



Development Control Committee
27th May 2010

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

85 Kinross Crescent, Pheasey, B43 7PX

1.0 PURPOSE OF REPORT

To request authority to take planning enforcement action in respect of the erection of a conservatory.

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 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:-

The erection of a conservatory without planning permission

Steps required to remedy the breach:-

Completely demolish the conservatory and remove all resultant components and debris from the land.

Period for compliance:-

3 months

Reasons for taking Enforcement Action:-

The conservatory has been built on the back of an existing extension and as a consequence there is an excessive projection of built development to the rear of the property. The resultant development has a detrimental impact on the amenity previously enjoyed by adjacent residential occupiers by reason of loss of light and outlook and the overbearing impact of the conservatory at close proximity to the boundary and habitable room windows, resulting in a loss of privacy. It also breaches the Councils 45° code. The conservatory is therefore contrary to Walsall Unitary Development Plan policies GP2 and ENV32 and appendix E of Supplementary Planning Document Designing Walsall.

3.0 FINANCIAL IMPLICATIONS
None arising from the report.

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
Pheasey Park Farm

9.0 CONSULTEES
None

10.0 CONTACT OFFICER
James Fox
Planning Enforcement Team: 01922 652527

11.0 BACKGROUND PAPERS
Enforcement file not published.

D. Elsworthy
Head of Planning and Building Control

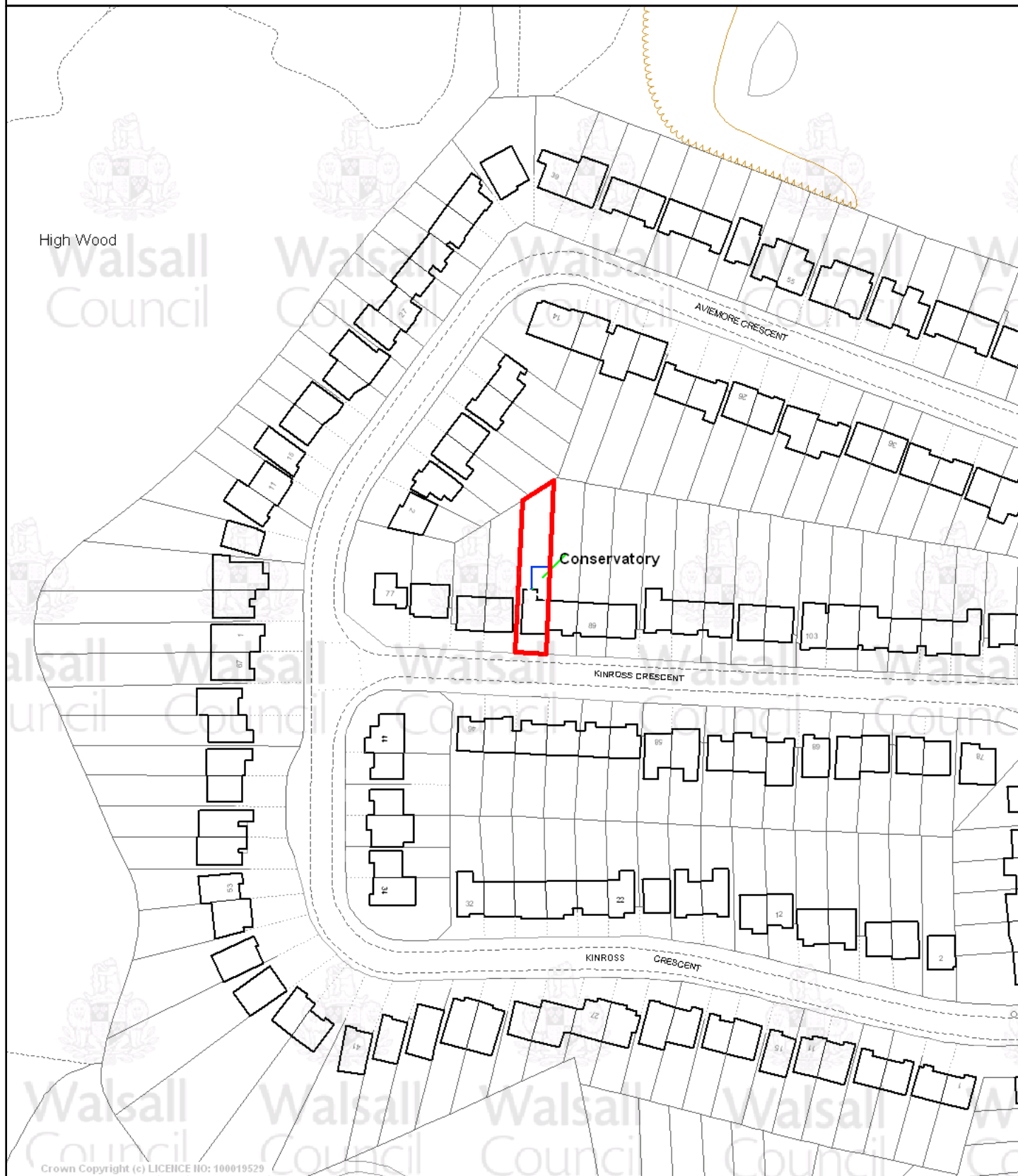
Development Control Committee
27th May 2010

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 85 Kinross Crescent is a semi detached house in a road of similar houses. This report relates to the erection of a conservatory to the rear of the property. A plan showing the location of the house and conservatory is attached to this report.
- 12.2 The conservatory was first reported to Planning Enforcement officers during March 2010. An enforcement officer conducted a site inspection and noted details of the conservatory as follows.
- 12.1 The conservatory projects 5 metres from the rear wall of an existing rear extension. The existing extension projects 3.1 metres from the original rear elevation of the dwelling house. This results in a total projection of 8.1 metres from the rear wall of the original dwelling house. The conservatory has a pitched roof and is approximately 3.4 metres in height and 4 metres wide.
- 12.2 The conservatory requires planning permission because the enlarged part of the dwellinghouse extends beyond the rear wall of the original dwelling house by more than 3 metres.
- 12.3 The neighbouring properties at 83 and 87 Kinross Crescent have existing extensions, similar in size to the first extension at number 85. The new conservatory has resulted in a loss of privacy and an overbearing impact on the ground floor habitable room windows at the neighbouring dwellings, which breaches the Council's 45 degree code and is therefore contrary to policy.
- 12.3 The owners have been advised that planning permission would be required in order to retain the conservatory. No application has been made.
- 12.4 Notwithstanding the need for a planning application, it is unlikely that planning permission would be granted for the conservatory. The conservatory is within close proximity to habitable room windows at neighbouring properties which has resulted in an unacceptable loss of privacy to the occupiers of the houses. On this basis the owner was advised to demolish the conservatory.
- 12.5 As an alternative, the owners were also advised of the option to submit a planning application for a conservatory at a significantly reduced size. However this was on the basis that it can be demonstrated that compliance with the 45 degree code can be achieved. Compliance with the 45 degree code should be based on the impact upon the ground floor habitable room windows at both adjacent properties, however even at a reduced size the conservatory would remain in breach of what would normally be allowed under our policies. At the time of writing no application has been submitted, however the owners have advised an application will be submitted for the retention of the conservatory at a reduced size.
- 12.6 If a planning application is submitted then the serving of an Enforcement Notice could be held in abeyance until the outcome of that application was known. However in the circumstances it is considered expedient that enforcement action

is authorised allowing the appropriate action to be taken, as set out in the recommendations , in the event that no planning application is submitted or consequently approved or if the conservatory is not removed.

85 Kinross Crescent



Walsall Council

Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office. Crown Copyright reserved. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
LICENCE NO: 100019529

Scale 1/1250 Date 19/5/2010

Centre = 405669 E 295705 N

