



Planning Committee
21st October 2010

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

210 Lichfield Road, Rushall, Walsall, WS4 1SA – Unauthorised advertisement

1.0 PURPOSE OF REPORT

- 1.1 To advise members of a breach of planning control comprising the display of a double sided free standing advertisement, and to recommend prosecution proceedings.

2.0 RECOMMENDATIONS

- 2.1 To authorise the Assistant Director - Legal and Constitutional Services, to instigate legal proceedings to prosecute the owner(s) and/or occupier(s) and other relevant persons, under Section 224 of the Town and Country Planning Act 1990, in respect of displaying advertisements without the consent required under the Town and Country Planning (Control of Advertisements) Regulations 2007, for the reasons set out in the report, in particular in the terms set out in paragraph 12.2 of the report.
- 2.2 To authorise that the decision as to the institution of legal proceedings, in the event of the non-return of Requisitions for Information, or a Planning Contravention Notice, be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control.

3.0 FINANCIAL IMPLICATIONS

None arising from the report.

4.0 POLICY IMPLICATIONS

The report recommends instigation of prosecution proceedings in order to seek compliance with planning policies.

The following policies are relevant:

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

GP2 The Council will expect all developments to make a positive contribution to the quality of the environment, and will not permit development which would have an unacceptable adverse impact on the environment.

- 3.6 Development should help to improve the environment of the Borough.

ENV 32 (b) When assessing the quality of design of any development proposal the Council will use among other criteria:

- i The appearance of the proposed development;
- iii The effect on the local character of the area.

National Policy

Planning Policy Statement 1: Creating Sustainable Communities a key principle is that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.

National guidance set out in Planning Policy Guidance 19: Outdoor Advertisement Control advises that applications for the display of advertisements may only be considered in terms of their impact on visual amenity and public safety. Local Planning Authorities will consider what impact the advertisement, including its cumulative effect, will have on its surroundings, considering amongst others the distinctive character of the locality.

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

Transportation – no objection. The advertisement does not have an impact upon highway safety.

10.0 CONTACT OFFICER

Paul Hinton 01922 652486
Planning Enforcement Team

11.0 BACKGROUND PAPERS

Enforcement file not published.

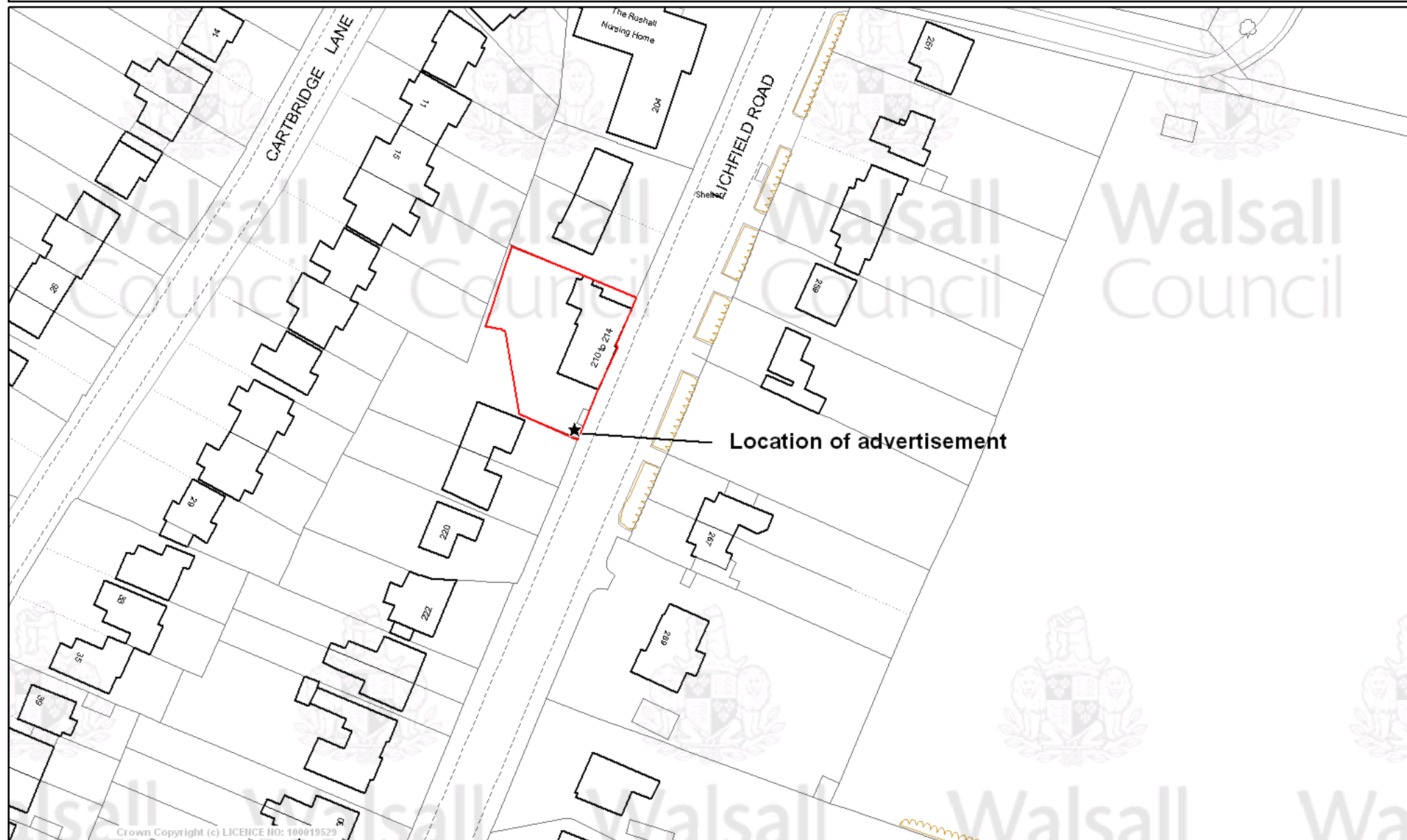
David Elsworthy,
Head of Planning and Building Control

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12.0 BACKGROUND AND REPORT DETAIL

- 12.1 This double sided free standing advertisement is located within the front garden of a house. The base of the advertisement is approximately 2m above ground level, rising to approximately 3.5m in height. Each advert has a width of approximately 1.5m. The advert is elevated above the boundary wall and is fully visible from the road. This house is located along Lichfield Road, a residential area bisected by the strategic highway network. The advertisement relates to a motor school registered at this address. Officers have considered the activities of this business to be low key and this use would not require planning permission. The use of this land is therefore residential.
- 12.2 Under the advertisement regulations certain advertisements can be displayed without needing consent from the Local Planning Authority. This is commonly referred to as deemed consent. In this case the advertisement, for a motoring school business at a residential property, does not relate to the land on which it is displayed. The advert does not benefit from deemed consent and requires consent from the Local Planning Authority. The owner has been advised of this requirement. Were consent to be sought officers would recommend refusal. The owner has been advised of this and therefore advised to remove the sign.
- 12.3 Under national planning policy (PPG19) in regard to advertisements, there are two key issues to determine the acceptability of an advertisement, impact upon visual amenity and public safety. This is a residential area with generous front gardens and mature landscaping. The house itself is out of character as it is positioned directly at the back of the pavement. Consequently the house is already viewed in contrast to its surrounds and is visually dominant. The advertisement, a commercial feature, is at odds with this residential character, it is an incongruous structure that injures the visual amenities of the area. It is positioned within the curtilage of an already dominant building which further highlights this inappropriate feature. The Council is in receipt of complaints on these grounds. The advertisement has an adverse impact upon visual amenity and is contrary to saved policies GP2, 3.6 and ENV32 of Walsall's Unitary Development Plan and national planning policy statement 1 and national planning policy guidance 19.
- 12.4 Transportation Officers have considered that the advertisement would not impact upon highway safety and therefore the Council's objection to the sign is on grounds of visual amenity not impact upon public safety.
- 12.5 Unlike many other breaches of planning control, displaying an advertisement without the necessary consent is a criminal offence. No enforcement notice needs to be served, and enforcement is achieved by prosecution. Officers have attempted to secure the removal of the sign through negotiation, however despite best efforts the sign remains. Officers therefore consider prosecution the only measure to secure removal of the advert to remedy the impact upon visual amenity.

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Walsall Council

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Scale 1/1000

Centre = 402447 E 300530 N

Date 8/9/2010

