



Item No.

Walsall Metropolitan Borough Council

DEVELOPMENT CONTROL COMMITTEE 28th June 2005

REPORT OF HEAD OF PLANNING AND TRANSPORTATION

Pallet Racking Systems Ltd, Ashmore Lake Way, Willenhall.

Reference number 2004/0454/CMP

1.0 **PURPOSE OF REPORT**

- 1.1 To inform Members regarding breaches of control at this site and to request authority to take planning enforcement action.

2.0 **RECOMMENDATIONS**

- 2.1 That authority is granted for the issuing of enforcement notices, to require remedial actions to be undertaken as shown below in 2.3.
- 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 Head of Legal Services.
- 2.3 That authority be delegated to the Head of Planning and Transportation and the Head of Legal Services to amend and 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:
Change of use from Class B1 to B8

Steps required to remedy the breaches:

Remove the racking systems and components, and vehicles and equipment kept in connection with the use from the land.

Cease to use the land for the storage and distribution of racking systems and their components or any other use falling within Use Class B8.

Period for compliance
4 months:

The reasons for taking enforcement action:

By reason of

- the poor appearance of the open storage of racking components and waste containers, and the resulting detriment to the appearance of the industrial area and the objective of safeguarding and enhancing employment areas, the unauthorised use is in conflict with UDP policies GP2 .I, 4.7 and JP5.
- The present use of the site, involving open storage of metal racks and components and the movement of those materials, is inherently noisy, as are the ancillary engineering operations within the building, and these activities are therefore detrimental to the amenity of residents and contrary to UDP policies 3.7 and GP2. I.
- The use is unauthorised, and therefore not subject to any control by planning conditions which might otherwise address these issues.

3.0 FINANCIAL IMPLICATIONS

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

Willenhall South

9.0 CONSULTEES

None

10.0 CONTACT OFFICERS

Philip Wears – Planning Enforcement Team
Tel; 01922 652411.

11.0 BACKGROUND PAPERS

Planning application file BC55926P

HEAD OF PLANNING AND TRANSPORTATION

DEVELOPMENT CONTROL COMMITTEE
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Pallet Racking Systems Ltd - Ashmore Lake Way, Willenhall.

12.0 BACKGROUND AND REPORT DETAIL

Introduction

12.1 The report concerns the use of a site and a building with a gross floorspace of about 1300 sq. m for distribution of racking systems, a use which is within Use Class B8. The owner has not responded to advice that planning permission is necessary for the change of use. The site is at the edge of the Ashmore Lake industrial area and adjoins the rear gardens of houses on Ashmore Lake Road. A plan showing the location is attached to this report.

12.2 This report first appeared on the Committee's agenda on 7th June 05, but owing to some earlier debates it was not possible to reach this item.

12.3 Following the publication of the report a planning application was received from the company for retention of the palisade fencing on the frontage and for retention of the roller shutter door. The submitted information is not entirely clear and a letter is being sent to clarify whether the applicant also seeks permission for the change of use and other items. The officer recommendation remains un-changed, though if ,subsequently, the change of use is permitted, this would supersede any enforcement action in respect of this.

12.4 This section of the report continues below as previously circulated.

Planning History

12.5 Until recently the site formed part of a much larger manufacturing site extending back from the road. This larger site was used for many years for lock-making with the benefit of a light industrial (Class B1) permission. Then in June 2000 application BC 55926P was approved for a combination of Class B1 and Class B2 use. Permission was granted subject to conditions providing a package of controls to safeguard the amenities of the area and of adjacent residents. The conditions on use entailed the Class B1 element being for only industrial purposes, and the B2 element being temporary for 2 years only, personal to Copperfields Furniture and for furniture manufacture only. For both uses, hours of work were restricted to prevent night-time, Saturday afternoon and Sunday/Bank Holiday working. Doors facing the houses were to be closed except for immediate access and egress, and outside working was not to take place. Open storage was also prevented, and landscaping required.

12.6 The larger site was later seriously fire-damaged and was mainly demolished. A smaller site occupying the road frontage and subject of this report, was then created

by subdividing the land with fencing and erecting a new rear wall to the remaining part of the building (the latter was without planning permission). The smaller site was occupied by Pallet Racking Systems Ltd in late summer 2004, and their purchase was completed in that year. The land to the rear, in separate ownership, was linked to the adjoining site fronting to Spring Lane and both were subject of a planning application for use as a HGV driver training centre. This was refused and is currently awaiting an appeal decision. The land to the rear is currently in a new use for storage of old commercial vehicles. This is being pursued and a separate report may become necessary.

The case for enforcement action

- 12.7 The occupier of the smaller site, Pallet Racking Systems Ltd, was first advised to seek planning permission in October 2004 but has not done so.
- 12.8 As described above the site has been created by subdivision of the larger Copperfields site. Whilst the new rear wall to the remaining building required planning permission officers consider that it is acceptable visually and therefore advise that it would not be expedient to take enforcement action.
- 12.9 The new use involves the delivery to the site of the racking systems, their storage, their despatch, and sometimes their alteration to suit the needs of particular customers. The latter involves some workshop activity in the building, its scale appearing to be ancillary to the main Class B8 distribution use. Officers consider that this particular B8 use is clearly different in character to a B1 use and there is potential noise nuisance for residents from the alterations carried out to the components, delivery vehicles, and the movement of the metal racking, particularly as much of this is stored in the open yard area. The storage of the racking in the open is accompanied by storage of waste containers and is very visible through the palisade fencing on the frontage. Its appearance is very poor. The site is within a Core Employment Area identified in the UDP and its appearance is considered to undermine the Council's efforts to promote investment and improvement in that area.
- 12.10 A further aspect of the change of use is that the office suite within the building is occupied by two other companies. This appears to involve in the main two additional personnel and their vehicle parking. It may be that the office suite is too large for the needs of the main occupier and so office space has been sub-let. This element of Class B1 office use runs counter to the Council's previous desire for all B1 use to be industrial, but officers do not recommend a separate enforcement action for it as the level of use appears small and involves only existing office space. The office use carried out by the main occupier is considered part of their overall Class B8 use and is therefore part of that issue.
- 12.11 Some alterations have also been carried out to the building. A window opening facing west towards the rear of the dwellings on Ashmore Lake Road has been enlarged to provide a vehicular opening and a roller shutter door has been installed. This appears to be used mainly for fork-lift truck access. Officers consider that this was permitted development.

- 12.12 A further alteration is that also on the west elevation, a shed measuring about 3m by 4m and 4.5 m high has been constructed in profiled metal sheeting adjacent to the side of the building. Officers were informed that it houses a fork-lift truck too tall for the door opening, and some storage above. This was not permitted development because it materially affects the appearance of the site. It requires planning permission. Given its location at the side and the planting on the boundary with the dwellings it is not considered that the visual impact of this work justifies enforcement action.
- 12.13 Officers have received information that the metal palisade fencing on the site frontage has been recently erected, and a concrete hard surface has been laid close to the western boundary of the site. Officers consider that whilst the fence is of a height to require planning permission, its appearance is in keeping with similar fences nearby in this road. Officers further consider that the concrete surface was constructed with permitted development rights. Enforcement action is not therefore recommended for these items.
- 12.14 The change of use to B8 and associated alterations involves a change from one industrial use to another, and on an industrial estate. Notwithstanding this there is a need to safeguard the amenities of residents and safeguard the amenities and quality of this core employment area. It is possible that a permission could have been given, with a regime of planning conditions relating to noise, hours and appearance, similar to those attached to the previous permission, and other conditions. The use is operating without any planning permission and therefore without any planning conditions. If the use becomes lawful through passage of time the opportunity to attach conditions will be permanently lost.
- 12.15 As planning conditions are considered essential in this case, this alone is a basis for concluding that the present situation is unacceptable and that enforcement action to cease the use is necessary. Government advice on enforcement recognises this sort of situation. Should an application be submitted at this late stage it would be assessed on its merits and a decision to approve subject to such conditions would not necessarily be inconsistent with this enforcement action.

HEAD OF PLANNING AND TRANSPORTATION

