



Item No.

# *Walsall Metropolitan Borough Council*

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## DEVELOPMENT CONTROL COMMITTEE

19<sup>th</sup> July 2005

### REPORT OF HEAD OF PLANNING AND TRANSPORTATION

#### Land on west side of Acorn Street, Willenhall

Reference number E05/ 0329

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

- 1.1 To inform Members regarding the history and current 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 paragraph 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 Breaches of Planning Control:

Use of land for the storage of scrap vehicles, and preparation, repair and storage of vehicles as part of a recreation or sport.

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

Remove from the land all vehicles which are stored or in the course of repair or adaptation.

Cease to use the land for the storage of vehicles, and the preparation, repair and storage of vehicles as part of a recreation or sport.

Remove from the land all equipment and the two shipping containers, which are used in connection with these activities.

Period for compliance  
2 months:

The reasons for taking enforcement action:

By reason of the hours of activity in the yard, the movement and testing of vehicles, the potential nuisance from burning of un-wanted components, and the potential for vehicles and other items to be stored higher than the enclosing walls, it is considered that the continued use of the site without planning control is harmful to the amenities of nearby residents, adjacent commercial undertakings and the area generally. It is therefore in conflict with Walsall Unitary Development Plan policies GP2, ENV 10 and ENV 14.

**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**

Communication has been taking place with Pollution Control (WMBC), and the Environment Agency.

**10.0 CONTACT OFFICERS**

Philip Wears – Planning Enforcement Team  
Tel; 01922 652411.

**11.0 BACKGROUND PAPERS**

Enforcement file not published.

HEAD OF PLANNING AND TRANSPORTATION

**DEVELOPMENT CONTROL COMMITTEE**  
**19<sup>th</sup> July 2005**

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**12.0 BACKGROUND AND REPORT DETAIL**

Introduction

12.1 The report concerns the use of a small yard of about 240 square metres which is located in a road of industrial premises, in a mixed industrial and residential area. The walls around the site, around 2 metres high on average, together with the gates of similar height onto Acorn Street, mean that it is generally well screened. It contains about 12 to 15 un-roadworthy cars some of which are stacked 2 cars high, together with two shipping containers which are used for storage in connection with the use. Adjacent are industrial premises used for coach parking. Acorn Street is entirely an industrial road but at its head is Albion Avenue which has a frontage of terraced houses. The nearest houses are about 40 metres from the site. Albion Street is a quiet backwater outside working hours and is then used for childrens play.

12.2 The site has an unusual history. It is understood that many years ago it was used for builders storage, but it became overgrown and apparently abandoned land, which was causing nuisance, and was in 2003 proposed for a 'no known owner' Compulsory Purchase Order. However a person came forward, cleared the site and claimed ownership, and the CPO did not proceed. Then later in 2003 a portacabin was installed, apparently for resumption of use as a builders storage yard, but this use did not commence. In 2004 a small number of skips were stored on the land but this practice had ceased by late summer. The most recent information on the history of the site suggests that though it was used for builders storage in the past, this ceased long ago so that these use rights may have been lost, resulting in a situation where there is no existing right to carry on any lawful use.

12.3 Early in 2005 officers were informed that scrap cars were being stored and two shipping containers had been installed. The portacabin was then removed and in April it was reported that the cars were being stripped out and prepared as 'banger' racing cars, and then returned for repair after races. Officers have been expecting the submission of a planning application for this use for several months, from a person who is in possession of the site and who has paid the Business Rates for about eighteen months. This application has not yet been received, apparently for personal reasons. The person also explains that the site is rented to someone who has needed new premises for running a project which aims to involve youths in preparing and racing 'banger' cars and scrambler motor-bikes. It appears to officers that the use is not a normal vehicle repairs use in the 'General Industrial' Use Class, but also involves elements of car storage and possibly youth work.

12.4 Officers have received representations from some premises in the vicinity concerning incidents in Acorn Street involving the manoeuvring of a car transporter lorry, test driving of cars, and unsafe working practices on the site itself. From

these representations and officer observation it is apparent that whilst the storage of cars is on-going, the preparation and repair activity on the site is erratic and fairly infrequent overall. It can usually be confined to weekends, but with activity in the evenings before a race meeting

12.5 It appears to officers that the issues raised by the representations are not just planning issues. The generation of vehicle movements is a planning issue, but specific incidents could be matters for the Police. The 'end of life' regulations for vehicles, and health and safety legislation, are both relevant to concerns at the site representing a fire hazard, but there is currently no evidence that safety problems, if present, could not be rectified.

12.6 Officers consider that this use might be acceptable under the planning act if it were subject to planning controls, for example, to restrict the height to which cars are stacked, restrict the use of bonfires to dispose of components, and restrict hours of work to protect the housing nearby from undue noise. However, without a planning application, there is no mechanism to impose such controls. It is unacceptable for the use to continue with its present un-controlled status. Should a planning application not be received within a further period of say 3 weeks officers recommend the issue of an enforcement notice to cease the use.

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