



DEVELOPMENT CONTROL COMMITTEE

11th December 2007

Report of Head of Planning and Building Control - Regeneration

133 Dickinson Drive, Walsall, (ref: E06/0467)

1.0 PURPOSE OF REPORT

To request authority to take planning enforcement action in respect of the use of residential garden land as a storage yard, (including builders storage), and a storage container.

2.0 RECOMMENDATIONS

- 2.1 That authority is granted to the Head of Planning and Building Control and the Assistant Director of Legal and Constitutional Services for the issuing of enforcement notices under the Town and Country Planning Act 1990 (As Amended).
- 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.
- 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 Notices

The Breaches of Planning Control:-

Change of use of residential garden land to a storage yard, including builders storage
Operational development comprising the installation of a storage container.
(identified as container A on the plan)

Steps required to remedy the breaches:-

Cease the use of the land as a storage yard.
Permanently remove the stored items from the land, including from within the container identified as container B on the plan

Remove the container A as identified on the plan, from the land.

Dismantle the concrete panel fence separating the land from the rear garden to 133 Dickinson Drive, and restore the land to its condition before the breaches took place by levelling the ground and re-seeding with grass.

Period for compliance:-

2 months

Reasons for taking Enforcement Action:-

The change of use of the land from residential garden to use as a storage yard, including builders storage, is harmful to the residential character of the area, and residential amenities, by reason of appearance, and the likelihood of nuisance and disturbance. The change of use is therefore contrary to Policies GP2 , 3.6 and 3.7 of the Walsall Unitary Development Plan.

The installation of the storage container (identified as A on the plan) is detrimental to the residential character of the area, and residential amenities, by reason of its utilitarian design, its industrial character, and its role in facilitating the general storage use of the land with consequent likelihood of nuisance and disturbance. The storage container is therefore contrary to Policies ENV32, GP2, 3.6, and 3.7 of the Walsall Unitary Development Plan.

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

Pleck

9.0 CONSULTEES

None

10.0 **CONTACT OFFICER**

Philip Wears

Planning Enforcement Team: 01922 652411

11.0 **BACKGROUND PAPERS**

Planning Contravention Notice and replies

David Elsworthy

Head of Planning and Building Control

Development Control Committee
11th December 2007

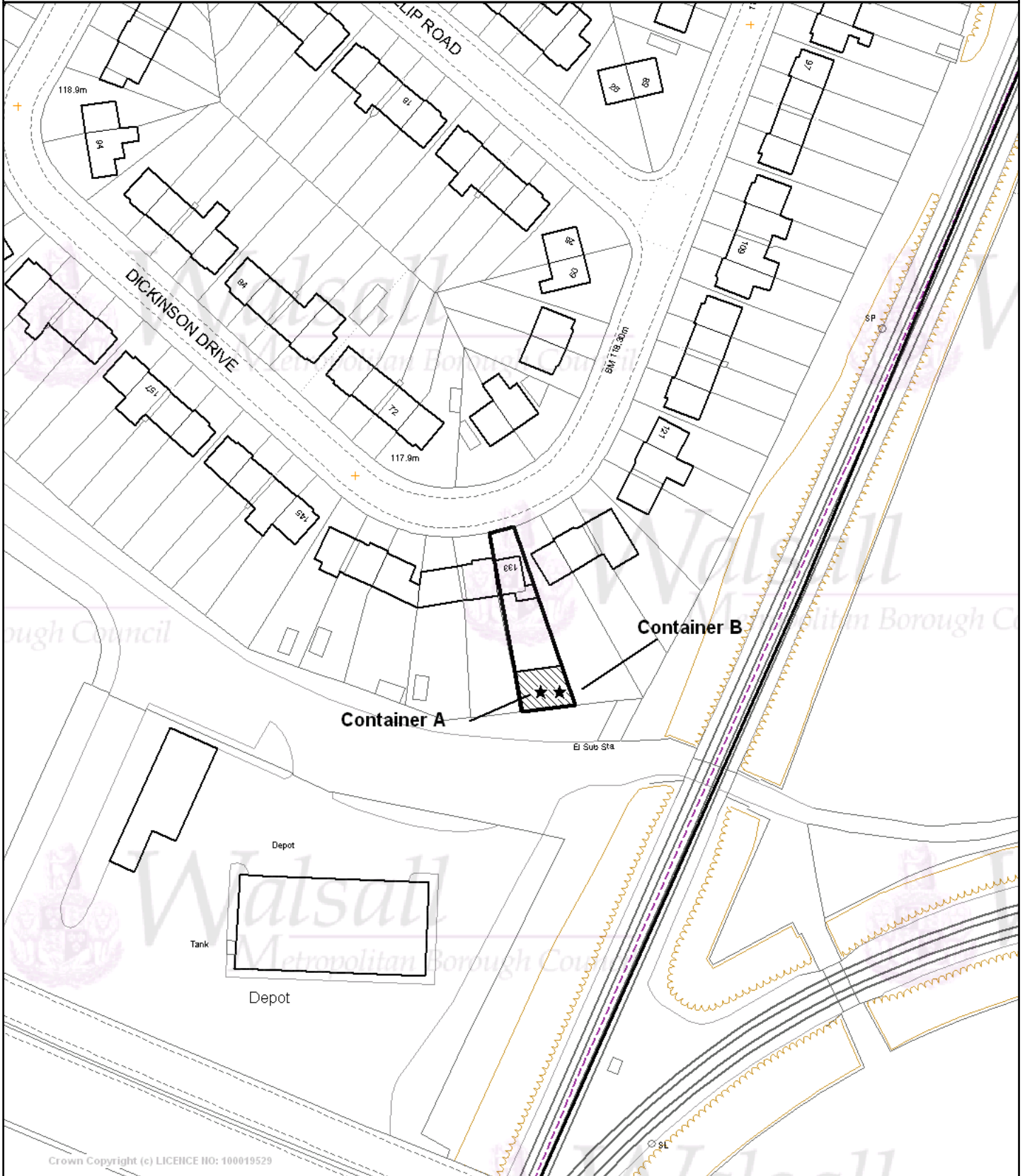
12 BACKGROUND AND REPORT DETAIL

- 12.1 133 Dickinson Drive is an end house in a terrace of three. The road is characterised by similar terraces and some semi-detached houses. At the rear there is a privately owned service road on the other side of which is a highways maintenance depot. This service road provides access to the rear of the garden though it is not known if access takes place as of right. A plan showing the house and the approximate positions of the storage yard and containers is attached to this report.
- 12.2 Following some correspondence and telephone contacts with the owners a Planning Contravention Notice was served to obtain information formally. The replies to this notice, together with information from other sources, indicate that storage container B was installed in a rear corner of the garden in 2000, and a small area of land was fenced off from the garden around it. This container has been in use ever since for storage of builders roofing materials such as felt and lead. This did not generate complaint as the use was small scale and partly screened by fencing and a bush. Then in 2006 a second storage container, container A was installed. The area of land fenced off from the garden was enlarged to accommodate this. A concrete panel fence was erected to completely divide the land from the garden, forming a small yard which is entirely dependent for access from the private service road. Storage container A has been in use for storing ornaments. Storage of roofing materials and equipment has also been taking place in the open area of the land. Both storage containers measure about 5 metres by 2.5 metres.
- 12.3 The erection of the fencing has physically divided the residential property into two separate sites (or 'planning units') with two different uses. The house and remaining garden is accessed from Dickinson Drive and appears to be rented out for lawful residential use. The rear land is accessed from a private service road and is in unauthorised use for storage purposes, in particular builders storage. This area of land has grown over time, but on no part has the legal time limit for enforcement action against the land-use expired.
- 12.4 Storage container B is considered sufficiently permanent to be treated as a type of building and on that basis it is subject to a 4 year time limit for enforcement action. It would appear that this period expired before queries were received by your officers, and no enforcement action to remove it is currently envisaged. However if an enforcement notice is issued to require the use of the land as a storage yard to cease, it is considered that it would apply to the builders roofing storage inside container B, as well as to Container A and the open land.
- 12.5 Storage container A also appears permanent enough to be treated as a building. It is a more recent addition to the site and enforcement action can be taken to remove it. As regards its contents, the reply to the Planning Contravention Notice indicated that it is used to store ornaments, with no explanatory information being provided. While this type of storage may sound as if there could be a domestic connection, there is no evidence that this is a

lawful domestic use of previous garden land. Officers here point to the physical separation from the house in a separate site or 'planning unit'. This arrangement precludes any use being lawful on the basis that it is ancillary to the house.

- 12.6 The owners have had the opportunity to make a planning application but have not done so. The owners have been advised of the possibility of enforcement action.
- 12.7 Although there is a highways maintenance depot nearby on the opposite side of the service road, this particular use is in closer proximity, being former rear garden land. Enforcement action against the use as a storage yard, and storage container A, is recommended for the policy reasons set above in section 2.3. It is intended that the effect of the enforcement action would be to return the use of the land to residential garden, and ensure that the remaining storage container, container B, (if the owners wish to retain it), is used only for purposes incidental to the occupation of the house.

133 Dickinson Drive, Walsall



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