



Walsall Council

*Development Control
Committee*

11th March 2008

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

Development Control Performance Update Report

1. PURPOSE OF REPORT

To advise Members of the Development Control Committee of the latest performance and outcomes regarding development control matters and in particular to: -

- i) The 3rd quarter's performance figures for applications determined between 1st October and 31st December 2007.
- ii) The decisions made by the Planning Inspectorate on appeals lodged with the Secretary of State between 1st October and 31st December 2007.
- iii) A quarterly progress report of enforcement proceedings.

2. RECOMMENDATIONS

That the Committee notes the report.

3. FINANCIAL IMPLICATIONS

None arising from this report

4. POLICY IMPLICATIONS

Within Council policy. All planning applications and enforcement proceedings relate to local and national planning policy.

5. LEGAL IMPLICATIONS

The briefing of members as to the outcome of individual appeals made by the Planning Inspectorate will enable members to keep abreast of planning issues as may be raised within individual cases. Appeal decisions are material considerations

and can be material considerations in the determination of subsequent applications where relevant.

6. **EQUAL OPPORTUNITY IMPLICATIONS**

None arising from the report.

7. **ENVIRONMENTAL IMPACT**

The impact of decisions made by the Planning Inspectorate on the environment is included in decision letters.

8. **WARD(S) AFFECTED**

All.

9. **CONSULTEES**

Officers in Legal Services have been consulted in the preparation of this report.

10. **CONTACT OFFICER**

David Elsworthy - Extension: 2409

11. **BACKGROUND PAPERS**

All published.

David Elsworthy, Head of Planning and Building Control

DEVELOPMENT CONTROL COMMITTEE –

11th March 2008

Development Control 3rd Quarter Performance Update Report

i) BVPI 109 a), b), and c): Speed of planning applications determined between 1st October and 31st December 2007 (2006/07 equivalent figures in brackets)

Application type	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Out Turn for 2006-7
a) Major applications Within 13 weeks (Gov't target = 60%) (Local Target = 72%)	60% (68.75%)	76.19% (84%)	72% (52%)	(87.5%)	(71.95%) in 2006/7
b) Minor applications Within 8 weeks (Gov't target = 82%) (Local Target + 82%)	93.88% (67.86%)	83.33% (76.81%)	82% (88.33%)	(92.77%)	(81.6%in 2006/7)
c) Other applications Within 8 weeks (Gov't target = 80%) (Local Target = 92%)	95.90% (88.37%)	93.52% (91.74%)	92% (93.06%)	(93.68%)	(91.57% in 2006/7)

- 12.1 I am pleased to report that once again all categories of applications exceeded government targets in the third quarter. Coincidentally they also all matched the respective locally set stretch targets for this financial year. Importantly major application performance has returned to a more satisfactory level although minor applications performance has slipped back slightly when compared to the highest ever recorded figure for Walsall in the first quarter.
- 12.2 Members will note that the performance in the 'other' category is continuing to meet the locally set stretch target levels.
- 12.3 The continued high level of performance and further customer service development will rely heavily on the retention and recruitment of staff and the continued use of the new development control governance arrangements. To this end I am pleased to advise members that we have no vacant planning officer posts in the service and therefore I hope that performance and customer service levels can be maintained or improved still further.

ii) Decisions made by the planning Inspectorate between 1st April and 31st December 2007

- 12.5 The following decisions have been made by the Planning Inspectorate between 1st October and 31st December 2007. Members are advised to refer to the second quarter performance report presented to the 20th November 2007 DC Committee for appeals referenced 6 - 24.

App No.	Address	Proposal	Decision	Officer Rec	Comments
25) 07/0173/FL/H5	1 Richard Place	Bedroom and ensuite extension	Allowed	Refuse	Would not be detrimental to the amenity of 16 Richard Rd or the character of the area
26) 07/0042/PT/W6	Land off Bilston Street, Darlaston	12.5 telecom streetworks mast with 3 antennae	Dismissed	Refuse	Detrimental to open nature of street scene impact on views of church and clutter
27) 06/1489/FL/H2	60 Deakin Avenue	Dormer window	Dismissed	Refuse	Detrimental to the character of the area being prominent and out of place
28) 06/1908/FL/H3	93 Windrush Close, Pelsall	Conservatory	Allowed	Refuse	Below the RDS distance separation guideline but intervening fences and panting etc plus available distance is adequate to safeguard amenity.
29) 07/516/PT/E12	Mill Road Pelsall	11.7m streetworks monopole telecom mast	Allowed	Refuse	Would comply with policy ENV38 and not impact unduly on the character of the area and the applicant has fully investigated alternative sites
30) 06/1797/FL/H4	76 Whetstone Lane, Aldridge	2-storey side extension	Dismissed	Refuse	Detrimental to character of area by terracing effect.
31) 06/1432/E12	200-204 Thornhill Road		Withdrawn		
32) 07/0878/FL/W7	6 Walsall Road, Darlaston	Change of use from A1 to A5 hot food take-away	Dismissed	Refuse	Detrimental to highway safety due to indiscriminate parking
33) 07/0349/FL/H3	11 Warwick Avenue, Willenhall	2m high metal fence and gate	Dismissed	Refuse	Will appear fortress like and wholly out of character
34) 07/0689/FL/H2	28 Highfield Road North Pelsall	Conservatory	Dismissed	Refuse	Detrimental to neighbours at 26 due to loss of light
35) 06/1987/FL/E2	Land adj Barley Mow PH, Goscote Lane	Erection of 14 Flats	Dismissed	Refuse	Poor cramped layout detrimental to canal frontage and ecology plus materially harmful to appearance in Henley Close and poor landscaping

36) 07/0595/FL/H3	6 Culmore Close Short Heath	Conservatory	Allowed	Refuse	Below RDS separation standards but at 19m is acceptable due to existing fence / hedge and overlooking
37) 07/0387/FL/H3	37 Burslem Close	Conservatory	Allowed	Refuse	Below RDS separation requirements but due to juxta-position of adjoining houses, existing fences and lower level of the site the amenity of neighbours is not unduly affected
38) 07/0043/FL/H4	41 Woodend Road	Conservatory	Allowed	Refuse	Despite not complying with the RDS guidance the existing 1.8m wall the resulting roof viewed along the boundary would not appear solid and detrimental to the neighbours amenity
39) 07/0128/FL/E6	175 Broadway North		Withdrawn		
40) 07/0232/PT/W3	Highway Verge, The Square, Willenhall	11.8m streetworks monopole antenna and two cabinets	Dismissed	Refuse	Prominent and damaging to the open character of the street scene and outlook of residents opposite
41) 07/0437/FL/W3	482 Wolverhampton Road	Detached two bedroom bungalow	Allowed	Refuse	Below RDS guidelines but garden not cramped or detrimental to occupiers and acceptable to pedestrian safety
Performance to date from 1 st April, 2007 to 31 st Dec 2007 Target = 30%			16 appeals not decided in accordance with Councils decision = 46%	15 appeals not decided with officer recommen- dation = 43%	Total number of appeals = 35 that relate to BVPI 204. Appeals against non determination, conservation / listed building consent, adverts and those withdrawn are not included.

12.6 The above outcomes show that 46% of appeals were not determined in accordance with the councils' decisions between 1st April 2007 and 31st December 2007 (43% not determined in accordance with the officer's recommendation). This represents a

very disappointing outcome to date and it is hoped that the final quarter's performance can improve significantly. However, this is not likely to improve as much as is required in order meet the target (30%) set by the Council for this financial year. Following a review of the individual cases it is apparent that the Inspectorate is giving very little weight to the Residential Design Standards (RDS) due partly to the fact that it is not a Supplementary Planning Document (SPD) in status together with the general reduced emphasis being placed on mechanistic maximum / minimum standards.

- 12.7 This has led to a high proportion of house extensions (particularly conservatories) being allowed at distance separations significantly below thresholds in the RDS when last year similar proposals were being dismissed. Members will be aware that a new design SPD has recently been adopted and it is considered that the council's ability to determine and defend such matters should be enhanced. However, officers have to take Inspectors decisions into consideration and the general outcomes as evidenced so far this year are being taken into account for similar proposals.
- 12.8 The ability of the council to defend a high percentage of its decisions is particularly important as all local planning authorities are assessed on this basis as part of an annual statutory performance indicator (BVPI 204 the percentage of appeals allowed against the authority's decision to refuse planning applications). The government uses this performance indicator in its assessment of the CPA / CAA performance of the council and also in previous allocation of Planning Delivery Grant.

iv) Progress on Enforcement Proceedings

- 12.9 Members will see that steady progress is being made on many cases although some delay is being experienced on several matters due to legal and other complexities. Members will also note that the number of cases on hand is increasing which is causing difficulties in the legal and enforcement teams capacity to deal with all matters as effectively as one would wish. Members will also note that there are other matters being dealt with by the planning enforcement team under delegation in addition to these matters and the most notable of these are included in part B of the table.

DEVELOPMENT CONTROL COMMITTEE

APPENDIX A

- Progress of formal enforcement actions - (cases from 1 April 2004)

	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No
1	7 Broadway North, Walsall	24 August 2004	Enf Notices Excavations and removal of front boundary walls to form new access and parking space.	Following dismissing of planning and Conservation Area Consent Appeals, a replacement wall was erected. Legal Services are reviewing expediency and legal basis of serving a Conservation Area Consent Enf Notice.		
2	9 Broadway North, Walsall	24 th August 2004	Enf Notices Excavations and removal of front boundary walls to form new access and parking space.	Notice served 3/11/04.	Joint Appeals in respect of planning permission, Conservation Area Consent, and Enf Notice have all been Dismissed, and Enf Notice requiring reinstatement upheld. Owner has sought limited deviation from 'like for like' reinstatement, with Conservation Officer support. Owner has been advised in detail and a final date is being sought for implementation.	Pending

	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No
3	47 Sites for which remedial works are required for unsightly land and buildings	14 Sept. 2004	S215 Notices	31 sites have been resolved informally. 4 more resolved by demolitions or compliance. 4 Notices served on the remaining cases, June to September 05. 2 complied with. Remaining two cases, see following entries	.	.
3A	Mellish Road Church –	Further Committee resolution 25/4/06	Direct Action to secure compliance with S 215 notice	Direct Action could not be taken as the owners resumed work themselves.	Owners progress in complying with the S 215 notice has been under continual review with them, in the context of a Repairs Notice /CPO process. As reported 11 th December 2007, compliance is relatively high in terms of numbers of items, but some problems still being pursued.	No – work remains incomplete Prosecution remains a possibility,
3B	Mellish Road Church,	9 th January 2007	Urgent Works Notice - under Listed Buildings legislation	Some temporary roofing work done towards rear. Limited additional work was then pursued informally. Recent fire damage at front is being considered.		

	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No
3C	182 Wolverhampton Road	Further Committee resolution 27/6/06	Direct Action to secure compliance with S 215 notice	A possible alternative new s215 notice (to require demolition) is being discussed with Legal Services before a further report.		

4	17 Newport Street, Walsall	26 October 2004	Listed Building Enf Notice - Installation of UPVC windows to first floor. Listed Building and Advert Regs Prosecutions in respect of painting and adverts.	Before proceeding, being reviewed with Conservation Officers, taking into account further changes to building.		
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5	Rear 40 -54 Cartbridge Lane, Rushall	Originally, 7 th December 2004 Later resolution 26th June 2007 (in conjunction with refusal	Enforcement Notice -Erection of timber cabin with concrete base (On Gypsy site with temporary permission following Appeal) Enforcement Notice - Use of land for stationing Gypsy caravans.	An appeal has been received in respect of refusal of planning permission. Legal opinion has been sought regarding service of the enforcement notice.		
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		of planning application)				
	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No
6	16 -19 Church Street, Darlaston ^P	7 December 2004	Enforcement Notice – Change of use to a car wash.	Notice Served 18/10/06 .	Appeal dismissed 4/8/07. Compliance due 8/10/07.	No Prosecution date now listed.
7	8 West Bromwich Road, Walsall	4 January 2005	Prosecution regarding illuminated adverts	RFI regarding ownership/occupier not returned. New proprietor for business.- has been contacted and problem fully discussed as part of a renewed attempt to negotiate a solution.		Remains a possibility if negotiations cannot be progressed
8	74 and 75 Stafford Street, Willenhall	4 January 2005 Further resolution 10/10/06 – takes new direction on action called for	Section 215 Notice New section 215 notice – to require demolition (including 76 if appropriate)	Served 7/9/05 Costings are being compared with those for renovation and compliance with first 215 notice.	Compliance due in stages; 7/11/05 and 7/12/05	No (Minimal works carried out) Following a meeting with the owner, on-site preparations for major repairs have taken place, and further work planned. S215 works a part of larger scheme.
9	43 Wenlock Gardens	8 th March 2005 Further Committee	Section 215 Notice House and garden, badly boarded-up and maintained Direct Action to secure compliance	Notice served 1 st March 2006. Costings and contract process being pursued	Compliance due 13 th May 2006 but overtaken by second resolution	

		Resolution 18/7/06 on new direction of action	with s 215 Notice	and re-charge procedure being discussed with Legal Services. However owing to problems arising a prosecution is also to be considered		
	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No

10	Green Lane, Walsall, at Rayboulds Bridge	19 th April 2005	Prosecutions - Poster hoarding at junction	Discussions in hand between Planning and poster company on alternative sites.		Pending
11	454 Sutton Road Walsall	19th July 2005	Enf Notice Erection of boundary wall and gates	Served October 05.	Appeal dismissed and enforcement notice upheld on 27/7/06. Full costs application allowed. Compliance period of 2 months.	No Prosecution date now listed.
12	The former Manor House Public House, Mill Street, Walsall	13 th December 2005	Section 215 notice. -advanced dereliction	Served as two separate Notices 17/05/07 to require exterior works.	Compliance due 18/08/07	Resolved. Owners have demolished the building.
13	228 Tyndale Crescent, Pheasey	13 th December 2005	Enf notice -Dormer roof extension	Enf notice served 28 th April .	Appeal lodged but dismissed 5/2/07. Compliance period extended to 12 months Due 5/2/2008	No. Modification to the extension has taken place, simultaneous with application for a certificate of lawfulness, which being determined.
	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No

		on				
14	East side of Green Lane, north embankment of canal , Walsall	25th April 2006	Prosecution in respect of displaying a double-sided poster hoarding	Planning appeal dismissed. Two prosecutions involved (two companies).		Prosecution process commenced. One company indicates it is to comply. Final response of second company awaited.
15	Boundary Court, 35 -49 Boundary Road, Streetly.	25 th April 2006	Section 215 Notice – building and lock-up garages in disrepair	The Notice was drafted but not served. A report seeking in principle Cabinet authority for a CPO was approved by Cabinet in December 2007. It is intended to update the Committee at the meeting.		
16 16A	81 Forrester Street, Walsall	25 th April 2006 31 st May 2007	Enforcement notices Installation of fume extraction flue Erection of first floor extension providing day room/ storage Erection of first floor flat without compliance with approved plans	For resolutions 16 formal action was deferred for 2 months and planning applications were submitted to retain works done, but were Refused. Notices drafted and being checked in consultation with Building Control and Public Protection owing to linked issues with the flue and flat.		
	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No

17	KFC Drive Thru, 10 Wolverhampton Road, and adjacent Wolverhampton Road frontage, Walsall.	25th April 2006	Prosecutions in respect of :- displaying an illuminated pole-sign and displaying signboards on longer frontage.	Pole sign revised and granted consent. This element of case now closed. Preparatory work outstanding in respect of other signboards .		
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18	50 Cemetery Road, Willenhall	8 th August 2006	S 215 'amenity' Notice	Undertakings given by owner that would be remedied by end November 2006, but not done. Notice issued 30/11/06. Notice re-issued 5/4/2007	Compliance due 28/5/2007	No Prosecution date now listed.
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19	177 Weston Street, Walsall.	8 th August 2006	S 215 Notice 'amenity' Notice .	Difficult to trace owner. Notice served 10/05/07	Compliance due 12/07/07	No Prosecution process commenced.
20	Barr Beacon Service Station, Beacon Road, Pheasey	30 th August 2006	Enf Notice - use for vehicle washing and valetting	Notice issued 22/03/07	Use was to cease by 25/06/07, but Appeal received. Now dismissed, and compliance due 16 th January .	No Legal Services instructed. Prosecution process commenced.
21	Bell Inn , Market Place Willenhall	10 th October 2006	Urgent Works Notice requiring works to a Listed Building	Some work has now been carried out without Notice being served. Monitoring underway.		

	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No
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	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No
22	Pallet Racking Systems Ltd, Ashmore Lake Way, Willenhall	10 th October 2006	Enforcement Notice -use for storage, distribution and assembly of racking systems.	An amended planning application had been awaited. Notice to require storage outside the building to cease- issued 30/03/07.	Compliance due 1/08/07 but not obtained. One planning application aiming to overcome the problems was received but refused. Another received but its effectiveness being debated.	No. Prosecution action to be reviewed
23	Willenhall Commercials, land between Ashmore Lake Way and Spring Lane, Willenhall	10 th October 2006	Enforcement Notice - use for storage , distribution and repair of HGV's	Notice issued 30/03/07	Appealed, dismissed. Compliance extended to 6 months which expires May 2008.	
24	27 Daffodil Place, Walsall	12 th December 2006	Enforcement Notice – erection of fence	Notice issued 4 th July 2007	Appealed, dismissed, Compliance due 17 th March 2008	
25	Land at Canalside Close, Walsall	9 th January 2007	Enforcement Notice – Erection of boundary wall, building and gates (for coach storage)	Enforcement Notice Served December 2007. Compliance due 5 April 2007. Appeal has been received.	Appeal received	
26	19 Laurel Drive, Streetly (Resolution as part of planning application report on an extension)	9th January 2007	Enforcement Notice - erection of fence adjacent to highway.	Notice issued 6/7/07	Compliance due 10/10/07	No To commence prosecution proceedings.

	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No
27	164 Lowlands Ave, Streetly	13th March 2007	Enforcement Notice erection of garden shed and fence adjacent highway .	Notice served 11-9-07	Compliance due 11 th December 2007	Partial compliance. Shed removed. Fence altered To review regarding prosecution in respect of fence
29	Vehicle Wash at Fletchers Lane, Willenhall	31 st May 2007	Enforcement Notice -use as a vehicle wash	Notice issued 17th September 2007.	Compliance due 22nd December 2007	No Legal Services instructed. Prosecution process commenced.

30	Land rear of 141 Sutton Road, Walsall	26 th June 2007	Authority to prosecute for non reply to PCN.	In discussion with Legal Services re options.		
31	88 Manor Road, Streetly	17 th July 2007	Enforcement Notice - detached garden building	Notice issued 25-9-07	Compliance due 30 th December 2007 Retrospective planning application received, but refused.	No. Final inspection before commencing prosecution process.
32	98 Delves Road, Walsall	17 th July 2007	Enforcement Notice - erection of extension with 2 dormers instead of roof-lights as approved	Enforcement Notice served 29 th October 2007.	Compliance date 29 th January 2008.	Yes Dormer windows have been replaced with rooflights Resolved
33	21 Various sites operated by 'Junction 9 Accommodation'	17 th July 2007	Enforcement Notices - 13 of the total 21sites	Requisitions for Information have been served prior to issuing notices. Some Planning Contravention Notices and further inspections also necessary. A		

				planning agent is now involved..A direction on how the sites will be dealt with is expected by 5 th March 2008.		
	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No
34	112 Greenside Way, Walsall	7 th August 2007	Enforcement Notice- erection of front canopy.	Enforcement Notice served 26 November 2007.	Compliance date 28th February. 2008	
35	Saddlers Garage, 115 Wednesbury Road, Walsall	7 th August 2007	Enforcement Notices - steel framework for building, and two storage containers.	Enforcement Notice Served January 2008		
36	110. Bridle Lane Streetly	18th September 2007	Enforcement Notice – erection of detached garage.	A further planning application to retain the garage with modifications has been received.		
37	549 Bloxwich Road, Walsall	9th October 2007	Enforcement Notice - Installation of storage container at a shop	Notice drafted but before issue the storage container was removed.		Yes Resolved
38	Kinky Boots Cabaret Bar, 3 Walsall Road, Darlaston	20 th November 2007	Advertisement Prosecution	Legal Services Instructed and process commenced.		
39	133 Dickinson Drive, Walsall	11th December 2007	Enforcement Notice - installation of containers and use of land	Legal Services instructed and reviewing		
	Site Address	Date of Authorisation	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No

		on				
40	Halliwells Funerals, Norton Road, Pelsall	11 December 2007	Change of use of residential curtilage to commercial use	Requisition for Information Notices issued. Retrospective planning application made December 2007.		
41	Former filling station, Queslett Road North, Pheasey	11th December 2007	Enforcement Notice Change of use to vehicle wash	Requisition for Information Notices issued. Enforcement Notice drafted. Agent's representations received and being considered before issuing.		

Enforcement Cases acted upon under delegation						
	Address	Breach	Type of Action	Date Notice served / Progress	Compliance date / appeal	Complied? Yes/No
42	11 Aldridge Road, Walsall	Breach of Condition - Formation of opening for side-facing window.	BCN	Notice issued 22/9/05	Compliance 30 days	Report for Committee authority may be made, regarding changed circumstances.
43	19 High Street, Walsall Wood – (formerly G D Memorials)	- Erection of building without compliance with planning permission 02/1855	Enforcement Notice (Delegated urgent action)	Issued 31/1/07	Compliance was due 2/05/07, but Appeal against Notice received. Substantial alterations to the building during appeal process. Notice upheld with variation. Compliance due 19 th January 2008	No However there are some difficulties. Following liaison with owner a new planning application to retain building with modifications is expected.

	Address	Breach	Type of Action	Date Notice served / Progress	Compliance date / appeal	Complied? Yes/No
44	3A Beeches Road, Leamore	Non - compliance with hours condition on a Takeaway.	Breach of Condition Notice	Issued 21/7/07	21/8/07	Appeal against refusal of planning permission to vary the hours is ongoing. Prosecution must now be held in abeyance pending the decision.
45	25 High Street, Walsall Wood	Non – compliance with condition at a Take-away requiring approval of fume extraction facilities.	Breach of Condition Notice	Issued 19/10/07	19th November 2007	No However information was submitted and officers awaiting improvements to this.
46	52 Highfield Road, Pelsall	House boarded up and an eyesore.	Section 215 Notice	Ward Members notified as required and have raised no objection. Notice being drafted.		
47	101 Woden Road West , Darlaston	Breach of landscaping condition.	Breach of Condition Notice to require scheme to be submitted for approval	Issued 5 th February 2008	5th March 2008	