



PLANNING COMMITTEE
1 December 2016

REPORT OF HEAD of PLANNING ENGINEERING and TRANSPORTATION

16 Shaw Street, Walsall, WS2 8PH – Enforcement Reference: E16/0142

1.0 PURPOSE OF REPORT

To request authority to pursue planning enforcement action in respect of the carrying out of unauthorised building operations without the required permission at Shaw Street, Walsall (Micky's Steakaway and land rear of).

2.0 RECOMMENDATION

- 2.1 That authority is granted for the Head of Planning Engineering and Transportation 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 the Head of Planning Engineering and Transportation 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 as to the institution of Injunctive proceedings in the event of a continuing breach of planning control.
- 2.3 To authorise the Head of Planning Engineering and Transportation, 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 the accurate and up to date notices are served.

Details of the Enforcement Notice

The Breach of Planning Control:-

1. The construction of a single storey extension to No.16 Shaw Street (Micky's Steakaway) fronting Shaw Street; and
2. The erection of a two storey structure at the rear of No.16 Shaw Street ("the unauthorised development").

Steps required to remedy the breach:-

1. Remove the unauthorised works; and
2. Return the land and building to its former state making good any damage to the land and building from removal of the structures.

Period for compliance:-

Two months.

Reason for taking Enforcement Action:-

The site is in a prominent position within the town centre and at the gateway between the primary shopping area (PSA) and the Crown Wharf Shopping Park with a number of locally listed buildings in close proximity to the site. The development requires planning permission and the unauthorised works are of a poor appearance and result in significant detrimental harm to the character of the area and does not respect the local historic context.

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:

The National Planning Policy Framework including paragraphs 24, 27, 56, 57, 58, and 64, Walsall's Saved Unitary Development Plan policies, in particular S3, S4, ENV27, ENV28, ENV32 and ENV35.

5.0 LEGAL IMPLICATIONS

Pursuant to section 171A(a) of the Town and Country Planning Act 1990 (as amended) the carrying out development without the required planning permission or failing to comply with a condition or limitation subject to which planning permission has been granted constitutes a breach of planning control. Section 171B adds that where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed. In respect of any other breach (such as change of use or breach of condition) no enforcement action may be taken after the end of the period of ten years from the date of the breach except where the breach of planning control consists of a change of use of any building to use as a single dwellinghouse, in which case a four year period applies.

It appears to officers that the breach of planning control occurring at this site commenced within the last four years.

Section 172 of the Town and Country Planning Act 1990 provides that the local planning authority may issue an Enforcement Notice where it appears to them:

- (a) that there has been a breach of planning control; and

(b) that it is expedient to issue the notice, having regard to the development plan and to any other material considerations.

The breach of planning control is set out in this report. Members must decide whether it is expedient for the enforcement notice to be issued, taking into account the contents of this report.

Non-compliance with an Enforcement Notice constitutes an offence. In the event of non-compliance the Council may instigate legal proceedings. The Council may also take direct action to carry out works and recover the costs of those works from the person on whom the Enforcement Notice was served. Any person on whom an Enforcement Notice is served has a right of appeal to the Secretary of State.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising directly from this report.

7.0 WARD(S) AFFECTED

St. Matthews

8.0 CONSULTEES

None.

9.0 CONTACT OFFICER

Michael Brereton – 01922 652611
Development Management

10.0 BACKGROUND PAPERS

Enforcement file not published

Steve Pretty

Head of Planning, Engineering and Transportation

PLANNING COMMITTEE
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12.0 BACKGROUND AND REPORT DETAIL

An enforcement enquiry was received on 27th May 2016 regarding the unauthorised structures and an application was received on 8th June 2016 seeking pre-application advice to retain the development.

Photographs submitted alongside the pre-application submission show the erection of a single storey extension to Micky's Steakaway along with the erection of a part timber clad two storey structure and frame to rear of Micky's Steakaway (No.16 Shaw Street).

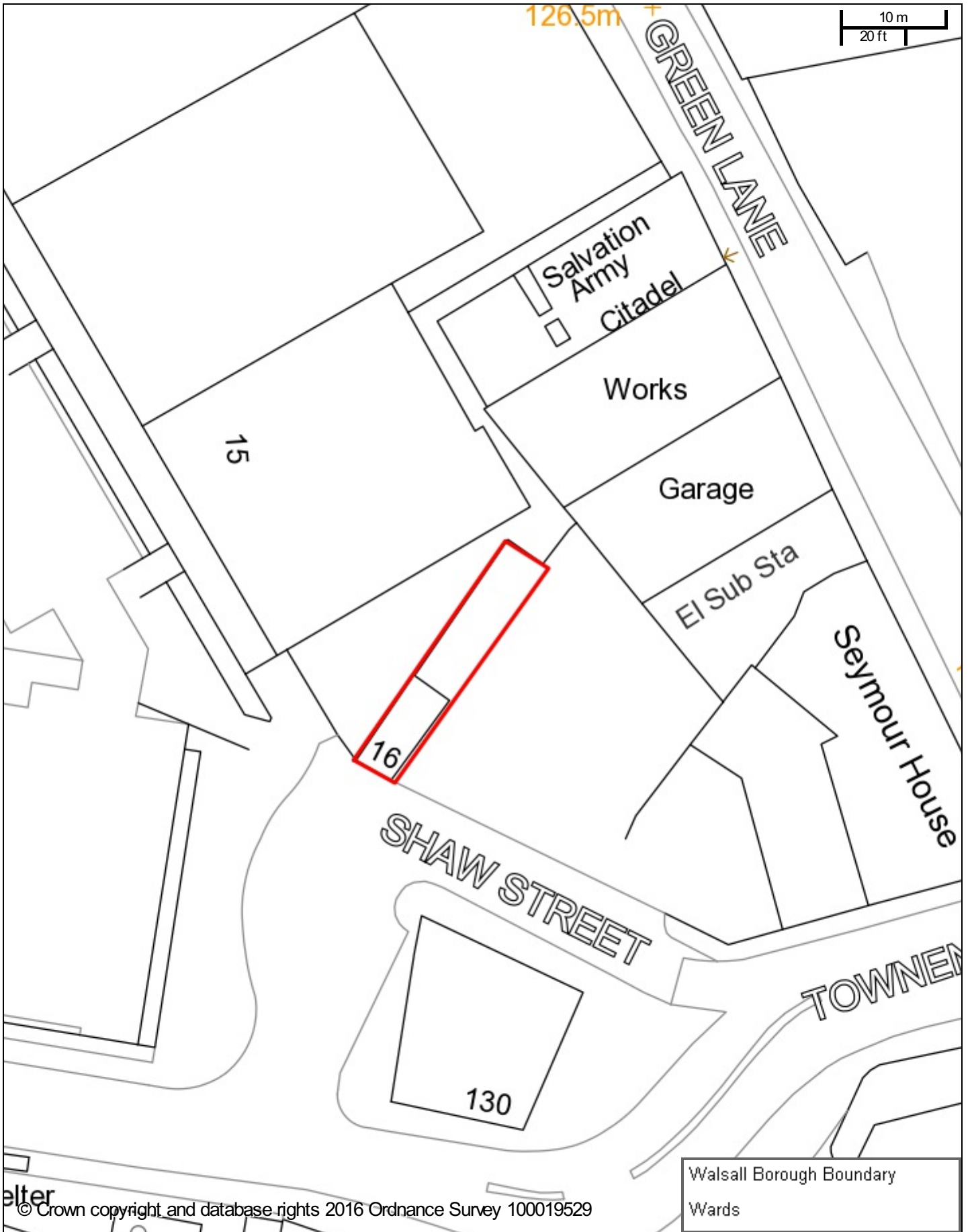
The applicant was advised on 28th September that the development is unauthorised and that planning permission is needed and that, in this instance, the Local Planning Authority is unlikely to be able to support the development, with the exception of the potential to retain the small extension fronting Shaw Street attached to existing restaurant.

The applicant was given 28 days to remove the unauthorised structures and also given the opportunity to submit a planning application for the retention of the small extension fronting Shaw Street. The applicant was made aware that failure to comply within this timeframe would result in the matter being reported to Planning Committee with a recommendation to pursue enforcement action.

Officers met with the applicant on 12th October 2016 to discuss the unauthorised development and the applicant confirmed the first floor would be removed 'without delay' (re-confirmed in writing on 14th October 2016) and that a planning application would be submitted for the retention of some works.

The structures have not been removed and an application has not been submitted to date.

Based on the information before officers and considering the breach of planning control and the impacts it brings to the locality, it is considered, that in this instance to be expedient to pursue enforcement action. The planning committee is requested to authorise the pursuance of enforcement action.



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Walsall Borough Boundary
 Wards



Shaw Street
 Walsall Metropolitan Borough Council
 Scale: 1:500 Printed on: 23/11/2016 at 11:54 AM

