



Walsall Council

*Development Control
Committee*

21st November 2006

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 2nd quarters performance figures for applications determined between 1st July and 30th September 2006.
- ii) The decisions made by the Planning Inspectorate on appeals lodged with the Secretary of State.
- iii) A quarterly progress report of enforcement proceedings.

2. RECOMMENDATIONS

That the Committee notes the report.

3. FINANCIAL IMPLICATIONS

None directly 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 –

21st November 2006

Development Control Performance Update Report

i) BVPI 109 a), b), and c): Speed of planning applications determined between 1st July 2006 and 30th September 2006 (2005/6 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 (target = 60%)	68.75% (71.43%)	84% (68.52%)	(66.66%)	(62.5%)	(66.67% in 2005/6)
b) Minor applications Within 8 weeks (target = 65%)	67.86% (82.30%)	76.81% (81.09%)	(84%)	(81.82%)	(81.92% in 2005/6)
c) Other applications Within 8 weeks (target = 80%)	88.37% (91.23%)	91.74% (90.95%)	(92.51%)	(89.35%)	(90.94% in 2005/6)

- 12.1 I am pleased to report that performance in the second quarter for ‘major’ applications represents the highest ever for Walsall since this BVPI was first introduced. However, this is a sensitive indicator due to the relatively small number of applications (25) determined which can show fluctuations between quarters due to the types of applications and whether or not section 106 agreements are required etc.
- 12.2 Following the concern raised last quarter regarding the relatively poor performance in the ‘minor’ application category the second quarter shows a significant improvement. The ‘other’ type of applications has also improved being in excess of the out turn for the same quarter last year.
- 12.3 Members should also note that the number of applications received this year is approximately 9% below the levels received this time last year but we are still expecting to receive approximately 2200 applications by the end of the year.
- 12.4 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 for the first time in recent years we are no longer carrying vacant post 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 July and 30th September 2006

- 12.5 The following decisions have been made by the Planning Inspectorate between 1st July and 30th September 2006. For details of decisions referenced 1 to 14 please refer to my performance report for the first quarter dated 30th August 2006.

App No.	Address	Proposal	Decision	Officer Rec	Comments
15. 05/1740/FL/E3	82 Leighswood Road Aldridge	Change of use from Residential to BI office	Dismissed	Refuse	Insufficient need and sequential reason for location out of centre
16. 05/1290/FL/W7	22 Vicarage Place	23 apartments	Dismissed	Refuse	Detrimental to road safety and lack of parking
17. 05/1576/FL/E4	188 Ogleway Road Brownhills	Three bed room home for three boys 12-16yrs	Allowed	Approve	Would not have an adverse effect on area, living conditions or fear of crime
18. 06/0108/CP/E7	16 Windsor Way	Disabled facilities	Withdrawn		
19. 05/1922/FL/H3	89 Broadway West	Two storey side and single storey side ext	Dismissed	Refuse	Detrimental to living conditions of neighbours
20. 06/0113/OL/E9	39a – 43 Foley Road East	Residential development	Withdrawn		
21. 05/2260/FL/H4	148 Thornhill Road	Extension to form additional bedroom and en-suite	Dismissed	Refuse	Overbearing impact on neighbouring property and loss of light
22. 05/2303/FL/H4	166 Sutton Road	Front canopy and porch	Dismissed	Refuse	Incongruous addition, loss of arch feature and detrimental to front bays and area
23. 05/1522/FL/H1	42 Fountains Road, Bloxwich	Single and two storey extension	Dismissed	Refuse	Overbearing impact on neighbours
24. 05/2398/FL/H4	69 Norman Road	First floor rear extension	Dismissed	Refuse	Detrimental to living conditions of neighbours
Performance to date from 1 st April, 2005 to 30 th September 2006 Target = 30% National Average (2004/5) = 34%			4 appeals not decided in accordance with Councils decision = 19%	1 appeals not decided in accordance with officer recommendation = 4.7%	Total number of appeals = 21 that relate to BVPI 204. Appeals against non determination, conservation / listed building consent and those withdrawn are not included.

12.6 The above outcomes show that only 19% of appeals were not determined in accordance with the councils' decisions between 1st April 2006 and 30th September 2006 (4.7% not determined in accordance with the officer's recommendation). This represents an excellent performance for the first half of the year and therefore we remain on target (30%) to significantly over achieve for the year. This is by far the best performance for Walsall since this BVPI was introduced and probably ever for the authority.

12.7 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 performance of the council and also in allocation of Planning Delivery Grant.

iv) Progress on Enforcement Proceedings

12.9 A table to show progress made on enforcement matters authorised by the Committee is attached at appendix A. 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 CURRENT ENFORCEMENT ACTION – (FROM 1 APRIL 2004)

Date of Authorisation	Site Address	Action to be taken	Date Notice Served/ Progress	Compliance / appeal date	Complied? Yes/No	Prosecution?
Part A – Enforcement Action authorised by the Development Control Committee						
3 August 2004	36 Old Lane, Bloxwich	Enf. Storage of Commercial vehicles	Action held in abeyance as the vehicles were moved onto the highway. RFI not returned. Previously reported that no vehicles thought to be on site.	Continue to monitor.		
24 August 2004	7 Broadway North, Walsall	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 which not ideal in design. Legal Services have advised regarding whether permitted development, and now advising on scope	Under review		

			to serve unusual Conservation Area Consent Enf Notice.			
24 th August 2004	9 Broadway North, Walsall	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, and with Conservation Officer support. Owner has been advised in detail and a final date is being sought.	Pending	

14 Sept. 2004	47 Sites for which remedial works are required for unsightly land and buildings	S215 Notices	At time of presentation to Committee, 31 sites had been resolved informally. Monitoring and negotiation continues on remainder with intention to bring forward for action if appropriate. 8 were identified for formal action. Some of these resolved by demolitions or compliance, and 4 Notices served on the most difficult cases, June to September 05.	<p>Compliance due as follows;</p> <p>182 Wolverhampton Road - 2/8/05,</p> <p>49 Wednesfield Road - 24/8/05,</p> <p>69/72 Wednesfield Road - 3/11/05</p>	<p>No</p> <p>Yes</p> <p>Yes – overall -impact on street scene greatly improved, but compliance in preparing for painting is doubtful in places .</p>	<p>Report to Committee on 27/6/06 approved Direct Action and detailed costings being obtained.</p> <p>Weathering, appearance, and possible re-development to be monitored</p>
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				<p>Mellish Road Church -13/12/05 Previously reported that Appeal made to Magistrates. After some procedural problems at the Court this was dismissed on 1st March 2006. Compliance then required by 1st May 2006.</p>	<p>No – work resumed after a halt and continued beyond compliance date but then ceased and remains significantly incomplete.</p>	<p>Previously reported that prosecution remained a possibility. Direct Action was authorised by Committee resolution 25/4/06. but did not take place because the owners resumed work. Now intended to proceed via the listed building Repairs Notice and use of CPO powers.</p>
26 October 2004	17 Newport Street, Walsall	<p>Listed Building Enf Notice - Installation of UPVC windows to first floor. Listed Building and Advert Regs Prosecutions in respect of</p>	<p>Witness statements currently being updated as case being reviewed to gather further evidence before legal action can proceed.</p> <p>As above.</p>	Under Review		

		exterior painting display of adverts.				
7 December 2004	Rear 40 -54 Cartbridge Lane, Rushall	Enf Notice -Erection of timber cabin with concrete base , on gypsy site (with temporary permission following Appeal)	Planning application (incomplete) received 8/8/06 for permanent retention of gypsy caravan site. Action on notice in abeyance pending decision.			
7 December 2004	16 -19 Church Street, Darlaston	Enf Notice -Use as a car wash.	Notice served 1/6/06 However further copies of Notice have had to be served (18/10/06) owing to a change of ownership.	Compliance due end January 2007		
4 January 2005	Sleems, 8 West Bromwich Road, Walsall	Prosecution regarding -Illuminated adverts	RFI regarding ownership/occupier not returned. New proprietor for business.- has been contacted and problem fully discussed with the new proprietor as part of a renewed attempt to negotiate a solution.			

4 January 2005	74 and 75 Stafford Street, Willenhall	Section 215 Notice	Served 7/9/05	Compliance due in stages; 7/11/05 and 7/12/05	No (Minimal works carried out)	Not ruled out. However, a further Committee resolution 10/10/06 authorised service of a new S.215 notice to require demolition of 74 and 75 (and if appropriate 76)
8 th March 2005	43 Wenlock Gardens	Section 215 Notice House and garden, badly boarded-up and maintained	Notice served 1 st March 2006.	Compliance due 13 th May 2006	No	Direct Action authorised at Committee 18/7/06 and detailed costings being obtained
19 th April 2005	Green Lane, Walsall, at Rayboulds Bridge	Prosecutions - Poster hoarding at junction	Discussions between Planning and Estates Depts on alternative sites, and negotiations with poster company in hand.		Pending	
10 th May 2005	37 – 38 Bradford Street	Section 215 notice	Notices served 6/6/06 to take effect from 7/7/06.	Compliance period – 6 weeks However the owners have opted to completely demolish the building rather than improve it to	No – the alternative of demolition (see left) has created temporary uncertainty.	

				comply with the Notice. This is acceptable but has required an application for Conservation Area Consent and also application of Building Act provisions.	However the authorisations for this are now in place (subject to conditions) and officers are seeking a firm date for demolition .	
19 th July 2005	454 Sutton Road Walsall	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 However a new planning application proposing further amendments is awaiting decision. In event of approval this could be implemented to provide an alternative form of 'compliance'. Monitoring for compliance to be carried out.	

19 th July 2005	Land west side of Acorn Street, Willenhall	Enf Notice Use for vehicle storage, and repair / preparation of 'banger' racing cars as part of recreational activity.	Previously reported that not served whilst a planning application being submitted, but this was not received. RFI was then served but not returned. Case referred to Legal Services for pursuing prosecution for RFI non-return, and also drafting of Notice.	Enf Notice - compliance due 27th Dec 06		Prosecution for non return of RFI successful in Magistrates Court- Fine of £750 + costs. Enforcement notices served September 06.
19 th July 2005	35 Flaxall Street, Walsall	Section 215 Notice	Moves made to conclude discussions with other departments regarding relationship with other initiatives. Further meeting has been convened by Legal Services.			
20 th September 2005	The Former Hatherton Liberal Club, and House	Section 215 Notice -advanced dereliction and fire damage	Served 19 th May 2006.	Staged compliance periods:- clearance of grounds- 19 th June improvement of buildings - 19 th July demolition of 2-storey building - 19 th August	Partial compliance - owners opted to carry out more demolition than required in the Notice.- all buildings except the house now demolished.	

					However boarding of house does not conform to required details and this being pursued with owners.	
11 th October 2005	Land rear of 232 Lichfield Road, New Invention.	Enf Notice Vehicle bodies etc used as buildings. Enf Notice or Section 215 Notice – metal panel on posts	Enf notice to require removal of vehicle bodies served 1 st November 05. Enf notice requiring removal of metal panel was served 19 th April.	Compliance was due 6 th February 06 , but previously reported an appeal being confirmed. A public Local Inquiry now scheduled for 1st August 2006. Compliance due 22 nd July 2006 unless appeal received.	Public Inquiry 1/8/06 - case adjourned until 3/10/06 owing to change in grounds of appeal. Appeal decision 17/10/06 quashed the Notice and appeal upheld (now under legal consideration)	
13 th December 2005	The former Manor House Public	Section 215 notice. -advanced dereliction	Draft Notices finalised but divided land ownership needed review for possible changes and clarification.			

	House, Mill Street, Walsall		Ownership recently confirmed and to proceed with issue in form of 2 Notices.			
13 th December 2005	228 Tyndale Crescent, Pheasey	Enf notice - Dormer roof extension	Enf notice served 28 th April .	Appeal received and hearing on 9/1/07.		
25 th April 2006	East side of Green Lane, north embankment of canal, Walsall	Prosecution in respect of displaying a double-sided poster hoarding	With Legal Services. (A planning appeal already dismissed.) However now evidence of recent change of ownership which is to be checked.			Pending
25 th April 2006	51 Allerdale Road, Clayhanger	Enf notice - rear conservatory at a house	Amended scheme discussed. New application now submitted and awaiting decision on 21/11/06.			
25 th April 2006	15 Cricket Close, Walsall	Enf notice partially built front extension to house.	The notice drafted but previously reported awaiting the submission of an amended planning application following consultation. Application not received and owner has indicated			

			intention to use permitted development rights to erect a porch. Notice being finalised for service.			
25 th April 2006	Boundary Court, 35 - 49 Boundary Road, Streetly.	Section 215 Notice – building and lock-up garages in disrepair	The Notice is drafted and final details of who to serve upon are being clarified as RFI's not returned			
25 th April 2006	81 Forrester Street, Walsall	Enf notices Installation of fume extraction flue Erection of first floor extension providing day room and storage area.	Formal action was deferred for 2 months and planning applications have been submitted for each issue. To be reviewed when these determined.			
25 th April 2006	48 Lichfield Road , Walsall (resolution taken in conjunction with	Enf Notice Conversion of house to 4 flats	First draft of notice prepared. However an appeal against refusal of Planning Permission has been received.			

	Committee refusal of planning permission)					
18 th July 2006	15 Emery Street	Enf Notice -erection of block-work to block side-facing window of adjacent property	Notice issued 18/10/06 -	Almost immediate compliance took place but replaced with a more temporary structure. To be re-assessed.		
18 th July 2006	Land rear of Fordbrook Lane, Pelsall,	Enf Notice - use of land for storing building materials and equipment	Land ownership enquires ongoing. PCN served 6/10/06 and reply received. Removal has been taking place prior to service of Notice and this to be reviewed before further action.			
8 th August 2006	115 Sutton Road, Walsall	Enf Notice -erection of detached garden building	Notice issued 18/10/06 with 2 month compliance period	Compliance due January 2007		
8 th August 2006	1a Weston Street, Walsall	Enforcement and Stop Notices -use for	Uses ceased prior to issue of Notices – to be monitored			

		vehicle washing and vehicle sales				
8 th August 2006	50 Cemetery Road, Willenhall	S 215 'amenity' Notice	Undertakings have been given by owner that will be remedied by end November 2006. This to be monitored before issuing Notice			
8 th August 2006	177 Weston Street, Walsall.	S 215 Notice 'amenity' Notice .	Notice being checked. Continuing efforts to trace owner. May eventually require direct action and charge to property.			
30 th August 2006	Barr Beacon Service Station, Beacon Road, Pheasey	Enf Notice - use for vehicle washing and valetting	Notice is at checking stage.			
10 th October 2006	Abu Bakr Mosque, 154-160 Wednesbury Road, Walsall	Enforcement notice - erection of canvas modular building	Notices served October 2006, but some re-served Nov 2006.	Compliance due June 2007		
10 th October 2006	23 Rosemary	Prosecution in respect of	Previously reported in Part B of table, service of			

	Close, Clayhanger	failure to (i) comply with BCN requiring removal of fence and gates, and (ii) also reply to preceding PCN's.	Breach of Condition Notice 22/6/06. No compliance obtained. Preceding Planning Contravention Notices not replied to. Further resolution 10/10/06 (as left) Legal Services (Litigation) are pursuing			
10 th October 2006	Bell Inn , Market Place Willenhall	Urgent Works Notice requiring works to a Listed Building	Owner has been advised before serving formal notice – response to be monitored before further action.			
10 th October 2006	Pallet Racking Systems Ltd, Ashmore Lake Way, Willenhall	Enforcement Notice -use for storage, distribution and assembly of racking systems.	Preliminary RFI issued The company recently indicated that a planning application, to continue the use whilst including measures to remedy harmful impacts, was being formulated. At time of writing this has not been received.			
10 th October 2006	Pallet Racking Systems Ltd, Spring Lane, Willenhall	Enforcement Notice -use for storage, distribution and assembly of racking	Preliminary RFI issued The company recently indicated that they are ceasing to occupy the site. This is being monitored. Enforcement Notice -use for storage,			

		systems	distribution and assembly of racking systems			
10 th October 2006	Willenhall Commercial s, land btwn. Ashmore Lake Way and Spring Lane, Willenhall	Enforcement Notice - use for storage , distribution and repair of HGV's	Preliminary RFI issued			
Part B – Enforcement Action taken under delegation						
Address	Breach	Type of Action	Date Notice served / Progress	Compliance date / appeal	Complied? Yes/No	Prosecution?
Unique Roofing Ltd Balls Street, Walsall	Breach of Condition – storage on parking area	BCN	Notice served 28/6/05	Compliance 30 days	No A planning application for alternative parking and storage arrangements was received but subsequently has been refused.	Report for Committee authority to prosecute is intended, if company do not relocate.
11 Aldridge Road, Walsall	Breach of Condition - Formation of opening	BCN	Notice served 22/9/05	Compliance 30 days	No	Report for Committee authority may be made.

	for side-facing window.					
14 Walsall Road, Darlaston – J9	Building to rear and use for commercial storage	PCN	Served 26/7/06			
96 Valley Road Blakenall	Storage, repair, dismantling of vehicles and materials	PCN	Served 24/5/06		Compliance continuing under review with Legal Services following further reply	
19 High Street, Walsall Wood – G D Memorials	Use for cutting and working of stone. Erection of building without compliance with planning permission 02/855	PCN	Served 27/7/06		Complied (Company later relocated – to inspect for removal of building.)	
54a Harrison Street, Bloxwich	Residential caravan at vehicle repair garage	PCN	Served 3/8/06	21 days	Yes -Returned completed 23/8/06	

Land between 126 and 140 Walsall Road, Darlaston	Breach of condition 4 – BC56322P. No details of retaining structures to ensure stability of adjacent land	PCN	Served 23/8/06 – 21 day compliance. PCN re-served by hand 6/10/06 as not received through post			
4 Norton Road Pelsall	Breach of condition 16.3 BC62947P. No details submitted of extraction flue.	BCN	Served 16/08/06 – 28 day compliance.	Compliance 19/09/06	Yes	No