



## **DEVELOPMENT CONTROL COMMITTEE**

**Date: 31<sup>st</sup> May 2007**

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

**81 Forrester Street, Walsall**

**Ref: E07/0165**

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

To inform members of a breach of control at this address and request authority to take planning enforcement action

#### **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 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.
- 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:-**

Operational development comprising the erection of first floor extension to create a new flat, without compliance with planning permission 04/0931/FL/W4.

##### **Steps required to remedy the breaches:-**

Remove the exterior door provided in the west-facing elevation, and brick - up the door opening using external materials to match the adjoining walls.  
Remove the window provided in the additional area of floorspace, and brick up the window opening using external materials which match adjoining walls, unless at all times the window is maintained with obscure glazing only.  
Remove all resultant debris from the land.

Period for compliance:-  
1 month.

Reasons for taking Enforcement Action:-

The door provides access to a flat roof at first floor level which is used as an amenity space and a link between this and the adjacent flat. The use of the roof for this purpose has resulted in a loss of privacy for adjoining occupiers and an increase in noise. The use of the roof for this purpose is also visually intrusive and detrimental to the visual amenity of the area and of adjacent occupiers. The door is therefore contrary to policies GP2, 3.6, ENV32 and H10 of the Walsall Unitary Development Plan (2005), and also the Council's adopted Residential Development Standards.

**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**

Pleck

**9.0 CONSULTEES**

Related planning application 06/1852/FL/W3 was subject to normal publicity.

**10.0 CONTACT OFFICER**

Philip Wears

Planning Enforcement Team: 01922 652527 / 01922 652411

**11.0 BACKGROUND PAPERS**

Planning Applications 06/1852/FL/W3

Enforcement file not published.

D Elsworthy

Head of Planning and Building Control, Regeneration

**Development Control Committee**  
**31<sup>st</sup> May 2007**

## **12 BACKGROUND AND REPORT DETAIL**

- 12.1 A plan showing the location of the site is attached to this report. Two other developments at this site (a first floor extension to add a conservatory to a flat above the shop, and the installation of a fume extraction flue), were the subject of a previous enforcement report on 25<sup>th</sup> April 2006. The Committee authorized the issuing of enforcement notices to require the removal of these developments, but action was deferred for two months to allow time for the resolution of the issues by negotiation if possible. Subsequently planning applications 06/0930/FL/W3 and 06/0931/FL/W3 were received but were refused under delegated powers on 13<sup>th</sup> December 2006. It remains to take action in accordance with the Committee decision, but this report concerns a third development which has been identified by officers.
- 12.2 The new issue is the erection of a first floor extension to provide a new flat at the rear and above the takeaway food shop on Moat Road. This does not comply with the planning permission which was granted for the flat in July 2004 (ref 04/0931/FL/W3). As built the flat has increased floorspace owing to the erection of a small area of additional floorspace to provide the bathroom, (thereby allowing the bedroom to expand into the originally proposed bathroom). The other difference is that an exterior door has been provided to give access onto the adjoining flat roofed area.
- 12.3 A retrospective application to retain the flat with these differences was submitted (ref 06/1852/FL/W3), but this was refused on 13<sup>th</sup> December 2006 for the reason shown in paragraph 2.3 of this report. It will be noted from the refusal reason that the slightly increased floorspace to provide the bathroom does not have a significant adverse impact. The adverse impacts identified all relate to the door, in encouraging use of the flat roofed area, and the impacts of this on amenity. It follows that the recommendation is only to remove the door, thereby discouraging use of the flat roofed area. The first floor flat and flat roofed area are in very close proximity to the rear gardens of adjoining terraced houses, with the boundary of the rear garden to 75 Forrester Street being about 1.25 metre away.
- 12.4 Members should be aware that the legal effect of this 'under-enforcement', in which the increased building size would be allowed to remain, would be to grant planning permission for the flat in this slightly larger form (when compliance is achieved). Consideration has therefore to be given to any safeguards needed in respect of the larger flat. The additional floorspace (providing the bathroom) has a window which faces the rear windows of 75 Forrester Street. Had planning permission been granted in respect of application 06/1852/FL/W3, a safeguarding condition would have been attached to require this window to be maintained at all times with obscure glazing only. The recommendation is therefore that the enforcement notice requires the bricking-up of the window unless it is maintained in this way.

# 81 Forrester Street, Walsall

