



Walsall Council

Item No.

DEVELOPMENT CONTROL COMMITTEE

29 May 2008

HEAD OF PLANNING AND BUILDING CONTROL

Junction 9 Accommodation **Change of use to Houses in Multiple Occupation/Flats/Erection of Garden** **Buildings**

1.0 PURPOSE OF REPORT

- 1.1 This report updates Members on progress in respect of enforcement action authorised by your Committee on 17 July 2007 and advises of new investigations.
- 1.2.1 This matter relates to a company which is often known as J9 Accommodation (referred to in this report as J9) who have converted a number of properties across the borough to Houses in Multiple Occupation or self contained flats without planning permission and act as a letting agency.
- 1.2.2 Members will note from the report that 14 new sites which are owned by Junction 9 are now under investigation. Given the number of new sites and the fact that this list may not be exhaustive Members are recommended to delegate to Officers authority to take enforcement action where it is expedient to do so at any site owned by this Company and/or owner where the Company name may be different.

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 Requisition for Information Notices and Enforcement Notices if required at any site owned by J9 (or by the same owner where the company name may have been changed) where it is expedient to do so.

- 2.2 That the decision as to the institution of legal proceedings in the event of non-compliance with the Notices, or the non-return of Requisitions for Information, Notices 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 for each of the properties detailed in the above table.
- 2.4 That the enforcement authority resolved 17 July 2007 at
- 21 Slaney Road,
 - 23 Slaney Road
 - 7 Broadway North

be rescinded.

- 2.5 That the compliance period with the Enforcement Notices for flats/HMO's at:
- 43/44 New Street
 - 261 Walsall Road,
 - 41 Westbourne Road
 - 12 Walsall Road
 - 24 Slaney Road
 - and at any new site raising similar issues for which enforcement action is taken
- be 6 months (as agreed 17 July 2007).
- 2.6 That the compliance period with the Enforcement Notices which relate to the erection of sheds be reduced to 28 days at
- 33 Walsall Street
 - 112 Temple Road
 - 42 Hillary Street
 - and at any new site for which enforcement action is taken

With the exception of 14 Walsall Road where the compliance period is recommended to be 3 months),

3.0 **FINANCIAL IMPLICATIONS**

Within existing budgets and therefore none arising directly from this report.

4.0 **POLICY IMPLICATIONS**

None arising directly from this report.

5.0 **LEGAL IMPLICATIONS**

Non-compliance with a Planning Contravention or Enforcement Notice is an offence.

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**

The report identifies properties in the following wards Bentley and Darlaston North, Birchills Leamore, Darlaston South, Pleck, St Matthews, Willenhall South.

9.0 **CONSULTEES**

Public Protection, Legal Services, Housing Services and Building Control.

10.0 **CONTACT OFFICER**

Tonia Upton – Planning Enforcement Team Leader
Tel; 01922 652411.

11.0 **BACKGROUND PAPERS**

Planning enforcement file

HEAD OF PLANNING AND BUILDING CONTROL

DEVELOPMENT CONTROL COMMITTEE

29 May 2008

Junction 9 Accommodation

12.0 BACKGROUND AND REPORT DETAIL

12.1 Following authorisation of enforcement action the owner of the Company appointed a Planning Agent to deal with each site for which enforcement action had been authorised in order to review the position and resolve problems where possible. That process has been ongoing with discussions and meetings with Officers. The agent submitted final recommendations in March 2008. The agents' recommendations differed from site to site, for some they offered to undertake certain works and at others cease unauthorised uses or undertake parking or noise surveys. This has been helpful to the overall planning process. Additional internal inspections of many of the properties has also taken place. I am however aware that a great deal of time has passed since enforcement action was authorised however given the number of cases and the fact that any action will directly affect tenants housed by J9 it has been an important part of the process to ensure that the matter has been fully investigated. Legal Services have served Requisition for Information Notices and they have been complied with. The outcome of the negotiations is:

- Enforcement Notices will be served at 3 sites probably before your meeting
- Further Enforcement Notices to be served (intended to be week commencing 9th June) should the owner fail to take undertake works for which his agent has advised will be done.
- That enforcement action should be rescinded at 3 sites
- That the file will remain open on one site.

12.3 The table below details what action is recommended to be taken at each site.

Address	Breach of Planning Control & Recommended Action
261 Walsall Road Darlaston	Change of Use to HMO Following investigation the owner has agreed to re-establish the rear garden to the property.

	<p>The degree to which the occupiers of an HMO will generate parking has also been explored.</p> <p>Action</p> <p>In this case, the risk of parking from the client group is modest. The enforcement authority should be rescinded.</p>
14 Walsall Road, Darlaston	<p>Erection of timber building in rear garden. Used as an Office by J9 employees.</p> <p>Action</p> <p>The Enforcement Notice requiring that this building should be used for domestic purposes only to be served in May.</p>
12 Walsall Road, Darlaston	<p>Change of use to flats and erection of timber buildings for use as residential accommodation</p> <p>Members will recall that the flats had been converted for more than 4 years and were therefore immune from enforcement action.</p> <p>Action</p> <p>The Enforcement Notice requiring the removal of the timber buildings in the rear garden and the reduction of the height of the fence to 2 metres to be served in May.</p>
3 Pinfold Street, (Former 3 Horseshoes PH) Darlaston	<p>Change of use to flats</p> <p>Action</p> <p>This matter remains under investigation as a result of other proposed Council action.</p>
33 Walsall Street, Willenhall	<p>Change of use to flats and erection of timber buildings</p> <p>The property has been converted into flats without planning permission. There is no</p>

	<p>parking however there is adequate amenity provision as there is a rear garden. It is considered that due to the size of this detached property that its conversion to flats may be acceptable even though there is no parking. It would be difficult to re-use this property for a suitable purpose which did not require parking. The agent advises that one of the timber buildings which has been erected in the garden will be removed.</p> <p>Action</p> <p>It is advised that enforcement action in respect of the use of the building should be rescinded.</p> <p>It is recommended that the enforcement authority in respect of the sheds should remain open and notices served if they are used for non-domestic use.</p>
112 Temple Road, Willenhall	<p>Change of Use to HMO and erection of timber building. The agent advised that the shed will be removed.</p> <p>Action</p> <p>The Enforcement Notice will be served the week commencing 9th June 2008 if the shed is not removed.</p>
21 Slaney Road, Walsall	<p>Change of use to HMO. The agent advised that the property has been in use as a HMO for many years. Council records show that the property was used as a HMO with 7 single letting rooms for many years before J9 purchased the property. The use of the property as a HMO therefore appears to be lawful. J9 have however increased the number of letting rooms to 11. It would not be expedient to take action on this increase.</p> <p>Action</p> <p>Rescind the enforcement authority to take</p>

	action.
23 Slaney Road Walsall	<p>Change of use to HMO</p> <p>The agent advised that the property has been in use as a HMO for many years. Council records show that the property was used as a HMO with 7 single letting rooms for many years before J9 purchased the property. The use of the property as a HMO therefore appears to be lawful. J9 have however increased the number of letting rooms to 11. It would not be expedient to take action on this increase.</p> <p>Action</p> <p>Rescind the enforcement authority to take action.</p>
24 Slaney Road Walsall	<p>Change of use to HMO</p> <p>The agent advised that the property is occupied by nurses who share facilities. They assert that there has not been a breach of planning control as the property could be considered to be a C3 use (dwelling house).</p> <p>Internal site inspections have shown that the property has 7 bedrooms, 2 kitchens, 2 bathrooms and a lounge. Three rooms have 2 single beds and 4 are single only. The facilities are shared. The owner advised that nurses work on two week rotas which involves a fortnightly cycle of living at this property or at the 'work place'.</p> <p>It is likely that there are at least 7 residents. At full occupancy there could be 10 residents.</p> <p>Action</p> <p>Although the agent asserts this is a C3 use it could be argued that this use falls outside of that definition.</p>

	<p>Action</p> <p>Further investigation is required which will include the service of a Planning Contravention Notice in order to obtain more details about the use of the property.</p>
43/44 New Street Walsall	<p>Change of use to flats</p> <p>Officers are aware that the inspectors appeal decision on the refusal of a change of use to dwelling house at this property (which was dismissed) stated that industrial noise was one of the main arguments against granting permission for residential use. On this basis a noise consultant has been appointed by J9 to assess the impact.</p> <p>Action</p> <p>The agents have been advised that the findings of noise survey should be submitted within 21 days or an Enforcement Notice will be served the week commencing 9th June 2008.</p> <p>Should the survey be submitted Officers (including Pollution Control) will need to review the findings.</p>
41 Westbourne Road, Walsall	<p>Change of use to flats</p> <p>The agent advised that it is not considered that the use of the property causes any problems in this location and they do not intend to submit a planning application.</p> <p>They have however advised the use of the timber sheds in the rear garden for J9 storage will cease.</p> <p>Action</p> <p>It is not agreed that the change of use does not cause an impact and therefore</p>

	<p>two Enforcement Notices to be served in May. One will require the use of the property to revert back to a single dwelling house and the second will restrict the usage of the sheds to domestic purposes only.</p>
42 Hilary Street	<p>Restriction of the use of the garden buildings</p> <p>The agent advises that the use of the building for J9 storage will cease.</p> <p>Action</p> <p>The Enforcement Notice will be served the week commencing 9th June 2008 if the use of shed for non-domestic purposes continues.</p>
7 Broadway North, Walsall	<p>Change of use to HMO/Flats</p> <p>The agent advised that the property has been in use as a HMO for many years. Council records show that the property was used as a HMO with 7 single letting rooms for many years before J9 purchased the property. The use of the property as a HMO therefore appears to be lawful. J9 have however increased the number of letting rooms to 9. It would not be expedient to take action on this increase.</p> <p>Action</p> <p>Rescind the enforcement authority to take action.</p>

12.4 Where it is not expedient to take action but there is considered to be breach of planning control retrospective planning applications have been invited.

Period for Compliance with the Enforcement Notices (where action is taken against flat conversions)

- 12.5 Where enforcement action is taken in many cases this will detrimentally impact upon the tenants who may need to find new accommodation. Members will recall the last report which detailed J9's comments regarding their provision of housing which they consider provides much needed safe good quality accommodation. Officers have some sympathy with their argument in that they do appear to provide a good standard of housing in a much needed sector of the rented housing market, hence why it has been very important to carefully consider each of the sites. However, not all of the conversions are appropriate and their quality of housing provision cannot override the planning laws.
- 12.6 The recommendations in the previous report was that the time scale for compliance with Enforcement Notice be 6 months. This may seem generous however this time scale is considered appropriate because enforcement action may lead to many occupiers of the properties needing to find alternative accommodation. A 6 month compliance period should give adequate time for relocation as most tenancies are conducted on a short term basis and can be terminated after this period of time.

Enforcement Action in respect of garden buildings and the Office at 14 Walsall Road

- 12.7 Members authorised that the compliance period in respect of all notices be 6 months. However where the Enforcement Notice relates to a garden building either requiring removal or restricting the use to domestic purposes only it is considered that a shorter compliance period of 28 days is acceptable, with the exception of 14 Walsall Road where 3 months is recommended to allow for relocation of the J9 office.

New investigation

- 12.8 Officers are also investigating 14 new J9 sites (shown in bold type on the attached list of J9 properties). In some cases Building Control are also investigating. Other Service Areas will be advised as appropriate for example Council Tax and Housing.

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Junction 9
Table of Properties – May 2008

	Address	Breach	Enf Action Authorised
	WALSALL		
1	285 Darlaston Road, Pleck	Extension	
2	649 Bloxwich Road, Leamore	Change of Use	
3	21 Slaney oad, Walsall	Change of Use HMO (additional 3 rooms)	Yes
4	23 Slaney Road, Walsall	Change of Use – HMO (additional 3 rooms)	Yes
5	24 Slaney Road, Walsall	Change of Use – HMO	Yes
6	42 Hillary Street, Walsall	Change of Use and erection of garden buildings	Yes
7	7 Broadway North, Walsall	Change of Use – June 2006 HMO (additional 2 rooms)	
8	43/44 New Street, Walsall	Change of Use – Flats appeal dismissed for residential use.	Yes
9	57 Bescot Road		
10	41 Westbourne Road, Walsall	Change of Use to flats & Timber Building	Yes
11	73 Corporation Street West		
12	22 Lewis Street		
	WILLENHALL		
13	112 Temple Road, Willenhall	Change of Use to HMO and Building and Timber building	
14	49 Gough St		
15	24/25 Lower Lichfield Street	Conversion/fence and encroachment onto Council land – estates aware	

16	Temple Bar	New build commenced March/April08	
17	33 Walsall Street, Willenhall	Change of Use to self contained flats and timber buildings	Yes
	DARLASTON		
18	261 Walsall Road, Darlaston	Change of Use – HMO	Yes
19	1 Bangor Villas		
20	23 Forge Road, Darlaston	Change of Use to HMO	
21	3 Pinfold Street, Darlaston (former PH)	Change of Use Pub to form flats, extension to the rear.	Yes
22	4 Pinfold Street		
23	5 Pinfold Street		
24	10 Pinfold Street		
25	11 Pinfold Street	2 Storey extension (possible flat conversion)	
26	12 Pinfold Street		
27	12 Walsall Road, Darlaston	Change of Use of to flats. 3 Timber buildings to rear each used for residential purposes	Yes
28	69a Walsall Road Darlaston	Change of Use – HMO	
29	14 Walsall Road, Darlaston	Timber Building in rear garden used as an office.	Yes
30	18 Walsall Road, Darlaston	Office and flat –.	
31	19 Walsall Road		
32	21 Walsall Road		
33	22 Walsall Road, Darlaston	Change of Use conversion to form separate flats purchased in Jan 06 .	
34	Garages adjacent 22 Walsall Road, Darlaston	Builders yard	
35	23 Walsall Road		
36	25 Walsall Road		

37	103 Walsall Road		
38	3 Hart Street	Conversion to HMO no date of when work was undertaken.	
39	224 Old Park Road		