



Development Control Committee
11 December 2007

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL - REGENERATION

Funeral Parlour, 63/64 Norton Road, Pelsall

1.0 PURPOSE OF REPORT

To request authority to take planning enforcement action.

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), and requisitions for information notices as set out in 2.2 and 2.3 to the Head of Planning and Building Control and the Assistant Head of Legal and Constitutional Services.
- 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 Notice

The Breach of Planning Control:-

Change of use to car park and creation of vehicular access and egress for the funeral parlour, (63 Norton Road).

Steps required to remedy the breaches:-

Cease to use the land as a car park and permanently remove all vehicles, other than those which are connected to the residential use of 64 Norton Road.

Cease to use the land for vehicular access or egress in connection with the Funeral Parlour at 63 Norton Road and ensure it is not used for any purpose other than for domestic vehicular access to 64 Norton Road.

Permanently remove the fence which has been erected to the rear of 64 Norton Road and restore the land to its original condition.

Period for compliance:-

2 months.

Reasons for taking Enforcement Action:-

The use of the land as a car park and for vehicular access and egress for the funeral parlour at 63 Norton Road is not an acceptable use of the land. The use has expanded the commercial use of number 63 into the curtilage of 64, which is a residential property, at a site which lies outside of a Local Centre. The use of the site for commercial purposes does nothing to sustain and safeguard the range and quality of retail, leisure and other town centre uses and would not normally be granted planning permission.

The encroachment into land at 64 Norton Road has also resulted in an unacceptable loss of amenity space for the occupiers, as the garden is now much smaller and considered to be substandard in size.

The use of the land and the vehicular access and egress by the Funeral Parlour also detrimentally affects the amenities of nearby residential occupiers, particularly those at 65 Norton Road, by virtue of increased noise and disturbance.

The development is contrary to Walsall Unitary Development Plan in particularly policies GP2, ENV32, 3.6, 3.7, S2, S4, S5, H10 and the Residential Development Standards.

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

Non compliance with an Enforcement Notice is an offence for which Council could 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 environmental impacts.

8.0 WARD(S) AFFECTED

Pelsall

9.0 CONSULTEES

None

10.0 **CONTACT OFFICER**

Tonia Upton

Planning Enforcement Team: 01922 652411

11.0 **BACKGROUND PAPERS**

Enforcement file

D. Elsworthy Head of Planning and Building Control - Regeneration

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12 BACKGROUND AND REPORT DETAIL

- 12.1 The Council has received complaints about the use of 63 and 64 Norton Road, Pelsall. Number 63 is in use as funeral parlour (Halliwells) and its use has encroached into the curtilage of 64 in order to create a car park and new vehicular and egress used by the funeral parlour. 63 and 64 comprise a pair of semi-detached properties and the new access at number 63 has enabled the funeral parlour to create an 'in and out' vehicular access. Number 64 is now owned by the funeral parlour, however it remains in residential use and is rented.
- 12.2 Number 63 Norton Road was previously a shop (there was a flat but the primary use was Use Class A1 - shop). A funeral parlour also falls within this use class and therefore planning permission was not required for the change, which includes a range of ancillary activities.
- 12.3 The encroachment into the garden of 64 Norton Road which is a residential property is a breach of planning control. The development is not considered to be appropriate. The encroachment has led to an expansion of a commercial use in a site outside of the Local Centre. The boundaries of Local Centres are clearly defined in the Unitary Development Plan and are drawn tightly in order to concentrate investment within the Local Centres to retain and enhance shopping and other town centre uses. The expansion of the commercial use at this site outside of the Local Centre would not normally be granted planning permission.
- 12.4 In addition, the creation of the car park to the rear of 64 Norton Road has led to a considerable reduction in the size of the rear garden, a loss of amenity for the occupants of 64.
- 12.5 The vehicular use of the new access at number 64 also leads to an unacceptable loss of amenity to nearby neighbours, particularly those at number 65 whose side window faces the access where the funeral cortege assembles. Further the commercial use of the new access could give rise to noise and disturbance above what might normally be expected from a domestic use.
- 12.6 The owners were advised that unless the unauthorised use of the land ceased or a retrospective planning application was submitted that enforcement action may be taken. An application has not been submitted and the use continues. The owners have however indicated that the use of this site will decrease as they have recently expanded a site outside the borough (some of their current activity will be re-directed). The decrease in the intensity of the use of this site is welcome however the encroachment into number 64 remains unacceptable and contrary to planning policy.
- 12.7 In the circumstances, given that it would be unlikely that planning permission would be granted it is considered that enforcement action is expedient as set out.

Halliwell Funeral Service 63 and 64 Norton Road



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