



PLANNING COMMITTEE
7th March 2013

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

16, Athlone Road, Walsall, WS5 3QX

1.0 PURPOSE OF REPORT

To request authority to take planning enforcement action in respect of the siting of commercial vehicles.

2.0 RECOMMENDATIONS

- 2.1 That authority is granted for the issuing of an enforcement notice 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 prosecution proceedings in the event of non-compliance with an Enforcement Notice or the non-return of Requisitions for Information or a Planning Contravention Notice; and the decision as to the institution of Injunctive proceedings in the event of a continuing breach of control; be delegated to the Head of Legal and Democratic 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 Head of Legal and Democratic 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 breaches and the reasons for taking enforcement action, the requirements of the Notice, or the boundaries of the site:

Details of the Enforcement Notice

The Breach of Planning Control:-

Without the required planning permission the siting of a commercial vehicle(s) and the storage of gritting plant and incorporated trailer and an IBC container (Intermediate Bulk Container) – referred to as a water container.

Steps required to remedy the breach:-

Permanently remove the commercial vehicle(s) gritting plant and incorporated trailer and IBC container in their entirety from the land

Period for compliance:-

One month

Reason for taking Enforcement Action:-

The storage of a commercial vehicle, gritting plant and incorporated trailer and the storage of a water container due to their scale, siting, mass and appearance in relation to the surrounding residential area are an incongruous form of development out of character with their surroundings. The development fails to have a positive impact on the character of the area and is contrary to the aims and objectives of policies GP2, 3.6 and ENV32 of Walsall Unitary Development Plan, policy ENV3 of The Black Country Core Strategy, policy DW3 of Supplementary Planning Document Designing Walsall and the National Planning Policy Framework.

3.0 FINANCIAL IMPLICATIONS

An appeal against an enforcement notice could be subject to an application for a full or partial award of the appellant's costs in making an appeal if it was considered that the Council had acted unreasonably.

4.0 POLICY IMPLICATIONS

The report recommends enforcement action in order to seek compliance with planning policies. The following planning policies are relevant in this case:

National Planning Policy Framework (NPPF)

The NPPF was published on 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

All the **core planning principles** have been reviewed and those relevant in this case are:

4. always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

Key provisions of the NPPF relevant in this case:

7. Requiring good design

58. Decisions should aim to ensure that developments:

- respond to local character and history, and reflect the identity of local surroundings and materials.
- are visually attractive as a result of good architecture and appropriate landscaping.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

207. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

The development plan

Black Country Core Strategy

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

The Black Country Core Strategy was adopted by the Council on 3rd February 2011 and now forms part of the statutory development plan. It replaces certain “saved” policies in the UDP. It sets out how the Black Country should look in 2026 and establishes clear directions for change in order to achieve this transformation.

ENV3 requires high quality design.

Walsall Unitary Development Plan

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

GP2: The Council will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

i. Visual appearance

Policy 3.6 development should help to improve the environment of the Borough.

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

Supplementary Planning Document Designing Walsall (2008)

DW3: New development should be informed by the surrounding character and to respond to it in a positive way.

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

Paddock

9.0 CONSULTEES

None.

10.0 CONTACT OFFICER

Tim Pennifold
Planning Enforcement Team – 01922 652612

11.0 BACKGROUND PAPERS

Enforcement file not published

David Elsworthy
Head of Planning and Building Control

Planning Committee
7th March 2013

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 16 Athlone Road is a two storey detached house within a residential area. In October 2012 a query was received in regard to the storage of a water container and concerns relating to potential chemical liquids stored within. The presence of such a container was also considered unsightly.
- 12.2 Contact was made with the owner of the property on 27th November 2012 and it was agreed that the container used in work related to a landscaping business would be removed.
- 12.3 The site was monitored by officers and the container remained. In addition it was noted that a flat back truck appeared upon the driveway and plant apparatus for the distributing of grit on the highway also appeared upon the driveway.
- 12.4 On the 6th December 2012 officers wrote to the owner advising them to remove the container and plant apparatus from the front driveway.
- 12.5 It was noticed that the water container was removed from the driveway and placed upon the back of the flat back truck.
- 12.6 As part of the ongoing investigation further details came to light regarding this alleged use and linking the property, 16 Athlone Road to 11 Greenslade Road through a family connection and via a joint business enterprise; a landscaping business. Vehicles carrying the same business logo have been noted parking near to both 11 Greenslade Road and 16 Athlone Road.
- 12.7 Contact was made with the owner of the property who confirmed their employment with a landscaping company and that a company van was sometimes parked upon the driveway. They confirmed that 16 Athlone Road was owned by a close relative.
- 12.8 Due to building works at the 11 Greenslade Road the driveway became inaccessible for the parking of vehicles. The owner pre-advised that additional vehicles would appear at 16 Athlone Road due to these building works and also because the owners of both properties would be out of the country for a few weeks. This led to a visible increase in parked vehicles including those related to the landscaping business, on or near to 16 Athlone Road.

Further complaints have since been raised regarding commercial vehicles linked to the property being parked both on the highway and on grass verges. Some of these vehicles have trailers attached. Officers have evidence of vehicles parking on the highway but do not have first hand evidence of this occurring upon the highway verge. The local planning authority has no legislation at its disposal to take enforcement action against vehicles parked on the highway or highway verges. These complaints have been passed to highways to investigate.

Comment [OU1]: Tim... at least one of your pictures shows this

- 12.9 A Planning Contravention Notice was served upon the owners of both 11 Greenslade and 16 Athlone Road on the 7th February 2013 in regard to the storage of vehicles and items related to the running of a business from a residential property.
- 12.10 In view of the above it is considered expedient that enforcement action is now taken through the issue of an enforcement notice to rectify the breach of planning control and the harm caused by the presence of the commercial vehicle, gritting plant and incorporated trailer and water container. Due to their scale, siting, mass and appearance, the storage of commercial vehicles and equipment in a residential location represents an incongruous development which has an overbearing impact being out character with the residential nature of the area. Officers request authorisation is given to take this course of action.

Officers also request that should any enforcement notice not be complied with and prosecution proceedings are undertaken, that proceedings should also be brought in regard to non-return of the PCN.