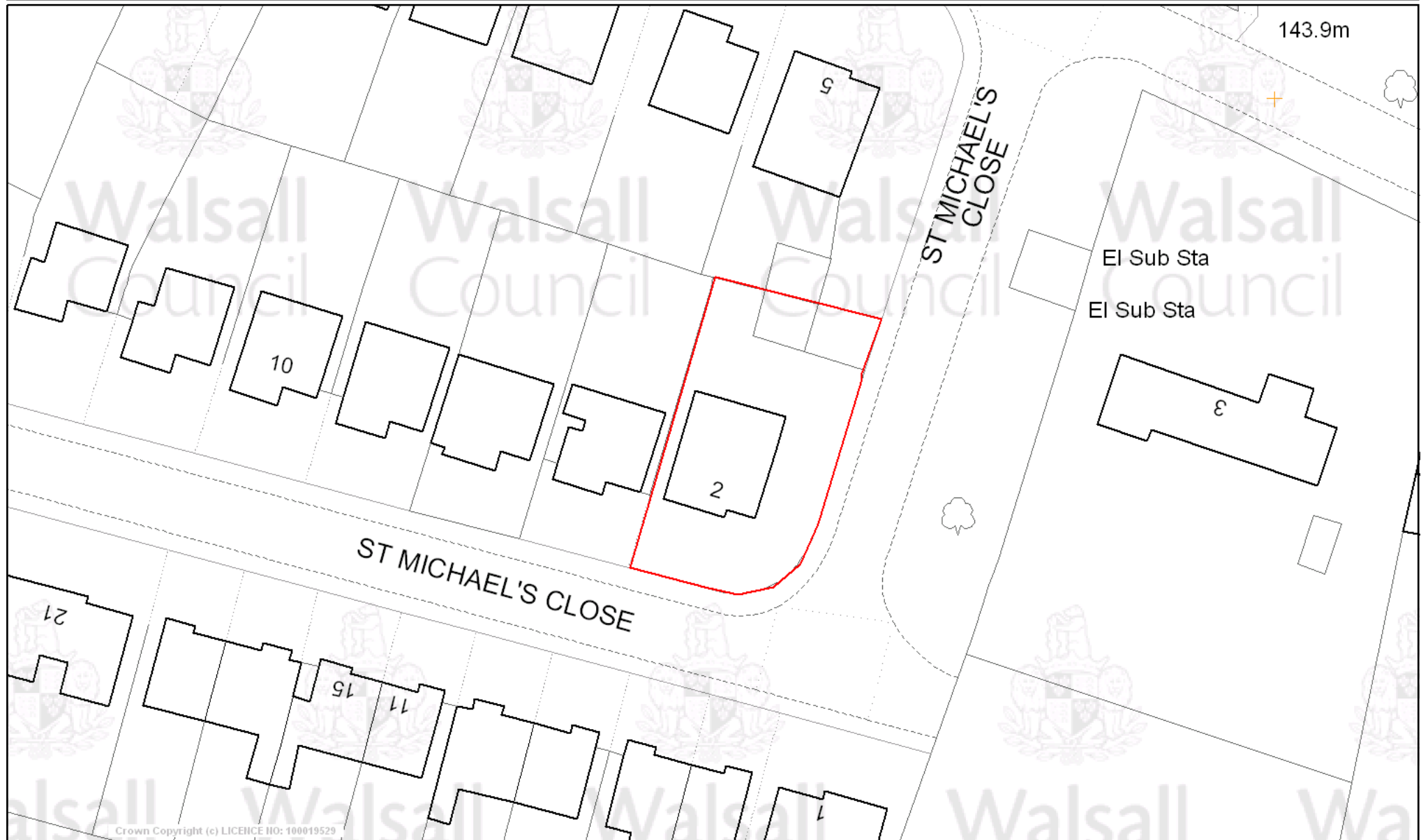
D. Elsworthy, Head of Planning and Building Control Services

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12.0 BACKGROUND AND REPORT DETAIL

- 12.1 The boundary of the Pelsall Common Conservation Area lies immediately to the east of the site. However, officers do not consider that the boundary wall affects the setting of the Conservation Area as the boundary is marked by a bank of trees at this point, and the wall does not appear visually intrusive from the Conservation Area.
- 12.2 Highways officers are of the opinion that the wall is a danger to persons using the highway for the reasons given at 2.3 above. They have advised that the majority of the boundary wall would be acceptable at a maximum height of 1m as vehicle speeds will most likely be low on approach to the bend as the road is a cul-de-sac (see location plan attached). However, they advise the height should be reduced to 600mm within a 2.4 x 3.4m visibility splay of the access drive to ensure pedestrian safety (government guidance given in "Manual for Streets" refers to 600mm as the maximum height to ensure small children can be seen).
- 12.3 It should be noted that permitted development rights would allow a maximum 1m high boundary wall to be constructed adjacent the highway without the need for a planning application. However, the legislation excludes such work in the circumstances *"where it creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons"*. It is the opinion of Highways officers that this exclusion applies in this case and that anything over 600mm within the visibility splay would need planning permission.
- 12.4 The previous perimeter hedge exceeded the height of the boundary wall that is the subject of this report, and was felled by the owner in the interests of highway visibility (the owner states this in support of his application to fell the hedge in 2002). However, officers consider that the boundary wall is a more permanent feature and the Council must apply the relevant regulations, planning policies and government guidance accordingly.
- 12.5 A letter was sent in November 2009 informing the owner that planning permission was required but was unlikely to be granted, and advising that the height of the wall should be reduced. No response was received.
- 12.6 The owner has recently submitted proposals to alter the boundary wall and these proposals are currently being considered by officers. These proposals would require planning permission and would retain the majority of the wall at the current height and are therefore insufficient to address the reasons for taking enforcement action. Officers will seek to continue to work with the owner on identifying an acceptable alternative design for the boundary wall. However, in the meantime, officers consider it is essential to control the existing boundary wall to ensure that the harm it causes to the streetscene and highway safety can be fully addressed. It is considered that an enforcement notice is the appropriate measure in achieving this.

2 St. Michael's Close, Pelsall



Walsall Council

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Date 18/5/2010

