



# *Walsall Metropolitan Borough Council*

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## DEVELOPMENT CONTROL COMMITTEE 8<sup>th</sup> March 2005

### REPORT OF HEAD OF PLANNING AND TRANSPORTATION

76, Buchanan Road, Walsall. Ref 2004/0551/CMP

#### 1.0 **PURPOSE OF REPORT**

- 1.1 To advise Members of two breaches of planning control at the house referred to above, and request that authority to take enforcement action is delegated to officers, in case sufficient progress is not made in resolving these matters.

#### 2.0 **RECOMMENDATIONS**

- 2.1 To authorise that the issue of a Requisition for Information and Enforcement Notices be delegated to the Head of Legal Services in consultation with the Head of Planning and Transportation, as set out below:

#### Breaches of Planning Control:

Erection of first floor extension to side and rear without compliance with planning permission 03/0298/FL/H1.

Raising of ground levels and construction of a rear patio

#### The reasons for taking enforcement action:

The pitch and design of the roof to the extension is not compatible with the original house and the character of the surrounding houses. The extension therefore stands out unduly from the house, and the resulting appearance of the extended house is out of keeping with the surrounding area. The extension is therefore contrary to policy 3.6 of Walsall's Unitary Development Plan, and policies GP2 and ENV34 in the Walsall Unitary Development Plan Review – Revised Deposit Draft Plan – March 2002. .

The raising of ground levels and the concreting of this to construct a rear patio has resulted in serious overlooking and loss of privacy for the rear gardens of the

dwellings adjoining to either side. These raised levels and patio area are therefore contrary to policy 3.7 in the Walsall Unitary Development Plan, and policies GP2 and ENV34 in the Unitary Development Plan Review – Revised Deposit Draft Plan – March 2002.

Steps required to remedy the breach:

Reconstruct the roof to conform to the plans approved as part of planning permission reference 03/0298/FL/H1.

Break-up the concrete patio and dig away the underlying rubble and earth so as to expose the previous ground levels. Remove all resultant material from the site.

Period for compliance:

3 months from when the notice takes effect.

2.2 That the decision as to the institution of legal proceedings in the event of non-compliance with the Notice, or the non-return of RFI's, is delegated to Head of Legal Services in consultation with the Head of Planning and Transportation.

2.3 That authority be delegated to the Head of Legal Services to amend and add to or delete from the wording set out above stating the nature of the breach(es) the reason(s) for taking enforcement action, the requirement(s) of the Notices or the boundaries of the site.

**3.0 FINANCIAL IMPLICATIONS**

None arising directly from this report.

**4.0 POLICY IMPLICATIONS**

Enforcement action is intended to rectify conflict with the policies of the development plan and its emerging replacement plan.

**5.0 LEGAL IMPLICATIONS**

Non-compliance with an Enforcement Notice is an offence and it would be open to the Council to instigate legal proceedings if a Notice is not complied with.

**6.0 EQUAL OPPORTUNITY IMPLICATIONS**

None arising directly from this report.

**7.0 ENVIRONMENTAL IMPACT**

The enforcement action is intended to rectify the adverse impact of the roof design on the appearance of the house, and the adverse impact of the raised ground levels and patio on the privacy enjoyed at adjacent dwellings.

**8.0 WARD(S) AFFECTED**

St Matthew's

**9.0 CONSULTEES**

None arising from this report

**10.0 CONTACT**

Planning Enforcement Team– Paul Hinton / Philip Wears 01922 - 652527.

**11.0 BACKGROUND PAPERS**

Enforcement file 2004/0551/CMP - not published.  
Planning Application file 03/0298/FL/H1

M Yardley  
Head of Planning and Transportation

**DEVELOPMENT CONTROL COMMITTEE**  
**8<sup>th</sup> March 2005**

**12.0 BACKGROUND AND REPORT DETAIL**

- 12.1 76 Buchanan Road is a semi-detached house located on the south side of the road, and with its rear garden abutting the Arboretum. The land slopes down substantially from the road to the Arboretum. A plan showing the location of the site is attached to this report.
- 12.2 Planning permission reference 03/0298/FL/H1 was granted on 31<sup>st</sup> March 2003 for the erection of a first floor extension over the existing garage and small rear extension. The permission also included a rear single storey extension projecting out 4.3m from the original rear wall of the house for approximately 75% of the width of the house.
- 12.3 The subsequent problems can be divided into two main issues, the design of the roof and the construction of a raised rear patio.

Roof Design

- 12.4 A complaint was first received in May 2004 regarding the roof to the two-storey element not being in accordance with the approved plans. Officers visited and found that the roof ridge to the rear first floor extension had been constructed at a much higher level than shown on the approved plans. This resulted in the side slope of the first floor extension being uncharacteristically steep when viewed from the front, and resulted in the rear of the extension having a steeply pitched roof of very unusual appearance.
- 12.5 The owner was given the opportunity to submit a retrospective planning application for the different design of the roof, though it was advised that the application would be unlikely to be approved because the steepness and appearance of the roof was out-of-keeping with the house and its neighbours. Officers considered the appearance of the roof to be poor, a problem exacerbated by the visibility of both the front and rear.
- 12.6 The owner has been advised in letters in August, November and December 2004 that the roof design needs altering to conform to the approved plans. He is also aware that the Council's Building Control Service has identified breaches of the Building Control regulations and consider it unsafe. The owner indicated verbally in January that he intended to resolve the design and construction of the roof. No remedial action has been taken to date, though this may have been influenced by his absence abroad. At a site visit on 22<sup>nd</sup> February 2005 officers were verbally informed that the owner was acquiring quotes from roof specialists to rebuild the roof in accordance with the approved plans. It now appears possible that this will be resolved, though the time-scale is unclear.

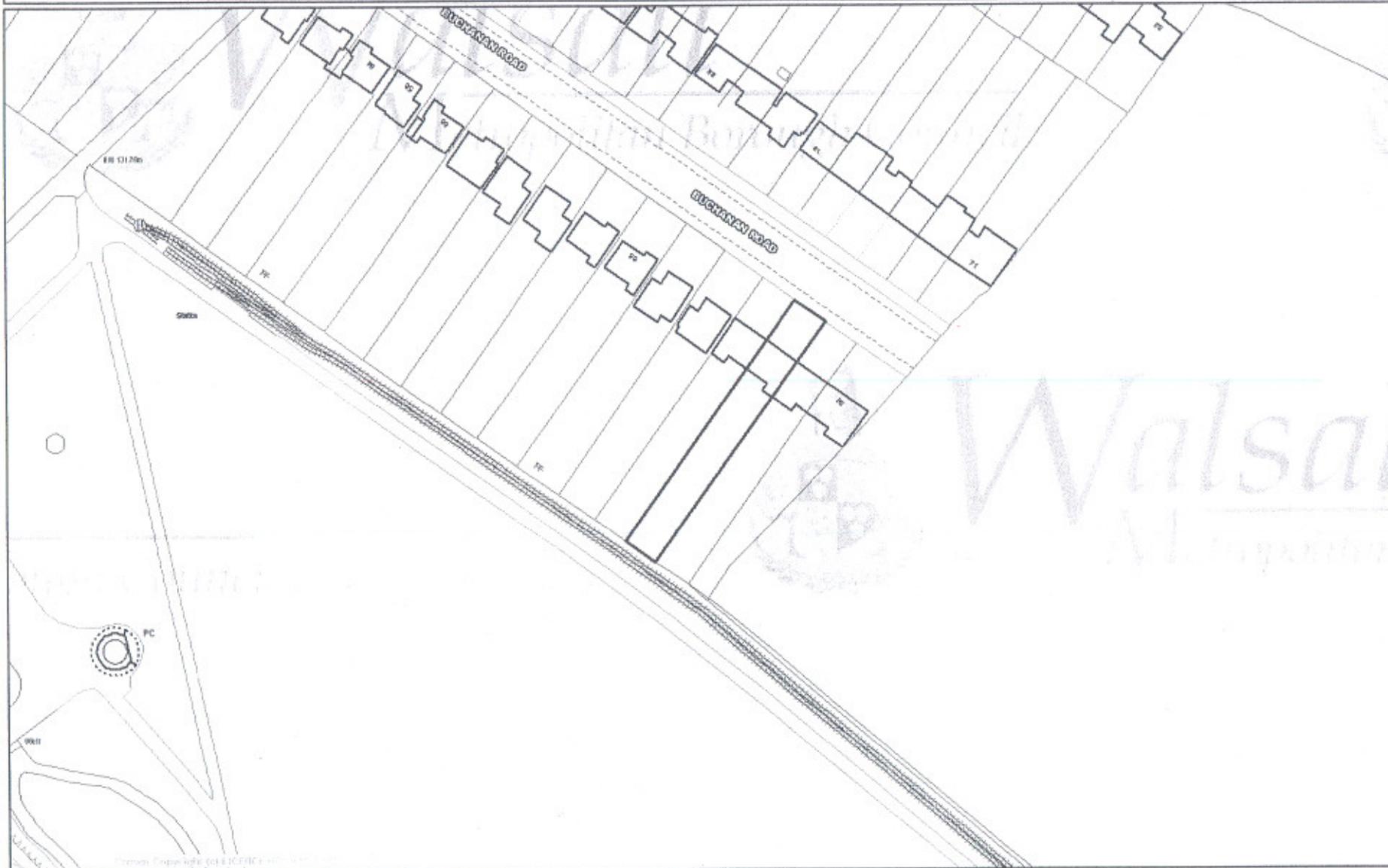
The raised patio

- 12.7 In October 2004 complaints were received that builder's rubble was being imported onto the land to raise the level of the rear garden. Officers visited and found that ground levels were in the process of being raised to create a new rear patio. This was not shown on the approved plans. Officers advised that the raising of ground levels was substantial and therefore required planning permission as an 'engineering' operation. The owner was advised by letter to substantially reduce the levels, or apply for planning permission incorporating fencing and planting measures to prevent overlooking of the gardens to either side at 74 and 78 Buchanan Road.
- 12.8 The builders then undertook a large concreting exercise, to create a raised patio spanning almost the complete garden width from boundary to boundary. The patio extends out from the rear single storey extension for about 1.6 metres, and then has a 0.6m step down to a lower level, which then extends out for a further 4.6 metres, where there is a step down of about 0.9 metres to original sloping ground level.
- 12.9 The raising of the surface ground levels is still in your officer's opinion, easily sufficient to require planning permission, and its present levels will be raised about 75mm more when finishing slabs are laid. At the same time the raising of levels means that the existing stepped fences to each side boundary are generally only about 1 metre to 1.2 metres above the patio levels. This means that a person on the patio can easily overlook the rear gardens and rear windows at 74 and 78 Buchanan Road, and particularly at the latter where the planting on the boundary is much less.
- 12.10 The fences to both side boundaries are understood to have been erected by 74 and 78 Buchanan Road. It would be possible for these fences to be raised in order to prevent significant overlooking, in an endeavour to find an alternative to a solution involving the removal of the raised levels and patio. However it is questionable whether this would be a reasonable solution, bearing in mind the costs imposed on the householders at 74 and 78. Neither is there an opportunity to plant alongside the concrete patio at number 76 because the concrete extends so close to the fences. A more probable solution would appear to be for the owner of 76 to erect fencing at the sides of the patio by bolting posts onto the concrete and also extend this a short distance rear of the patio. However such a scheme would have to provide adequate privacy whilst also avoiding creating unduly high and overbearing fencing. An effective detailed solution to reconciling these two needs has yet to be identified, but this could be investigated and put forward as part of a planning application to retain the patio. At the recent site visit officers were verbally informed that a planning application would be made shortly to retain the patio, incorporating fencing to prevent overlooking, and with possible reduction of the higher patio level close to the house.

## Conclusion

12.11 Following the recent site visit, it appears that the owner is endeavouring to resolve both problems. However, officers consider that if authority to take enforcement action is delegated, this would reinforce the process, and should the process be delayed or ineffective it would provide for planning control to require appropriate remedial action.

76 Buchanan Road, Walsall Ref: 2004/0551/CMP



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