



DEVELOPMENT CONTROL COMMITTEE

Date: 13th March 2007

Report of Head of Planning and Building Control – Regeneration

Mallyville Car Sales, north corner of Harper Street and Temple Bar, Willenhall ref: E05/0640

1.0 PURPOSE OF REPORT

To inform members of a continuing breach of planning control and to request authority to take planning enforcement action.

2.0 RECOMMENDATIONS

- 2.1 That authority is granted for the issuing of Enforcement Notices 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 in consultation with 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, 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:-

- Use of the land for vehicle sales
- Erection of small timber shed to provide an ancillary office

Steps required to remedy the breaches:-

- Cease to use the land for vehicle sales
- Remove the vehicles from the land
- Remove from the land all equipment used in connection with their preparation and display for sale of vehicles.
- Dismantle the timber shed and palisade fencing and remove their component parts from the land.

Period for compliance :-

3 months.

Reasons for taking Enforcement Action:-

1. The development results in commercial activity in an area that is outside of Willenhall district centre. The applicant has not justified the proposal in terms of the sequential test. As such the proposed development is contrary to policies 5.4, 5.6, 5.11 and WH1 of Walsall's Unitary Development Plan and contrary to Planning Policy Statement 6.
2. The development introduces an additional commercial activity into an area that is significantly residential in character and detracts from the visual amenity of the area. As such the development is contrary to policies GP2 and ENV32 of Walsall's Unitary Development Plan and contrary to Planning Policy Statements 1 and Planning Policy Guidance Note 3.
3. The development is on land which in part previously formed part of a larger site used for metal recycling, in which it provided storage and parking space. The applicant has not demonstrated that the development would allow for the satisfactory operation at the remainder of the larger site, and the proposed development therefore has the potential to impact on the residential amenity of the occupiers of surrounding dwellings, by reason of the noise and disturbance likely to arise from the limited and reduced area of land available to the recycling operation. As such the proposed development would be contrary to policies GP2 and ENV10 of Walsall's Unitary Development Plan and contrary to Planning Policy Statements 1 and Planning Policy Guidance Note 24.

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

Willenhall South

9.0 CONSULTEES

Related planning application 06/0677/FL/W6 was subject to normal publicity.

10.0 CONTACT OFFICER

Philip Wears

Planning Enforcement Team: 01922 652527 / 01922 652411

11.0 BACKGROUND PAPERS

Planning Application 06/0677/FL/W6
Enforcement file not published.

D Elsworthy - Head of Planning and Building Control

Development Control Committee
13th March 2007

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 A plan showing the location of the site is attached to this report. The site is on the north corner of Harper Street and Temple Bar between the entrance to a large metal recycling yard and a house in part use as flats. The immediate surroundings are in mixed residential and commercial use but the remainder of Harper Street, in close proximity, is wholly residential in character. The site received planning permission for use as a car park in 1983, when the applicant was Jackdaw Manufacturing on the opposite side of the recycling yard access. However in 2003 the rear of the site was shown on a submitted plan as part of the recycling yard. The site has an area secured by blue-painted steel palisade fencing and gates, approximately 2 metres high and set back over 15 metres behind an open forecourt area.
- 12.2 Investigation of an enquiry about the commencement of vehicle sales has led to the submission of planning application 06/0677/FL for the continuation of this use. The application has been refused under delegated powers, on the grounds shown above in paragraph 2.3. Members will see that this is an additional commercial use outside the town-centre, adjacent to residential uses, and depriving the recycling yard of some land which may impact on its mode of operation in such a way as to adversely affect residents. An additional reason for refusal of the application was that the use would result in loss of access to the recycling yard, which would displace vehicles onto the entrance into the Calves Croft bridleway. This reflected the submitted plans, but observation on site indicates that in practice the full area has not been implemented, and therefore there is no such objection for enforcement purposes.
- 12.3 Following the refusal the company and the landowners were advised in writing that alternative premises needed to be sought, but this has not taken place. Neither has an appeal been lodged. Authority to issue enforcement notices is therefore recommended.
- 12.4 As well as the use, the timber office building needs planning permission. The steel palisade fencing may just comply with the high limit for 'permitted development' status. However as minor developments which are 'part and parcel' of the change of use, both can be controlled through a change of use enforcement notice.

Mallyville Car Sales Ltd, corner of Harper Street and Temple Bar, Willenhall



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