



**PLANNING COMMITTEE**  
**7th March 2013**

**REPORT OF HEAD OF PLANNING AND BUILDING CONTROL**

**11, Greenslade Road, Walsall, WS5 3QH**

**1.0 PURPOSE OF REPORT**

To request authority to take planning enforcement action in respect of the erection of an unauthorised two storey house extension.

**2.0 RECOMMENDATIONS**

- 2.1 That authority is granted to issue 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:-**

The part completed building works exceed the details of planning permission 12/1116/FL as follows:

- There has been an increase in building height of up to a metre with two courses of bricks being built above the top of the first floor window sills.
- The overall depth of the extension and original house has increased up to 200mm.

- The overall width of the building has been increased up to 200mm through the addition of a brick skin.
- The side elevation garage wall has been squared off instead of having a mono-pitch roof.
- 4 window openings have been installed on the side elevation facing the boundary to number 9.

**Steps required to remedy the breaches to accord with the previous approval:-**

- Reduce the height of the main roof eaves down to meet the top of the first floor window frame to match 12/1116/FL planning permission.
- Reduce the main roof eaves height to a maximum of 200mm to match 12/1116/FL planning permission.
- Reduce the overall height of the roof so that the maximum height from ground level is no greater than 7.55 metres to match 12/1116/FL planning permission.
- Remove the additional squared off side elevation garage wall and include a mono-pitch to match 12/1116/FL planning permission.
- Remove the additional outer brick skin wall adjacent to the boundary with number 9 to retain the original side elevation and omit the additional 4 window openings to match 12/1116/FL planning permission.

**Period for compliance:-**

Two months

**Reason for taking Enforcement Action:-**

1. All of the changes require planning permission.
2. The increase in roof height is a disproportionate addition to the application property creating a jarring effect which appears incongruous in the street scene.
3. The increase in width and height has an overbearing and unacceptable impact on the adjacent ground and first floor, front, habitable room windows in 9 Greenslade Road.
4. The combined height and length of the rear two storey extension has an overbearing and unacceptable impact on the rear lounge window of 11a Greenslade Road.
5. The development would be contrary to the National Planning Policy Framework, the Black Country Core Strategy policies ENV2 and ENV3, and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall.

### 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 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:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants

**Key provisions** of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

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 Black Country Core Strategy (BCCS)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*". The relevant policies are:

ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

#### **Walsall's Unitary Development Plan (UDP)**

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and 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.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

- On a visually prominent site

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development
- The height, proportion, scale, and mass of proposed buildings/structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

1, 2 and 3 bedroom houses	2 spaces per unit
4 bedroom houses and above	3 spaces per unit

It is considered in this case that the relevant provisions of Walsall’s saved UDP policies are consistent with the NPPF.

**Supplementary Planning Document Designing Walsall (2008)**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character. Appendix E includes;

- 24 metre separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.
- 13 metre separation between habitable room windows and blank walls exceeding 3 metres in height.
- 45 degree code : particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk))
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9 metres gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1 metre (may be increased in some circumstances) and the use of hipped roofs where in keeping with the existing character.

**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**

Stuart Crossen

Planning Enforcement Team: 01922 652608

**11.0 BACKGROUND PAPERS**

Enforcement file not published

**David Elsworthy**  
**Head of Planning and Building Control**

**Planning Committee**  
**7<sup>th</sup> March 2013**

**12. BACKGROUND AND REPORT DETAIL**

- 12.1 11 Greenslade Road is a two storey detached house within a residential area. A complaint was received in December 2012 regarding the height of the roof under construction and whether it was higher than approved via planning application 12/1116/FL. The Enforcement Officer visited the site in December but due to the construction works being incomplete was unable to confirm the height at the time.
- 12.2 Following further site visits in January and February in which it was possible to establish that there had been an increase in the building height of up to a metre with the addition of two brick courses added above the top of the first floor windows.
- 12.3 Furthermore it was established that the overall depth of the rear extension and original house had increased by up to 200mm, the overall width had been increased through a brick skin up to 200mm, the side elevation garage wall had been squared off and 4 window openings had been installed on the side elevation facing the boundary of number 9.
- 12.4 The owners have been notified by letter on the 12<sup>th</sup> February regarding the above breach and were asked to amend the building to comply with the 12/1116/FL planning permission.
- 12.5 The owner of the property has contacted Council officers on 15/02/13 requesting a meeting to discuss the letter and current application 12/1668/FL for a further rear extension.
- 12.6 The owner has been unable to agree on a day to meet. Officers will continue to pursue the owner to discuss the current situation in order to find an amicable solution.
- 12.7 In view of the above recommendations 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 it is causing. Officers request authorisation is given to take this course of action.