



**Development Control Committee**  
**7<sup>th</sup> of October 2008**

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

**3/3A Beeches Road, Leamore, Walsall**

**1. PURPOSE OF REPORT**

To advise members of breaches of planning control at the above properties and request authority to take enforcement action and prosecution action.

**2. RECOMMENDATIONS**

- 2.1 That authority is given to the Head of Planning and Building Control and the Assistant Director – Legal and Constitutional Services for the issuing of an enforcement notice and Requisition for Information notices and authority to take prosecution action in respect of failure to comply with a Breach of Condition Notice.
- 2.2 That authority is delegated to the Head of Planning and Building Control, and the Assistant Director – Legal and Constitutional Services to commence prosecution proceedings in the event that the enforcement notice or Requisition for Information Notice is not complied with.
- 2.3 That authority is also delegated to the Head of Planning and Building Control in consultation with the Assistant Director – Legal and Constitutional Services to amend, add to, or delete from the wording set out below, stating the requirement(s) of the Notice or identifying the boundaries of the site:

**Breach of Planning Control**

- i) Installation of a ventilation extraction unit
- ii) Non compliance with a Breach of Condition Notice (see report details page 3)

## **Requirements of the Notice**

To remove the ventilation extraction unit and ensure that any debris arising from the works are removed from the site

## **Reasons for issuing the Notice**

The ventilation unit which is comprised of galvanised steel tubing is visually intrusive and this together with its large size and siting has a detrimental impact on the amenities of nearby residents in Bloxwich Road who can see the unit from their gardens. The development is therefore contrary to policies GP2, ENV10, ENV32, 2.2, 3.6, , 3.7, 3.16 and 3.116 of the Walsall Unitary Development Plan.

## **Time for Compliance**

2 months

### **3. FINANCIAL IMPLICATIONS**

Costs will be incurred in the instigation of prosecution proceedings but these may be recovered if the matter is successful in court.

### **4. POLICY IMPLICATIONS**

Officers consider that remedial action is necessary to comply with policies.

### **5. LEGAL IMPLICATIONS**

Non-compliance with an enforcement notice is an offence and may lead to the instigation of prosecution proceedings.

### **6. EQUAL OPPORTUNITY IMPLICATIONS**

None arising directly from this report.

### **7. ENVIRONMENTAL IMPACT**

The report recommends action to remedy an adverse impact on amenity.

### **8. WARD(S) AFFECTED**

Birchills/Leamore

### **9. CONSULTEEES**

None

### **10. CONTACT OFFICER**

Tonia Upton

Planning Enforcement Team: 01922 652411

### **11. BACKGROUND PAPERS**

Enforcement File – Not published

Planning Application file – 07/2329/FL/E15

Planning Application file – 07/0759/FL/E12

Head of Planning and Building Control

**Development Control Committee**

**7<sup>th</sup> of October 2008**

**3 and 3A Beeches Road, Leamore, Walsall**

**12 BACKGROUND AND REPORT DETAIL**

- 12.1 This report relates to two adjoining hot food takeaway shops that were granted planning permission in 1985 for use as a single fish and chip shop, subject to conditions. Subsequently, the single unit has split into two separate units. The subdivision did not need planning permission, but both units are controlled by the conditions on the original permission. There are two breaches of planning control in relation to ONE of the two units, NO. 3A, firstly the failure to comply with a planning condition which controls hours of use and a related Breach of Condition Notice and secondly the erection of a ventilation extraction unit at 3A Beeches Road, for which retrospective planning permission has been refused.

**Breach of Condition Notice**

- 12.2 The hours of use of the takeaway are restricted by condition attached to planning permission BC14715P, 1985 which states that *"the use hereby permitted shall not be operated outside the hours of 10.30pm and 8am"*.
- 12.3 Complaints from nearby residents have been received about the takeaway opening outside of the permitted hours which resulted in the submission of a planning application to vary the hour's condition. That planning application was refused on 6 June 2007. Following refusal of the planning application a Breach of Condition Notice was served on 20 July 2007 which required the takeaway to open within the permitted hours only. The Notice required compliance by 20 August 2007. The Breach of Condition Notice was not complied with and the shop continued to open outside of the permitted hours. Prosecution action commenced however an appeal was lodged against the refusal to vary the hours so the prosecution was delayed. The inspectorate dismissed the appeal on 29 July 2008. The shop continues to open outside of the permitted hours and complaints continue to be received. Given that a Breach of Condition Notice has been served it remains open to the Council to instigate prosecution proceedings and members are advised to authorise this action as set out.

**Ventilation Extraction Unit**

- 12.3 A large fume extraction unit which is made from galvanised steel has been erected to the rear of 3A Beeches Road. The size and siting of the unit means it is visually prominent and detrimental to the amenities of nearby residents. A retrospective planning application to try to retain the unit was refused on 17 April 2008 and Members are now advised to authorise enforcement action as set out requiring its removal.

Head of Planning and Building Control

### 3a Beeches Road, Walsall



**Walsall Council**

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LICENCE NO: 100019529

Scale 1/1250 Date 29/9/2008

Centre = 400680 E 300822 N

