



DEVELOPMENT CONTROL COMMITTEE

Date – 13th March 2007

Report of Head of Planning and Building Control

164 Lowlands Avenue, Streetly, B74 3RE

Ref: E06/0126

1.0 PURPOSE OF REPORT

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

2.0 RECOMMENDATIONS

- 2.1 That authority is delegated to the Head of Planning and Building Control and the Assistant Director - Legal and Constitutional Services for the issuing of an Enforcement Notice under the Town and Country Planning Act 1990 (As Amended), to require action to be undertaken as shown below in 2.3, and also for the issuing of Requisition for Information Notices.
- 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, 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 a fence

Steps required to remedy the breaches:-

Alter the corner of the fencing closest to 100 Maxholme Road by removing one fence panel in either direction, and install a fence between the remaining corners of the fence.

Reduce the height of the fencing to no more than 1 metre adjacent to the public highway.

Alternatively:-

Set back the entire fencing, ensuring that all of the fence is more than 2 metres from the public highway.

Period for compliance:-

2 months

Reasons for taking Enforcement Action:-

The fence, by reason of its height and location, has a detrimental impact on the highway and affects the pedestrian to vehicle visibility splay available from the drive of 100 Maxholme Road. The height of the fence and its location also affects the visual amenities of the area and is dominant in the street scene. The development is therefore contrary to policies GP2 and 3.6 of the UDP.

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

Streetly

9.0 CONSULTEES

None

10.0 CONTACT OFFICER

James Fox

Planning Enforcement Team: 01922 652527 / 01922 652411

11.0 BACKGROUND PAPERS

Enforcement file not published.

D. Elsworthy

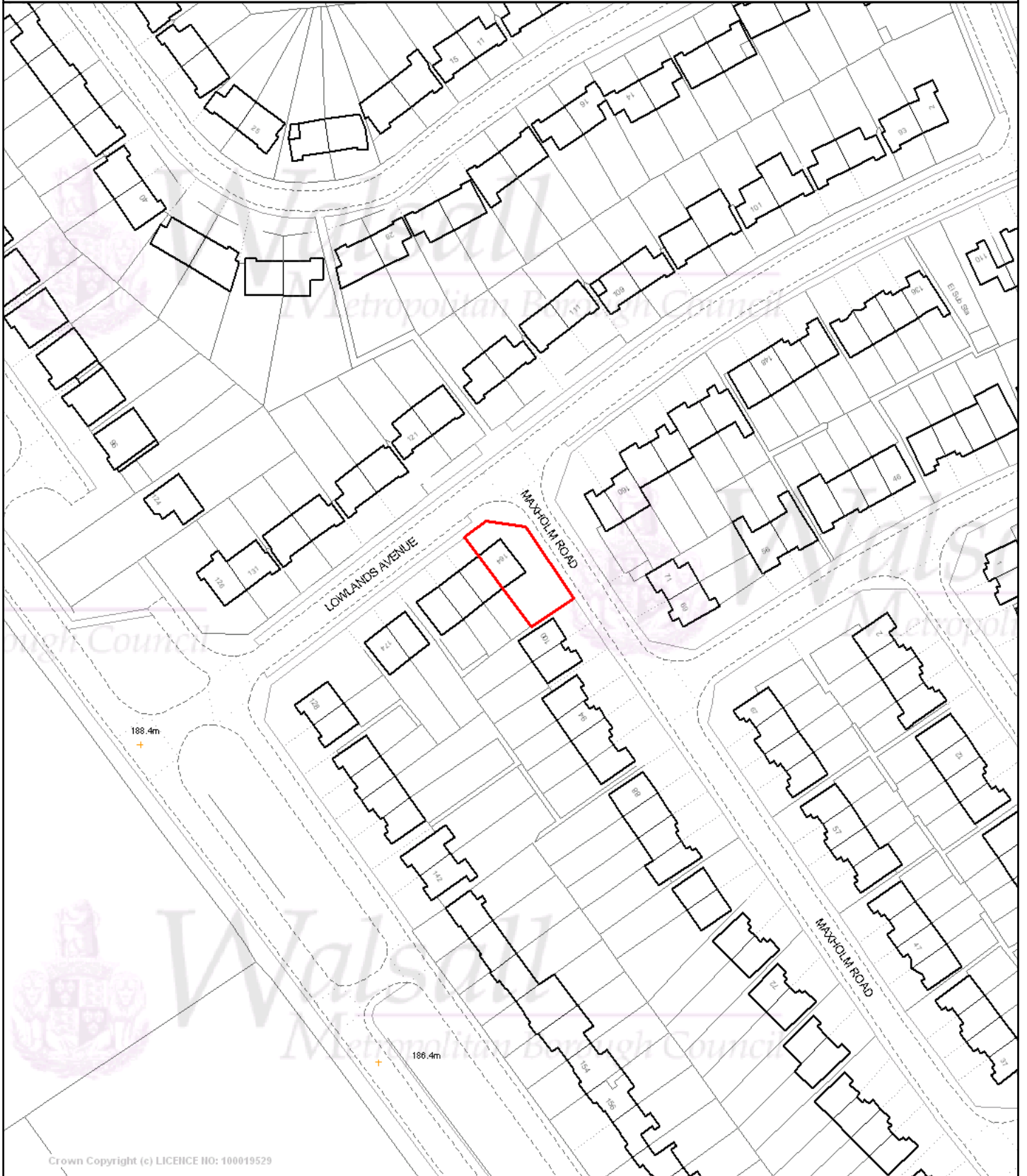
Head of Planning and Transportation

Development Control Committee
13th March 2007

12 BACKGROUND AND REPORT DETAIL

- 12.1 164 Lowlands Avenue is an end terraced property in a road of similar houses. The report relates to fencing erected to the side of the dwelling fronting Maxholme Road. A plan showing the location of the house is attached to this report.
- 12.2 The fence requires planning permission because it is adjacent to the highway and exceeds the maximum allowable height of 1 metre. Planning permission has not been granted for this development and therefore it is open to enforcement action.
- 12.3 In addition it appears that in erecting this fence an area of land has also been enclosed and that a change of use to private garden has occurred. The land may not be owned by the owner. It is not Council land. It is understood that the owner of 164 Lowlands Avenue wishes to apply to the land registry to establish ownership of the land prior to submitting a planning application. This is however a private matter.
- 12.4 The owner has been invited to apply for retrospective planning permission both for the change of use and also the fence but no application has been received.
- 12.5 In respect of the change of use of the land it is considered that this does not raise a planning problem and therefore it would not be expedient to take enforcement action on this matter. However the fence itself causes two significant planning issues. Highways Officers are concerned about the impact the fence has on the visibility splay in this location and would not support an application for its retention. They have recommended that at the very least the corner of the fence closest to Maxholme Road should be removed to create a splay. The height and location of the fence also gives rise to a detrimental impact on the street scene and affects the amenities of residents. For these reasons it is considered that enforcement action is expedient and that action should be taken as outlined in paragraph 2.3 of this report. Members will also note from the recommendations that the owner has also been given the option of setting back the fence by two metres. This reflects the legal issue of taking into account the fall back position, when judging what to enforce and require as a remedy.

164 Lowlands Avenue, Streetly



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