



Planning Committee

27th May 2010

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

Railswood Nurseries, Railswood Drive, Pelsall, WS3 4BE

1.0 PURPOSE OF REPORT

To request authority to take planning enforcement action in respect of a change of use for the stationing of one residential caravan.

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 for stationing of one residential caravan and creation of raised patio area.

Steps required to remedy the breach:-

- Permanently cease to use the site for the stationing of a residential caravan.
- Permanently remove from the site the caravan and associated fixtures and fittings.
- Remove the raised patio area in its entirety and remove all associated materials.

Period for compliance:-

6 months

Reasons for taking Enforcement Action:-

Planning permission (07/1878/FL/E10) has been refused for the change of use of the site for stationing of one residential caravan for one gypsy family. The use commenced before the determination of the application and continues to take place despite the development being refused.

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.

4.0 POLICY IMPLICATIONS

The report recommends enforcement action in order to seek compliance with planning policies.

5.0 LEGAL IMPLICATIONS

None arising from the 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 CONSULTEEES

Planning application 07/1878/FL/E10 was subject to normal publicity.

10.0 CONTACT OFFICER

Paul Hinton 01922 652486

11.0 BACKGROUND PAPERS

Planning application 07/1878/FL/E10
Enforcement file not published

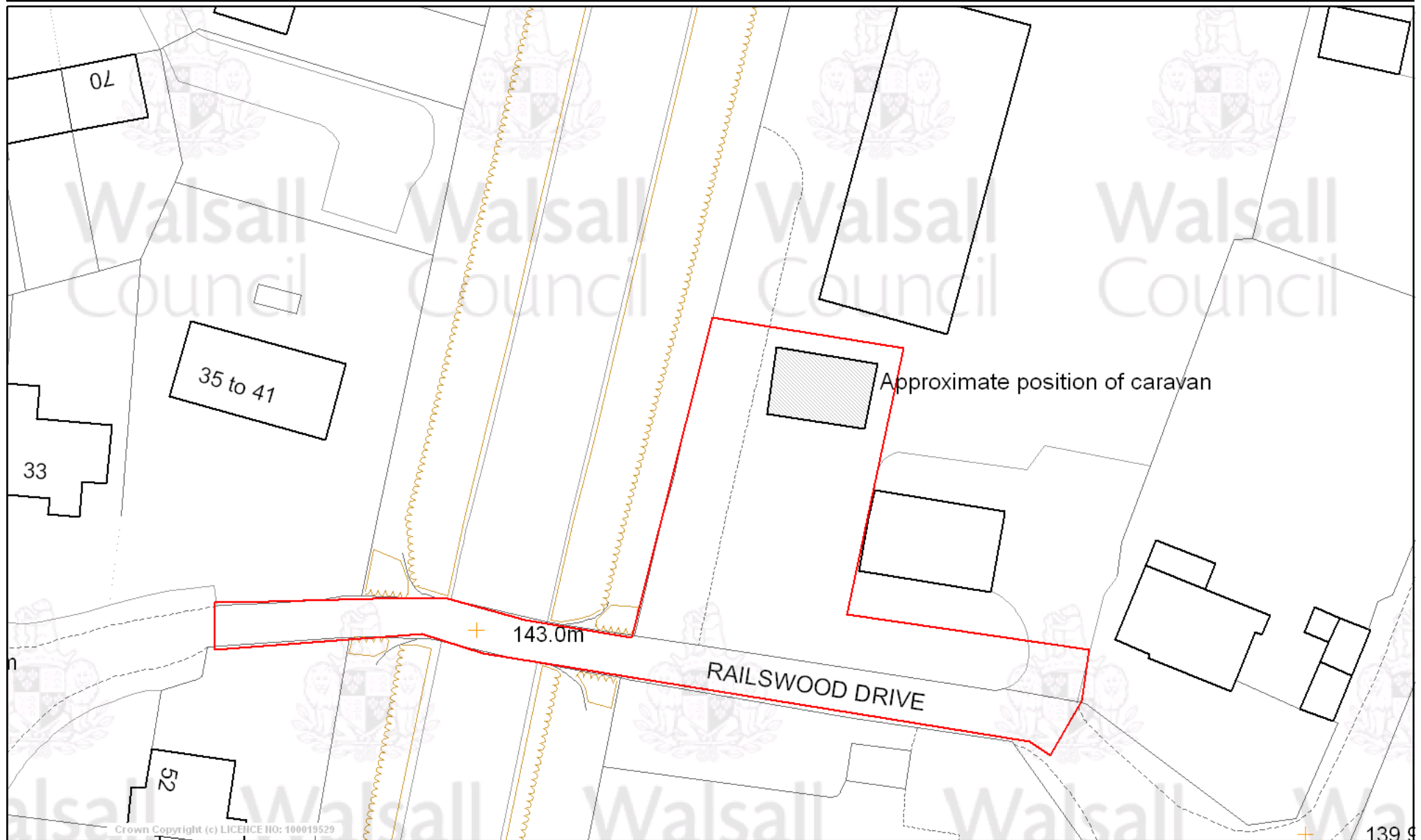
D. Elsworthy, Head of Planning and Building Control

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12.0 BACKGROUND AND REPORT DETAIL

- 12.1 The site is situated at the eastern end of Railswood Drive (beyond the railway bridge – the railway has gone and is now a public walkway, in a cutting). The site is part of the former Railswood Nurseries site, and is situated within the Green Belt. The Railswood Nursery site no longer operates as a nursery. Within the site is a caravan which is stated to be used by a gypsy family.
- 12.2 In November 2007 a planning application was submitted. As determined, this was for the change of use of the site for stationing one residential caravan for one gypsy family. The caravan was brought onto site at the end of February 2008, prior to the determination of the application. Since that date a raised patio area has been constructed without the benefit of planning permission.
- 12.3 The planning application was brought to the Development Control Committee on 10th September 2009 with a recommendation for approval. The decision was deferred pending further information to confirm gypsy status.
- 12.4 The deferred application was reported to the Development Control Committee on 5th November 2009, detailing the additional information that had been provided with a recommendation to grant permission. Committee resolved to refuse planning permission for the following reason:
- Gypsy status has not been proven as the applicant had stated that he was now intending to stay in the caravan permanently, as his children had started school and were happy there. Furthermore, no response had been received from the gypsy council to confirm the applicant's gypsy status. No very special circumstances have therefore been demonstrated, sufficient to outweigh the harm that this inappropriate dwelling would cause on the character and openness of the green belt. As such, the development is contrary to the Unitary Development Plan, in particular, policies 3.1 3.3, 3.6, GP2, ENV2 & ENV32.
- 12.5 Following the refusal of planning permission the caravan and its use has remained on site. While there is a right of appeal to the planning refusal (until the 9th of June 2010) at the time of writing no appeal has been submitted. In the absence of planning permission the use should cease and all matters arising from the use should be removed. Officers therefore request authority to serve an enforcement notice requiring the steps specified in 2.3. Committee will be aware that there would be a right of appeal to any notice served and the grounds of appeal that would be available to the appellants include under ground (a) that planning permission should be granted for what is alleged in the notice.
- 12.6 Committee are advised of other possible breaches of planning control within the wider Railswood Nurseries site which are being investigated.

Railswood Nurseries, Railswood Drive, Pelsall



Walsall Council

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Date 17/5/2010

