



Walsall Council

Item No.

DEVELOPMENT CONTROL COMMITTEE
12 December 2006

Head of Planning and Building Control

15 Emery Street, Walsall

1.0 PURPOSE OF REPORT

- 1.1 To request authority to take enforcement action in respect of the erection of a fence panel and concrete blocks at the above property.

2.0 RECOMMENDATIONS

- 2.1 That authority is delegated to Assistant Director - Legal and Constitutional Services and the Head of Planning and Building Control for the issuing of enforcement notices under the 1990 Act to require the removal of the fence panel and concrete blocks and any other structure located in this position for which planning permission is required and the service of Requisition for Information Notices.
- 2.2 That the decision as to the institution of legal proceedings in the event of non-compliance with the Notice, or the non-return of Requisitions for Information, be delegated to the Assistant Director – Legal and Constitutional Services and the Head of Planning and Building Control.
- 2.3 That authority be delegated to the Assistant Director – Legal and Constitutional Services, in consultation with the Head of Planning and Building Control to amend and add to or delete from the wording stating the nature of the breach(es) the reason(s) for taking enforcement action, and the requirement(s) of the Notice or the boundaries of the site.

Details of the Enforcement Notice

The Breaches of Planning Control:

The erection of a fence panel and concrete blocks.

Steps required to remedy the breaches:

The removal of the fence panel and concrete blocks from the land and removal of all resultant debris from the land.

Period for compliance
1 month:

The reasons for taking enforcement action:

The fence panel has been constructed on the boundary of 15 Emery Street with 17 Emery Street directly adjacent to a side facing window at 17 Emery Street. The fence panel therefore has a detrimental impact on the amenities of the residential occupiers of 17 Emery Street by virtue of preventing any use of the window to light the room or to look out from the room, or to ventilate the room.

The development is therefore contrary to the policies GP2, ENV32, and H10 of the adopted Walsall Unitary Development Plan March 2005.

- 2.4 That authority be given to Assistant Director - Legal and Constitutional Services and the Head of Planning and Building Control for the issuing of enforcement notices and associated actions under the 1990 Act in relation to any comparable developments that may be erected in future.

3.0 **FINANCIAL IMPLICATIONS**

For the Council none arising directly from this report.

4.0 **POLICY IMPLICATIONS**

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

5.0 **LEGAL IMPLICATIONS**

Non-compliance with an Enforcement Notice is an offence and if this occurred it would be open to the Council to instigate legal proceedings.

6.0 **EQUAL OPPORTUNITY IMPLICATIONS**

None arising directly from this report.

7.0 **ENVIRONMENTAL IMPACT**

The report seeks enforcement action to remedy adverse impacts.

8.0 **WARD(S) AFFECTED**

St Matthews

9.0 **CONSULTEES**

None

10.0 **CONTACT OFFICER**

Tonia Upton – Planning Enforcement Team
Tel; 01922 652411.

11.0 **BACKGROUND PAPERS**

Planning enforcement file

HEAD OF PLANNING AND BUILDING CONTROL

DEVELOPMENT CONTROL COMMITTEE
18th July 2006

15 Emery Street, Walsall

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 In July 2006 you gave authority for an enforcement notice in respect of a concrete block structure at this property. The notice was served, requiring its removal. The owner complied with the notice by removing the wall, however a fence panel was put in its place. It is not possible to continue with the old notice as the new fence panel is considered to be new development.
- 12.2 The fence panel has the same impact as the previous concrete block structure, as it blocks out light to the side facing window and also prevents it from being opened. It is understood that the two parties (No. 15 and No. 17 Emery Street) are in dispute and that the owner of 15 Emery Street has built the structure to prevent the window at No. 17 from opening across his land.
- 12.3 Enforcement action is therefore recommended to remove the fence panel, however given that it is possible for the owner to build a variety of structures for which planning permission may be required but are outside the terms of the notice Members are advised to delegate authority as outlined in paragraph 2.4 which would enable the service of new notices should other comparable but different structures be built.
- 12.4 Members should however be aware that the owner has indicated that he is prepared to remove the fence panel but may in its place put something which is not secured to the land for example an item of furniture. If this is the case planning permission will not be required and the Council could not take action. If this happens it would then be for the two parties to continue their own legal cases which have already commenced

HEAD OF PLANNING AND BUILDING CONTROL

15 Emery Street, Walsall

