



## DEVELOPMENT CONTROL COMMITTEE

Date: 26<sup>th</sup> June 2007

### Report of Head of Planning and Building Control - Regeneration

Land at rear of 141 Sutton Road, Walsall

Ref: E07/0012

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

A report concerning the failure of a householder to respond to a Planning Contravention Notice.

#### **2.0 RECOMMENDATIONS**

- 2.1 That authority is granted to the Assistant Director - Legal and Constitutional Services to institute legal proceedings in respect of the failure of the householder to respond to the Planning Contravention Notice issued in relation to the erection of a garage building, the proceedings to be repeated as necessary in the event that a satisfactory response is not received.

#### **3.0 FINANCIAL IMPLICATIONS**

None arising from the report.

#### **4.0 POLICY IMPLICATIONS**

The report recommends further action in order to support information gathering which is aimed at resolving questions of lawfulness and seeking compliance with planning policies.

#### **5.0 LEGAL IMPLICATIONS**

The legal remedy available in situations of failure to respond is prosecution. If convicted for non-compliance the householder would be liable to a maximum fine of £1000. If the householder then fails to respond to the Notice they could face further continued prosecution, ie for continuing in breach of the Notice after each prosecution.

#### **6.0 EQUAL OPPORTUNITY IMPLICATIONS**

None arising directly from this report.

#### **7.0 ENVIRONMENTAL IMPACT**

The report recommends further action in order to support information gathering which is aimed at resolving questions of lawfulness and seeking compliance with planning policies.

#### **8.0 WARD(S) AFFECTED**

Paddock

9.0 **CONSULTEES**

None.

10.0 **CONTACT OFFICER**

Philip Wears

Planning Enforcement Team: 01922 652527 / 01922 652411

11.0 **BACKGROUND PAPERS**

Planning Contravention Notice and covering letter available

David Elsworthy - Head of Planning and Building Control, Regeneration

**Development Control Committee**  
**26<sup>th</sup> June 2006**

**12.0 BACKGROUND AND REPORT DETAIL**

- 12.1 In October 2004 planning permission was granted for a parcel of Council owned land to be used as an extension to the rear garden of 141 Sutton Road. (ref 04/1704/FL/E4). The land comprised about 195 square metres which flanked part of the Arboretum car park, and lay between the existing rear boundary of the garden and the Arboretum Extension. In 2005 the land was sold by the Council to the householder. A plan showing 141 Sutton Road, the garden extension, and the position of the building referred to below, is attached to this report.
- 12.2 In late January 2007 planning officers received enquiries about the commencement of a building on the land and the removal of trees and hedges. The officers noted that Building Regulations approval had recently been obtained for a building measuring about 15m by 7m, and described as a garage, with a double garage door opening onto the car park. The large building appeared to comply with the householder 'permitted development' rights in terms of its dimensions. Its size would easily accommodate 4 cars. This would be unusual for a domestic garage, and had the potential that the building might not be used for purposes 'incidental' to the use of the house, and might as a result need planning permission.
- 12.3 A letter was therefore sent to the householder to querying its use and urging that works cease while the matter was clarified. A written reply was requested but not received. and work continued. The householder did however telephone and referred to three cars to be garaged, and the existing double garage (attached to the house) being converted to a lounge extension.
- 12.4 The response did not allay the concerns of officers, and in early April officers served a Planning Contravention Notice. The notice contained questions regarding the proposed uses of the building, whether it was lawfully erected as permitted development, and ownership. The notice was intended to obtain information which could either trigger a planning application, help confirm the need for enforcement action, or confirm that the building was permitted development (in which case some restrictions are applied by the legislation). No response was received. A reminder letter was sent in May 2007 but there has still been no response.
- 12.5 Appropriate explanation and warnings are included in a Planning Contravention Notice as a matter of routine, and in the reminder letter. In the absence of a response, prosecution is the appropriate next step. If this does not trigger a response with the required information, further prosecutions could be pursued. It is considered that there is insufficient evidence at present to support the issuing of an enforcement notice.