



Planning Committee
9th September 2010

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

163-169 High Street, Brownhills, Walsall, WS8 6HT

1.0 PURPOSE OF REPORT

- 1.1 To request authority to take planning enforcement action in respect of the use of the land for washing and valeting vehicles and the siting of a portable building.

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:-

Change of use of land to use for vehicle washing and valeting and the siting of a portable building .

Steps required to remedy the breach:-

- Permanently cease to use the land for the washing or valeting of vehicles.
- Permanently remove the portable building from the land.
- Permanently remove from the land all vehicles, materials and equipment which are used in connection with the use for vehicle washing and valeting.

Period for compliance:-

2 months

Reasons for taking Enforcement Action:-

1. The hand car wash and valeting use including the use of pressure washers, vacuum cleaners, vehicles waiting, manoeuvring and associated general activities results in noise and disturbance that unacceptably reduces the level of amenity available to the surrounding residential occupiers, in particular the occupiers of No 1 New Road. The use is therefore contrary to saved policies GP2, 2.2, 3.6, 3.7, ENV10 and ENV32 of Walsall's adopted Unitary Development Plan (2005) and Planning Policy Guidance 24: Planning and Noise.

2. The site layout and access arrangements create the potential for queuing traffic onto the highway and conflicting vehicle movements causing a detrimental impact on highway safety and the free flow of traffic on part of the Strategic Highway Network. The use is therefore contrary to saved policies GP2, ENV32 and T4 of Walsall's Unitary Development Plan (2005).

3. The portable building is an inappropriate form of permanent development which is out of character with its surroundings. The building is therefore contrary to saved policies GP2 and ENV32 of Walsall's Unitary Development Plan (2005).

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:

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

Policy 2.2 Creating, sustaining and enhancing a high quality natural and built environment.

Policy 3.6 development should help to improve the environment of the Borough.

Policy 3.7 seeks to protect people from unacceptable noise, pollution and other environmental problems.

GP2: The Council will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

- I. Visual appearance
- II. Creation of pollution of any kind
- VI. Overlooking, loss of privacy, and the effect on daylight and sunlight.

ENV10: The development of any facility which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of noise or have an unacceptable adverse effect on nearby land uses.

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

T4: The Highway Network (a) Strategic Highway Network (SHN) high priority to improvements and traffic management measures to assist traffic flow.

National Policy

PPG24: Planning & Noise, outlines the considerations to be taken into account in determining planning applications, both for noise sensitive developments and for those activities which will generate noise.

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

Brownhills

9.0 CONSULTEES

Planning application 10/0800/FL was subject to the normal consultation process and publicity.

Transportation objected because the conditions on the previous application had not been discharged or implemented which is to the detriment of highway safety.

Environmental Health objected as since the car wash has been in operation complaints have been received from residents. A noise monitoring exercise found the noise from the pressure washer audible from the front garden of the property at the rear.

10.0 CONTACT OFFICER

Paul Hinton 01922 652486

11.0 BACKGROUND PAPERS

Planning applications 08/0873/FL and 10/0800/FL.
Enforcement file not published.

D. Elsworthy, Head of Planning and Building Control

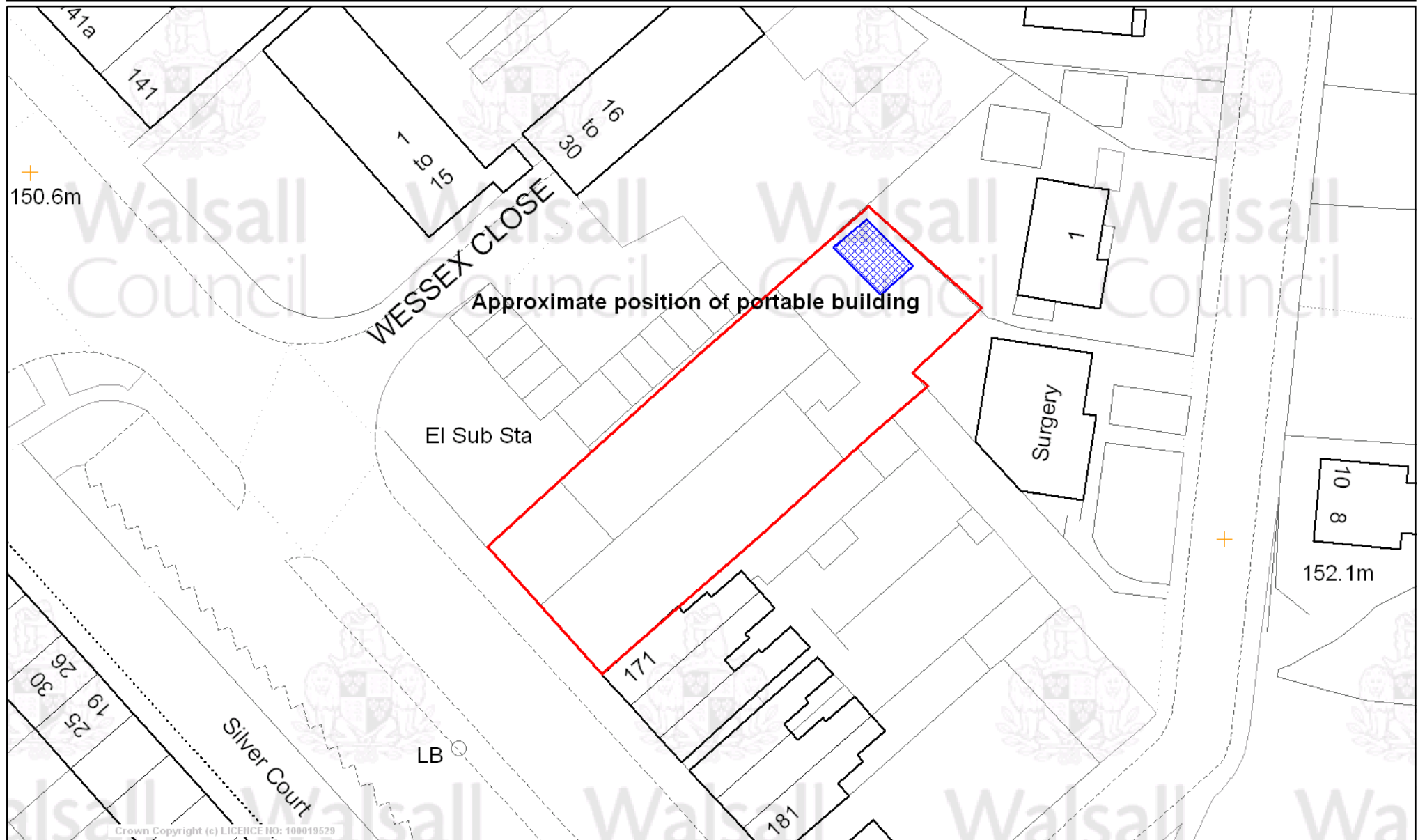
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12.0 BACKGROUND AND REPORT DETAIL

- 12.1 The site is situated on the north eastern side of High Street, Brownhills (Strategic Highway Network), just to the north west of the junction with New Road. The site is situated within the Brownhills District Centre, but not located within the primary shopping area. The site is a former car sales site with two single storey flat roofed buildings (a garage/workshop and a portable building) set back into the site, but the remainder of the land is open.
- 12.2 On the opposite side of High Street is a block of retail shops with two storey residential above and parking within a small service road on the frontage. Immediately adjacent to the site is a block of 6 terraces properties, no. 171 comprises A2 offices. Further uses within the block include a therapy centre, offices, hairdressers and 1 residential property at 177. Immediately to the rear of the site within New Road is a day centre for the elderly (with residential at first floor) and no. 1 New Road is a detached house, with further residential properties beyond in New Road.
- 12.3 Planning permission for a car wash and valeting centre which included the re-location of an existing portable building was granted subject to conditions for a temporary period (08/0873/FL) in July 2008. The use commenced shortly after permission was granted. The planning conditions in regard to implementing two new dropped crossings, implementing vehicle queuing lanes, providing details of signage and details for the disposal of both surface and foul drainage was never complied with. The planning permission expired in 28th March 2010.
- 12.4 A planning application (10/0800/FL) for the continued use as a hand car wash for a further 3 years was refused on 11th August 2010 for the following reasons:
1. The hand car wash and valeting use including the use of pressure washers, vacuum cleaners, vehicles waiting, manoeuvring and associated general activities results in noise and disturbance that unacceptably reduces the level of amenity available to the surrounding residential occupiers, in particular the occupiers of No 1 New Road. The proposals are therefore contrary to saved policies GP2, 2.2, 3.6, 3.7, ENV10 and ENV32 of Walsall's adopted Unitary Development Plan (2005).
 2. The existing and proposed site layout and access arrangements create the potential for queuing traffic onto the highway and conflicting vehicle movements causing a detrimental impact on highway safety and the free flow of traffic on part of the Strategic Highway Network. The proposals are therefore contrary to saved policies GP2, ENV32 and T4 of Walsall's Unitary Development Plan (2005).
- 12.5 Non-compliance with the conditions on the now expired planning application has prejudiced highway safety. The temporary planning permission has allowed Environmental Health to monitor the site. They have established its operations generate excessive noise that adversely impacts on the amenities of the adjoining residential occupiers and their enjoyment of their house and garden.

- 12.6 The portable building was re-located to its present location at the rear of the site after July 2008 as part of the temporary planning permission. Because the planning permission has now expired and the application for the continued use has been refused the portable building does not benefit from planning permission and should be removed. This is a temporary structure which is out of character with its surroundings.
- 12.7 The hand car wash and valeting continues at the site. 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.

163-169 High Street, Brownhills



Walsall Council

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