



# *Walsall Metropolitan Borough Council*

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## **PLANNING COMMITTEE**

**29<sup>th</sup> July 2010**

### **REPORT OF HEAD OF PLANNING AND BUILDING CONTROL**

**Former petrol filling station, corner of Ward Street and Walhouse Road. Walsall**

**(Reference E10/0106)**

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

- 1.1 To inform Members regarding breaches of control at this site and to request authority to take planning enforcement action.

#### **2.0 RECOMMENDATIONS**

- 2.1 That authority is granted for the issuing of enforcement notices, 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:

Change of use from petrol station and associated uses to vehicle wash and valet, private car park, and car sales

Steps required to remedy the breaches:

Cease using the site as a vehicle wash and valet, private car park and car sales.

Remove all materials and equipment associated with those uses from the site.

Erect a wooden or metal and concrete trip rail 0.4 metres tall at all accessible parts of the perimeter of the site, the rail to be of a size and design to prevent vehicles entering or parking on the site, not to be removed until the site is brought back into use for a lawful use.

Period for compliance

1 month:

The reasons for taking enforcement action:

The uses of the site

- have a very poor appearance at a prominent location in the town resulting in detriment to the appearance of the town centre and the objective of safeguarding and enhancing the quality and character of the town
- they compromise the availability of land that is subject of the Gigaport regeneration initiative.
- the vehicle washing and valeting have an adverse impact on the amenity of the houses at the rear, by reason of noise disturbance and poor appearance.
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such that the unauthorised uses are in conflict with Walsall UDP policies 2.2, 3.6, 3.7, GP1, GP2, GP4, ENV10, ENV29, ENV32, ENV33, ENV40, S3, S4, and S11.

In addition, the car parking use of the site, is in conflict with local and national policies to minimise commuting by car in particular Walsall UDP policy T7, and national policies in PPG13

- 2.4 That authority is given to prosecute under section 224 of the Town and Country Planning Act 1990 in respect of the unauthorised display of advertisements comprising the large 3-sided forecourt sign, and the red banner.
- 2.5 That authority is delegated to the Head of Planning and Building Control, in consultation with the Assistant Director–Legal and Constitutional Services, to issue Discontinuance Notices under the Town and Country Planning (Control of Advertisements) Regulations, in respect of other advertisements on the site.
- 2.6 That authority is granted to the Head of Planning and Building Control, in consultation with the Assistant Director - Legal and Constitutional Services, for the issuing of a Notice under Section 215 of the TCPA 1990 to abate the harm caused to amenity by the poor maintenance of the site.
- 3.0 **FINANCIAL IMPLICATIONS**  
None arising directly from this report.
- 4.0 **POLICY IMPLICATIONS**  
The report recommends enforcement action in order to seek compliance with planning policies.

**5.0 LEGAL IMPLICATIONS**

Non-compliance with an Enforcement Notice is an offence and if this occurred it would be open to the Council to instigate legal proceedings.

**6.0 EQUAL OPPORTUNITY IMPLICATIONS**

None arising directly from this report.

**7.0 ENVIRONMENTAL IMPACT**

The report seeks enforcement action to remedy adverse impacts.

**8.0 WARD(S) AFFECTED**

St. Matthews

**9.0 CONSULTEEES**

Related planning applications 10/0193/FL and 10/0734/FL have had normal publicity

**10.0 CONTACT OFFICER**

Bob Scrivens, Philip Wears – West Area Team  
Tel; 01922 652485.

**11.0 BACKGROUND PAPERS**

Planning application files 10/0193/FL and 10/0734/FL

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**12.0 BACKGROUND AND REPORT DETAIL**

**Introduction**

- 12.1 The report concerns the use of a vacant petrol station, on the corner of these two streets. When it was operational it included a car wash as part of the petrol station facilities. It is close to the Arboretum road junction, and to Lower Rushall Street. As a result, it is very prominent in the open environment of this part of the town centre, which is not only frequented by local residents and people in local businesses, but is an area which people from a wider area pass through.
- 12.2 There is housing to the rear of the site, facing the rear of the site from a higher ground level, across a small landscaped area.

**Planning History**

- 12.3 The petrol station has been in existence for some time. It closed relatively recently. Use as a vehicle wash began in March 2010.
- 12.4 Planning permission was refused in May 2010 for continued use as a hand car wash for a temporary 3 year period. (reference 10/0193/FL). A second application has been made, which contains no significant new proposals. (reference 10/0734/FL).
- 12.5 Use as a private car park for paying members of the public, together with a small element of car sales, began in July 2010 but has not featured in the applications.

**The uses of the site – the case for enforcement action.**

- 12.6 The report on the refused application 10/0193/FL raised a number of objections to the use for washing vehicles and valeting them. It noted that the site is within the Gigaport regeneration area and the use appears to be preventing the site coming forward for a more permanent suitable development. It noted that UDP policy S11 generally discourages 'drive-in' uses such as this unless combined with other uses.
- 12.7 In relation to visual amenity, the use involves carrying out operations and deploying equipment in the open. Officers consider it is an intrusive and untidy activity. The site is a substantial and prominent corner site which is particularly open, with a wide grass area but the application contained no suggestion that any landscape screening be provided. However such screening may also be unviable because the proposal is for the use to be temporary. The appearance of the use is considered damaging to the appearance of the surrounding streets and

harmful to the character of an area which is close to the Arboretum and Lichfield Street Conservation Areas.

- 12.8 Officers consider that the proximity of the site to the houses at the rear is detrimental to their amenity. Planning officers consider there is significant noise generation and this is to be discussed with the Environmental Health officers.
- 12.9 The use as a car park contributes to the untidy appearance of the site. It is also contrary to the UDP policies about controlling the nature of parking in the town centre to mitigate against use of the car for commuting (as the site is open to anyone prepared to pay the relevant fee). Planning policy seeks to promote parking for shoppers in the town centre, but in the absence of a planning permission with suitable conditions, there is no control over this aspect of the use. The present level of car sales, (e.g. 2 cars with signs for sale) is not considered to raise additional traffic problems at present, but contributes to the untidy appearance of the site.
- 12.10 The previous application was also refused because of uncertainty surrounding the proposals for drainage of vehicle wash effluent. Your officers have visited the site with Severn-Trent Water and a possible discharge to a storm-water drain was identified. STW are currently investigating this.

#### **The advertisements on the site—the case for enforcement action.**

- 12.11 The site is characterised by many bright yellow advertisements, which contribute to the poor appearance of the site.
- 12.12 The former filling station building is a low building with a flat roof which has a higher section at one end. The vehicle wash is being advertised by a large and prominent sign on the front of the higher flat roof. There are many other signs on the building but they are not illuminated and are considered to qualify for the 'deemed consent' granted under the Advertisement Regulations. However they result in a cluttered and unsightly appearance. The relevant power would therefore be to issue a Discontinuance Notice under the Advertisement Regulations. This would act similarly to an enforcement notice in that there would be a right of appeal to a planning inspector. This is recommended.
- 12.13 There is a 3-sided forecourt sign on the corner of Ward Street and Walhouse Road. It appears to have been created by adapting a temporary 'for sale' or 'for letting' advertisement structure, by attaching numerous small and large 'car wash' advertisements, which in places overlap the temporary signs. The effect is unusually makeshift. The advertisement regulations allow displays on a forecourt but set an allowance for each road frontage. Being on the corner this sign can potentially benefit from the allowance for each road frontage, but in practice it significantly exceeds any interpretation of those regulations. No application for consent been approved, and therefore its display is unlawful.
- 12.14 There is other forecourt advertising. Two smaller signs on the Ward Street frontage are unlawful because taken together with the large forecourt sign above,

they exceed the forecourt allowance. However one red banner sign does not relate to activity on the site at all and is in breach of the legislation.

- 12.15 The large 3-sided forecourt sign is unlawful and very harmful to amenity. As well as being unusually makeshift in appearance it is prominent and unsightly, including from the rear. Prosecution action for the offence under section 224 of the TCPA 1990 is appropriate. This process may result in the sign being reduced to comply with the forecourt allowance, but as the allowance is 4.6 square metres on each road frontage, the sign could potentially remain fairly large, makeshift and unsightly. For that event the only power available would be to serve a Discontinuance Notice, and delegated authority is requested for this.

#### **The condition of the site – the case for 215 action**

- 12.16 The site is poorly maintained. The grass is not mown short and has a rough appearance. There is some rubbish and rubble around the site generally. The hard-surfaced areas and edgings have been damaged in places. The building has a missing area of fascia and old peeling paintwork. The detrimental impact of the site on the amenity of the area is such that a notice under section 215 of the TCPA 1990 is warranted. If the site becomes dis-used a notice could require the windows and doors to be covered with accurately cut and painted timber board.

HEAD OF PLANNING AND BUILDING CONTROL

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