



Planning Committee

17th February 2011

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

31 Pinley Grove, Great Barr, Walsall, B43 7RB

1.0 PURPOSE OF REPORT

To request authority to take planning enforcement action in respect of the erection of a raised decking area.

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 removal of the decking (see 2.3 below).
- 2.2 To authorise that the decision to institute 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 to institute injunctive proceedings in the event of a continuing breach of control; be delegated to the Assistant Director - Legal and Constitutional Services in consultation with the Head of Planning and Building Control.
- 2.3 That, authority 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 (in the interests of ensuring an accurate and up to date notice is served) be delegated to the Assistant Director - Legal and Constitutional Services in consultation with the Head of Planning and Building Control.

Details of the Enforcement Notice

The Breach of Planning Control:-

Without planning permission operational development comprising the erection of a raised decking area.

Steps required to remedy the breach:-

- (i) Completely dismantle the raised decking area.
- (ii) Remove all resultant components and debris from the land.

Period for compliance:-

Two months

Reasons for taking Enforcement Action:-

The decking provides a raised standing area within close proximity to the neighbouring property boundary which results in an unacceptable increase in the overlooking and visual intrusion of the neighbouring house, in particular their ground floor rear windows and garden patio area. The decking results in a loss of privacy and severely diminishes the amenity previously enjoyed by the neighbours at 29 Pinley Grove. The decking is therefore contrary to the aims and objectives of Walsall Unitary Development Plan policies GP2, 3.6, and ENV32, policy ENV3 of the Black Country Core Strategy and national Planning Policy Statement 1.

3.0 FINANCIAL IMPLICATIONS

None arising from the report. The Council would seek to recover all costs against the owner in any subsequent appeal or court action.

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:

Joint Core Strategy

The Joint 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.

Saved Policies of Walsall’s Unitary Development Plan (2005)

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

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

National Policy

PPS1: Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and the quality of an area and the way it functions, should not be accepted.

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

Pheasey Park Farm

9.0 **CONSULTEES**

None

10.0 **CONTACT OFFICER**

James Fox

Planning Enforcement Team: 01922 652527

11.0 **BACKGROUND PAPERS**

Enforcement file not published.

David Elsworthy

Head of Planning and Building Control

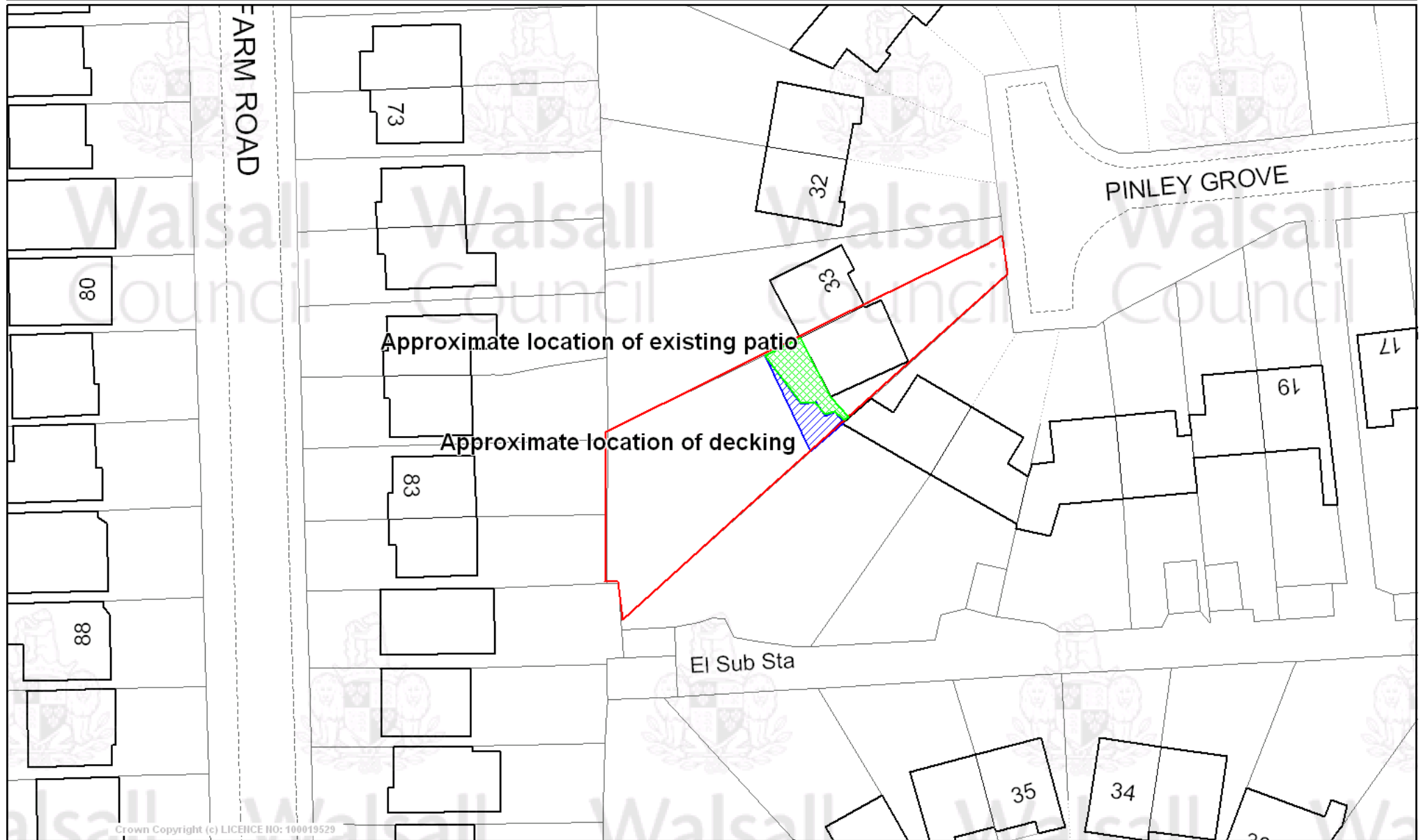
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12.0 BACKGROUND AND REPORT DETAIL

- 12.1 31 Pinley Grove is a semi detached house located in a residential area. This report relates to the installation of a raised decking area extending the existing patio area in the rear garden. A plan showing the location of the house and decking is attached to this report.
- 12.2 The installation of the decking area was first reported to Planning Enforcement officers in July 2010. An enforcement officer conducted a site inspection and noted details of the decking area as follows.
- 12.3 The decking area projects beyond an existing patio area by approximately 4 metres. The total length of the patio and decking area is roughly 7.5 metres forward of the rear wall of an existing rear extension. The decking area is located adjacent to the boundary of the neighbouring property and due to the position of the property projects forward of their rear extension by approximately 8.5 metres. The raised decking area has an approximate floor area of 15 square metres.
- 12.4 The provision of a raised platform at a house requires planning permission if the height exceeds 300mm. Although a section of the decking is stepped down to no more than 300mm, a significant area of the decking adjacent to the boundary exceeds 300mm in height and therefore planning permission is required.
- 12.5 The ground level of 31 Pinley Grove slopes down towards number 29, giving a height difference of approximately 1m between the original patio of number 31 and the neighbouring property. The decking area extends the height differential further down the garden by approximately 3.6 metres and therefore increases the potential for overlooking. Due to the gradient fall across the site, the creation of a level platform results in the section of the decking area adjacent to the boundary of number 29 measuring 580mm in height. As the boundary fence is 1.8m high the privacy effect of the fence only obscures anything on the decking of 1.2m in height or less. Therefore the average adult standing on this part of the decking would be elevated above the boundary fence and garden of number 29, having clear views into their garden and kitchen and lounge windows.
- 12.6 Officers have considered the possibility of 31 Pinley Grove providing additional screening above the boundary fence to restrict overlooking created by the raised decking. The fencing at 29 Pinley Grove is 1.8m in height, increasing the height of the fencing in order to provide a suitable level of screening would require planning permission and to screen the average adult standing on the decking a boundary of 2.5m would be required. A fence of this height would have an overbearing impact upon the outlook of number 29 and would be unacceptable.
- 12.7 In conclusion, the position of the decking, within close proximity to the boundary of the neighbouring property will result in an opportunity for an increased degree of overlooking which will harm the private amenity space in the rear garden and the privacy to the ground floor rear windows of 29 Pinley Grove. Screening to overcome the impact of overlooking is considered unsuitable and therefore a retrospective planning application to retain the decking is unlikely to be approved.

- 12.8 The owners have been advised of the opportunity to submit a planning application to retain the decking area, however for the reasons given above, our advice suggested that planning permission is unlikely to be approved and therefore the decking area should either be reduced in height to no more than 300mm or dismantled in its entirety.
- 12.9 The owner has failed to comply with the advice provided and because of the harm the development is causing it is considered expedient that enforcement action is now taken through the issue of an enforcement notice requiring its removal. Officers therefore request that authorisation is given to take this course of action.

31 Pinley Grove, Great Barr, B43 7RB



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