

Planning Committee

Tue 31 Mar
2009
7.00 pm

Council Chamber
Town Hall
Redditch



www.redditchbc.gov.uk

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The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all formal Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agendas and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees

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- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, most items of business before the Executive Committee are Key Decisions.
- Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:

www.redditchbc.gov.uk

If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact the following:

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REDDITCH BOROUGH COUNCIL **PLANNING COMMITTEE**



GUIDANCE ON PUBLIC **SPEAKING**

The process approved by the Council for public speaking at meetings of the Planning Committee is (subject to the discretion and control of the Chair) as follows:

in accordance with the running order detailed in this agenda (Applications for Planning Permission item) and updated by the separate Update report:

- 1) Introduction of application by Chair
- 2) Officer presentation of the report (as originally printed; updated in the later Update Report; and updated orally by the Planning Officers at the meeting).
- 3) Councillors' questions to the Officers - to clarify detail.
- 4) Public Speaking - in the following order:-
 - a) Objectors to speak on the application;
 - b) Supporters to speak on application;
 - c) Applicant to speak on application.

Speakers will be called in the order they have notified their interest in speaking to the Planning Officers (by the 4.00 p.m. deadline on the Friday before the meeting) and invited to the table or lectern.

- Each individual speaker, or group representative, will have up to a maximum of 3 minutes to speak. (Please press button on "conference unit" to activate microphone.)
 - After each of a), b) and c) above, Members may put relevant questions to the speaker, for clarification. (Please remain at the table in case of questions.)
- 5) Members' questions to the Officers and formal debate / determination.

Notes:

- 1) It should be noted that, in coming to its decision, the Committee can only take into account planning issues, namely policies contained in the Borough of Redditch Local Plan No.2, the County Structure Plan (comprising the Development Plan) and other material considerations which include Government Guidance and other relevant policies published since the adoption of the development plan and the “environmental factors” (in the broad sense) which affect the site.
- 2) No audio recording, filming, video recording or photography, etc. of any part of this meeting is permitted without express consent (Section 100A(7) of the Local Government Act 1972).
- 3) Once the formal meeting opens, members of the public are requested to remain within the Public Gallery and may only address Committee Members and Officers via the formal public speaking route.
- 4) Late circulation of additional papers is not advised and is subject to the Chair’s agreement. The submission of any significant new information might lead to a delay in reaching a decision. The deadline for papers to be received by Planning Officers is 5.00 p.m. on the Friday before the meeting.
- 5) Anyone wishing to address the Planning Committee on applications on this agenda must notify Planning Officers by 5.00 p.m. on the Friday before the meeting.

Further assistance:

If you require any further assistance prior to the meeting, please contact the Committee Services Officer (indicated at the foot of the inside front cover), Head of Democratic Services, or Planning Officers, at the same address.

At the meeting, these Officers will normally be seated either side of the Chair.

The Chair’s place is at the front left-hand corner of the Committee table as viewed from the Public Gallery.

Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency Assembly Area is on the Ringway Car Park.

Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



PLANNING COMMITTEE

31 March 2009

7.00 pm

Council Chamber Town Hall

Agenda

Membership:

Cllrs:	M Chalk (Chair)	W Hartnett
	D Smith (Vice-Chair)	N Hicks
	D Enderby	D Hunt
	J Field	R King

<p>1. Apologies</p>	<p>To receive apologies for absence and details of any Councillor nominated to attend the meeting in place of a member of the Committee.</p>
<p>2. Declarations of Interest</p>	<p>To invite Councillors to declare any interest they may have in the items on the Agenda.</p>
<p>3. Confirmation of Minutes (Pages 1 - 4)</p>	<p>To confirm, as a correct record, the minutes of the meeting of the Planning Committee held on the 3 March 2009. (Minutes attached)</p>
<p>4. Applications for planning permission (Pages 5 - 6) Acting Head of Environment and Planning</p>	<p>To consider two applications for planning permission. (Items below refer) (Covering Report attached)</p>
<p>5. Planning Application 2009/019/FUL - Unit 1 Matchborough Centre, Matchborough Way (Pages 7 - 12)</p>	<p>To consider a Planning Application for a change of use from A1 (Retail) to D2 (Assembly and Leisure). Applicant: Mr S Marshall (Matchborough Ward)</p>
<p>6. Planning Application 2009/021/FUL - 2 Hennals Avenue, Webheath (Pages 13 - 18)</p>	<p>To consider a Planning Application for the erection of a detached dwelling. Applicant:: Mr B Yeng. (West Ward)</p>
<p>7. Information Report (Pages 19 - 20) (Acting Head of Environment and Planning</p>	<p>To receive an item of information relating to the outcome of an appeal against the imposition of a particular Condition on an approved Planning application. (Report attached) (Astwood Bank and Feckenham Ward)</p>

PLANNING

Committee

31 March 2009

<p>8. Planning Appeals Procedures - Changes (Pages 21 - 34)</p> <p>Acting Head of Environment and Planning</p>	<p>To inform the Committee of imminent changes to the Regulations relating to the Planning Appeals system and the resultant need to amend the Council's procedures and practices.</p> <p>(Report attached)</p> <p>(No specific Ward relevance)</p>
<p>9. Enforcement of planning control (Pages 35 - 46)</p> <p>Acting Head of Environment and Planning</p>	<p>To determine the appropriate course of action to be taken in respect of three enforcement matters.</p> <p>(Items below refer.)</p> <p>(The Appendices to this report are confidential in view of the fact that they contains confidential information relating to individuals' identities and alleged breaches of planning control which could result in prosecution by the Council and have therefore only been made available to Members and relevant Officers.)</p> <p>(Covering Report attached)</p>
<p>10. Enforcement Report 2007/195/ENF - Munsley Close, Matchborough (Pages 47 - 48)</p>	<p>To consider a breach of Planning Control in respect of non-compliance with the requirements of a Section 215 Notice.</p> <p>(Report attached)</p> <p>(Matchborough Ward)</p>
<p>11. Enforcement Report 2008/059/ENF - Fenwick Close, Headless Cross (Pages 49 - 50)</p>	<p>To consider a breach of Planning Control in respect of non-compliance with requirements of a Section 215 Notice.</p> <p>(Report attached)</p> <p>(West Ward)</p>
<p>12. Enforcement Report 2008/165/ENF - Barford Close, Matchborough (Pages 51 - 52)</p>	<p>To consider a breach of Planning Control in respect of non-compliance with requirements of a Section 215 Notice.</p> <p>(Report attached)</p> <p>(Matchborough Ward)</p>

PLANNING

Committee

31 March 2009

13. Exclusion of the Public	<p>During the course of the meeting it may be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting on the grounds that exempt information is likely to be divulged. It may be necessary, therefore, to move the following resolution:</p> <p>“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 12 (A) of the said Act, as amended.</p>
14. Confidential Matters (if any)	To deal with any exceptional matters necessary to consider after the exclusion of the public (none notified to date.)



Planning Committee

3 March 2009

MINUTES

Present:

Councillor Michael Chalk (Chair), Councillor David Smith (Vice-Chair) and Councillors K Banks (substituting for Councillor Field), D Enderby, N Hicks and R King.

Also Present:

Mr M Collins (Standards Committee Vice-Chair).

Officers:

R Bamford, A Hussain, H Rajwanshi and A Rutt and S Skinner.

Committee Services Officer:

J Smyth.

76. APOLOGIES

Apologies for absence were received on behalf of Councillors Field and Hartnett.

77. DECLARATIONS OF INTEREST

Councillor R King declared a personal but not prejudicial interest in Planning Application 2009/010/FUL (application for the erection of new perimeter fencing, insertion of five new windows to south elevation, erection of new substation, external compressor and paper trim compactor at 1 Claybrook Drive, Matchborough) as detailed in Minute 83 below.

78. CONFIRMATION OF MINUTES

RESOLVED that

the minutes of the meetings of the Committee held on the 6 January and 3 February 2009 be confirmed as correct records and signed by the Chair.

.....
Chair

79. APPLICATIONS FOR PLANNING PERMISSION

The Committee considered and determined four Planning Applications as detailed in the subsequent minutes below.

Officers tabled an update report detailing any late responses to consultation, changed recommendations, further conditions and any additional Officer comments in relation to each application. This report was further updated orally at the meeting as appropriate to each application.

Public speaking was permitted, in accordance with the Council's agreed procedures, in relation to two of the applications being considered.

80. PLANNING APPLICATION 2008/342 /FUL - 5 WILLOW WAY, BATCHLEY

Erection of a two-storey detached dwelling and garage
Applicant: Abbey and Lyndon

RESOLVED that

having regard to the Development Plan and to all other material considerations, Planning Permission be GRANTED, subject to the conditions and informatives detailed in the report.

81. PLANNING APPLICATION 2008/386/FUL - ABBEY HOTEL, GOLF AND COUNTRY CLUB, DAGNELL END ROAD, BORDLESLEY

Erection of 25 Lodge-Style accommodation units
ancillary to the main hotel with associated
landscaping and infrastructure
Applicant: RSM Leisure Ltd

The following people addressed the Committee under the Council's public speaking rules:

Mr J Longley – Objector

Mr P Lewis – Objector

Mr M Blake – Chairman of the Board, on behalf of the Applicant.

RESOLVED that

having regard to the Development Plan and to all other material considerations, Planning Permission be GRANTED, subject to the conditions and informatives detailed in the report and the following additional conditions:

“22. Retention of hedging to northern boundary adjacent Dagnell End Road.

23. Barriers to be provided for pedestrian safety adjacent Hither Green Lane.”

82. PLANNING APPLICATION 2009/002/FUL - 56 HITHER GREEN LANE, BORDESLEY

Variation of elevations approved under Application 2008/275/FUL to include ground floor front and rear elevations, side chimney extension and rear side canopy
Applicant: Mr N Jinks

Mr D Jones, Agent, addressed the Committee under the Council’s public speaking rules.

RESOLVED that

having regard to the Development Plan and to all other material considerations, Planning Permission be GRANTED, subject to the conditions stated in the report.

83. PLANNING APPLICATION 2009/010/FUL - 1 CLAYBROOK DRIVE, MATCHBOROUGH

Erection of new perimeter fencing,
insertion of 5 new windows to south elevation,
erection of new substation, external compressor and paper trim compactor
Applicant: Kalamazoo Secure Solutions

RESOLVED that

having regard to the Development Plan and to all other material considerations, Planning Permission be GRANTED, subject to the conditions and informative detailed in the report.

(Prior to consideration of this item, and in accordance with the requirements of Section 81 of the Local Government Act 2000, Councillor R King declared a minor personal but not prejudicial interest in view of the fact that he had been employed by the Applicant some years previously.)

84. INFORMATION REPORT

The Committee received an item of information in relation to the outcome of an appeal against the issue of an Enforcement Notice in respect of Priestbridge Barn, Church Road, Bradley Green. Officers

Planning Committee

reported that it was their understanding that a Planning Application for the barn was to be lodged in due course.

RESOLVED that

the item of information be noted.

85. ENFORCEMENT OF PLANNING CONTROL

The Committee considered two contraventions planning law, as detailed in the subsequent minute below.

86. ENFORCEMENT REPORT 2006/351/ENF - OTHER ROAD, TOWN CENTRE

Non-compliance with the requirements of an Enforcement Notice

RESOLVED that

authority be delegated to the Head of Democratic, Legal and Property Services, in consultation with the Acting Head of Planning and Building Control, to take Enforcement action by way of instigating proceedings in the Magistrates Court to secure a cessation of the breach of planning control.

87. ENFORCEMENT REPORT 2007/215/ENF AND 2008/275/ENF - POLESWORTH CLOSE, MATCHBOROUGH

Non-compliance with the requirements of an Enforcement Notice

RESOLVED that

authority be delegated to the Head of Democratic, Legal and Property Services, in consultation with the Acting Head of Planning and Building Control, to take Enforcement action by way of instigating proceedings in the Magistrates Court to secure a cessation of the breach of planning control.

The Meeting commenced at 7.00 pm
and closed at 8.00 pm

.....
CHAIR

Planning Committee

Matchborough and West Wards

31 March 2009

APPLICATIONS FOR PLANNING PERMISSION

(Report of the Acting Head of Planning and Building Control)

1. Purpose of Report

To determine applications for planning consent.

Members are asked to consider two Planning Applications, each as detailed in the following reports.

2. Recommendation

The Committee is asked to RESOLVE that

having regard to the development plan and to other material considerations, the attached applications be determined.

3. Financial, Legal, Policy, Risk and Sustainability/Environmental Implications

- 3.1 Financial : None.
- 3.2 Policy : As detailed in each individual application.
- 3.3 Legal : Set out in the following Acts:-
Town and Country Planning Act 1990
Planning and Compensation Act 1991
Human Rights Act 1998
Crime and Disorder Act 1998.
- 3.4 Risk : As detailed in each individual application.
- 3.5 Sustainability
/Environmental : As detailed in each individual application.

4 Report

The following items on the Agenda detail planning applications for determination at this meeting of the Committee.

5. Background Papers

Planning application files (including letters of representation).
Worcestershire County Structure Plan 1996 - 2011.

Borough of Redditch Local Plan No. 3.

6. Consultation

Consultees are indicated for each individual proposal.

7. Other Implications

Asset Management Not normally applicable.

Community Safety: As detailed within each specific report.

Human Resources: None.

Social Exclusion: None: all applications are considered on strict planning merits, regardless of status of applicant.

8. Author of Report

The author of this report is Ruth Bamford (Acting Head of Planning and Building Control), who can be contacted on extension 3219 (e-mail: ruthbamford@redditchbc.gov.uk) for more information.

Planning Committee

Matchborough Ward

31 March 2009

2009/019/FUL CHANGE OF USE FROM A1 (RETAIL) TO D2 (ASSEMBLY AND LEISURE) USE
UNIT 1 MATCHBOROUGH CENTRE, MATCHBOROUGH WAY,
REDDITCH
APPLICANT: MR S MARSHALL (YOUR IDEAS)
EXPIRY DATE: 2 APRIL 2009

Site Description

(See additional papers for Site Plan)

Unit 1 is an existing shop unit measuring 250 square metres in area and is located within the Matchborough District Centre. It was formerly occupied by Martins Newsagents who vacated in March 2008. The Unit has been empty since then. The Unit is bounded by the Busway to the West; a car park to the South and Unit 2 (an occupied flooring shop) to the East. This Unit and numbers 2, 3 and 4 face towards the central courtyard area to the North.

Proposal Description

This is a full application to change the use of Unit 1 from Class A1 (retail) to Class D2 (assembly and leisure) use.

Relevant Key Policies

All planning applications must be considered in terms of the planning policy framework and all other relevant material considerations (as set out in the legislative framework). The planning policies noted below can be found on the following websites:

www.redditchbc.gov.uk

Borough of Redditch Local Plan No. 3

E(TCR).9 District Centres
B(BE).22 Temporary Buildings and Uses
S1 Designing out crime

SPDs

Designing for community safety.

Relevant Site Planning History

None.

Public Consultation Responses

The application has been advertised by writing to neighbouring premises within the Matchborough Centre, and by display of public notice on site.

No representations have been received within the consultation period which expired on 9.3.2009.

Consultee Responses

County Highway Network Control

No objection.

Environmental Health

No objection.

Police Crime Risk Manager

No comments received.

Procedural matters

This application is put before the Planning Committee due to the fact that the landowner is Redditch Borough Council. Under the agreed scheme of delegation to Planning Officers, where RBC is land owner, planning applications should be reported to Committee, when the recommendation is one of approval.

Assessment of Proposal

The key issues for consideration are as follows:-

Principle of Change of Use

The relevant Planning Policy in this case is E(TCR).9 of the Borough of Redditch Local Plan since the Unit falls within the Matchborough District Centre.

The Town Centre is the primary focus for major shopping needs. District Centres are the secondary level of shopping, meeting daily needs for basic items. Typically District Centres in the Borough accommodate a newsagent, a general grocery store, a sub-post office and occasionally a pharmacy, a hairdresser and other small shops of a local nature. It is important to protect and where appropriate, enhance District Centres particularly with regard to their useful retail function. Proposals that would undermine the retail and community function of the District Centre would normally be refused.

Under Para.5 of the reasoned justification for Policy E(TCR).9, it comments that the Council appreciates that in some circumstances there may be an over provision of units for retail. If during the plan period there is a problem of vacant units despite appropriate marketing and rent levels, then other uses may be acceptable in District Centres. Only developments that would not hinder the primary retailing function of the District Centre will normally be acceptable. Change of Use in District Centres should only be at a level necessary to overcome a problem of vacancy as the provision of retail and community facilities should continue to be the predominant District Centre function.

In assessing this application, it is important to determine if the unit in question is currently and likely to remain surplus to retail requirements. The previous tenant Martins Newsagents vacated in March 2008 when they sold the Post Office to Unit 7 (Costcutters – a grocers and general convenience store/supermarket). Without the Post Office, the store proved not to be a viable concern. The Unit has therefore been vacant for approximately one year. Redditch Borough Council's Property Services section have commented (as landlords) that the relatively large size of Unit 1 in comparison to other smaller units nearby means that the unit is not attractive to small traders, and that the goods which the newsagents previously sold such as sweets, stationery etc can be bought at the nearby 'Costcutters' supermarket. Property Services comment that it has proved difficult to find tenants for a unit of this size. Matchborough Centre is currently fully let, despite several of the tenants being in a precarious position owing partly to the current financial situation and partly due to inadequate signage indicating where the shops are.

Your Officers understand that occupation of the various units within the District Centre is currently as follows:

Unit 1	Currently vacant	
Unit 2	Flooring/ Carpet shop	(A1 retail)
Unit 3	Chemist	(A1 retail)
Unit 4	Hairdressers	(A1 retail)
Unit 5	Cafe and take-a-way	(A5 use)
(No Unit no)	The Old Sticky Wicket Pub	(A4 use)
Unit 6 &7	Supermarket and Post Office	(A1 retail)
Unit 8	Fish and Chips take-a-way	(A5 use)
Unit 9	Cafe	(A3 use)
Unit 10	Bookmakers	(A2 use)
Unit 11	Dentists	(D1 use)
(upstairs)		
Unit 12	residential flat	(C3 Use)
(upstairs)		
Unit 13	residential flat	(C3 Use)
(upstairs)		

Whilst it is regrettable that the newsagents use has been lost within the centre, the particularly important supermarket which includes a post office, remains. Given the other existing retail units which are currently operating, together with the non A1 units which add to the vitality and viability of the centre, on balance, your officers have concluded that the principle of losing a retail use at Unit 1 would not hinder the primary retailing function of the District Centre and would not harm its vitality and viability.

Policy E(TCR).9 comments that other non-retail uses may be acceptable in District Centres where problems of vacancy occur. The use proposed which is categorised as a D2 use is described as a youth and community organisation which works with members of the community (particularly the young) to identify projects or initiatives that will improve the quality of life for the community as a whole. The supporting statement states that 'your ideas' will provide support to community members to enable ideas to be transformed into successful projects. The organisation aims to:

- Provide and identify routes to funding
- Help community members access this funding
- Support and provide expertise to develop skills to plan and implement projects
- Develop community leadership and the aspirations of the community through successful projects

Security

At the time of writing no comments had been received from the Police Crime Risk Manager.

In their supporting statement the applicant states that the ethos and vision for 'your ideas' is that of individual and community empowerment and that by approving the proposal, young people will identify positive activities and deliver them for their community. This will, in turn, lead to safer communities. The applicant states that by allowing young people to participate in activities through 'your ideas' this will allow them to have greater aspirations, becoming stakeholders in their community, and reducing the likelihood of them becoming involved in anti-social activity.

The applicant also states that by increasing occupancy at the Matchborough Centre and allowing a vacant unit to be filled will help to reduce crime and at the same time increase footfall for neighbouring tenants.

Nothing in the application would suggest to your officers that approval of this application would lead to an increase in criminal activity within this District Centre.

Conclusion

From the information submitted, your Officers are satisfied that this application, which would bring a vacant unit back into re-use, would not undermine the retail and community function of the District Centre under the terms of Policy E(TCR).9. However, your Officers are minded to recommend that only a temporary permission be granted in this case in order that the merits of the proposal are re-assessed after a three year period. This is recommended due to the relatively large size of the Unit and the importance of ensuring that the retail and community function of the Matchborough District Centre is not undermined.

Recommendation

That having regard to the development plan and to all other material considerations, planning permission be GRANTED subject to conditions as summarised below:

1. Temporary and personal consent – 3 years
2. Hours of opening: 0730 to 2200 hrs Mon to Sat and 1000 to 1600 hrs Sundays / Public Holidays

Planning Committee

West Ward

31 March 2009

2009/021/FUL DETACHED DWELLING
2 HENNALS AVENUE, WEBHEATH
APPLICANT: MR B YENG
EXPIRY DATE: 6 APRIL 2009

Site Description

(See additional papers for Site Plan)

The site currently forms part of the garden area of No. 2 Hennals Avenue, a large detached dwelling located on the corner of Tynsall Avenue and Hennals Avenue. The surrounding area is predominantly residential and comprises of a mixture of both detached and semi-detached properties, bungalows and dormer bungalows.

Proposal Description

Full planning permission is being sought for a detached dwelling in the side garden, within the curtilage of No 2 Hennals Avenue. The 13.5 metre frontage to Hennals Avenue is proposed to be achieved by demolishing part of the existing double garage of 2 Hennals Avenue.

The proposed dwelling would be two storeys and set further forward than No 2 Hennals Avenue, but in line with No 4. The dwelling would provide kitchen, dining room, and lounge on the ground floor and four bedrooms/bathroom facilities on the first floor.

There are two car parking spaces provided to the front of the property, in addition to a small grassed area. There is adequate spacing to the side of the property to store and provide movement for the refuse bins.

Relevant Key Policies

All planning applications must be considered in terms of the planning policy framework and all other relevant material considerations (as set out in the legislative framework). The planning policies noted below can be found on the following websites:

www.communities.gov.uk

www.wmra.gov.uk

www.worcestershire.gov.uk

www.redditchbc.gov.uk

National Planning Policy

PPS1 (& accompanying documents) Delivering sustainable development.

Regional Spatial Strategy

- CF2 Housing beyond Major Urban Areas
- CF3 Level and Distribution of New Housing Development
- CF5 The re-use of land and buildings for housing
- CF6 Making efficient use of land
- T2 Reducing the Need to Travel
- T7 Car Parking Standards and Management

Worcestershire Country Structure Plan

- SD.3 Use of previously developed land
- SD.4 Minimising the Need to Travel
- T.4 Car Parking

Borough of Redditch Local Plan No.3

- CS.3 Use of Previously Developed Land
- CS.4 Minimising the Need to Travel
- CS.7 The Sustainable Location of Development
- B(HSG).6 Development within or adjacent to the curtilage of an Existing Dwelling
- B(BE).13 Qualities of Good Design
- B(BE).14 Alterations and Extensions
- C(T).2 Road Hierarchy
- C(T).12 Parking Standards

Borough of Redditch Supplementary Planning Guidance (SPG) on Encouraging Good Design.

Relevant site planning history

Appn. no	Proposal	Decision	Date
2008/118	Detached Dwelling	Refusal	16-05-2008

Public Consultation responses

Responses in favour:

None

Responses against :

Three letters received raising the following points:

- Overbearing development
- Development will set a precedent
- Crammed
- Creating high density

Other issues which are not material planning considerations have been raised, but are not reported here as they cannot be considered in the determination of this application.

Consultee responses***County Highway Network Control***

No objection subject to conditions regarding

- access, turning and parking
- mud on highway
- laying of private apparatus on highway
- new vehicle crossover

Environmental Health

No objections

Severn Trent Water

No objection subject to a condition regarding drainage details

Procedural matters

Following the refusal on 16 May 2008, the applicant's agent amended the scheme and submitted this for an informal officer opinion prior to submission of a fresh planning application. The response indicated that the amended scheme was a significant improvement upon the earlier refused proposal and that a fresh application may be viewed favourably. As with all such enquiries, the letter indicated that the officer response could not prejudice the outcome of a formally submitted application. However, having fully appraised the application, it is considered, on balance, that whilst the revised proposal now before Members is an improvement on the earlier scheme, it is not sufficient to overcome the original objections for the reasons set out in this report. Therefore, although this application could have been refused under delegated powers, it was considered expedient to bring it to Planning Committee for a decision because of the planning history set out above.

Assessment of proposal

The key issues for consideration in this case are as follows:

Principle

The site currently forms a large percentage of the garden area of No 2 Hennals Avenue and part of existing double garage would be demolished to accommodate the proposed dwelling. The site is considered to be previously developed land, and is not designated within the local plan for specific development, and therefore the principle of residential development on this site would be acceptable, subject to the details of the proposed scheme.

Design and layout

The dwellings situated in Hennals Avenue are generally large dwellings with generous frontages and generous size plots with regard to the lengths of the gardens. Whilst this proposal would be of a similar size to the adjacent and surrounding properties, the dwelling would almost fill the size of the plot, resulting in it appearing to be both cramped and contrived when viewed from the street scene. In addition the dwelling would lay further forward than 2 Hennals Avenue, appearing to be at odds with the character of the area, which has a character of openness.

Landscaping and trees

Currently there is a tall, well groomed conifer hedge in front of the plot, which would be removed to accommodate the proposal. None of the trees within the application site area are considered to be of any major significance or worthy of retention or protection.

Highways and access

The proposed new access would be acceptable, as County Highway Network Control have raised no objections to the new access

Sustainability

The agent has submitted a Climate Change Statement with the application. This specifies that the design of the dwelling is to maximise natural sunlight, particularly the sitting room and main bedroom will face within 45 degrees of south and the kitchen/utility and dining room will face 45 degrees of north. The ground floor will be heated by means of a low energy piped under floor heating. Double glazing units are proposed to be used and the external paved areas will be heating system and it is proposed to employ a wood pellet boiler to provide heating and hot water.

Other issues

It is noted that a previous application for a dwelling on this site was refused. Whilst this proposal is for a dwelling 750mm narrower and further set back into the site than the previous proposal, this is not considered to be sufficiently different to result in a development that could now be considered acceptable on this site, as detailed above.

Conclusion

The frontage of the property would occupy almost the full width of the plot and be at odds with the existing properties within Hennals Avenue. Whilst the proposal does meet the spacing standards set out in the adopted Supplementary Planning Guidance, Encouraging Good Design with the amenity space for both the plots exceeding 70 square metres, this does not overcome the over intensive nature of the development which would have a detrimental effect on the character and appearance of the area.

Recommendation

Having regard to the Development Plan and to other material considerations, planning permission be REFUSED for the following reasons:

The proposed development, by virtue of its design, size and position would be out of keeping with the existing buildings within the street scene and at odds with the general layout of the existing residential development. As such the proposed development would appear cramped and contrived and at odds with the character of the area. As such the proposed development is contrary to Policies B(BE).13 and B(HSG).6 of the Borough of Redditch Local Plan No.3 and the councils adopted Supplementary Planning Guidance on Encouraging Good Design.

Planning Committee

Astwood Bank and Feckenham Ward

31 March 2009

INFORMATION ITEM

(Report of Acting Director of Environment & Planning)

1. Summary of Report

To receive an item of information in relation to an outcome of an appeal against a planning decision.

2. Recommendation

The Committee is asked to RESOLVE that

1) the item of information be noted.

3. Financial, Legal, Policy, Risk and Sustainability Implications

There are no financial, legal, policy, risk or sustainability / environmental implications for the Council.

4. Background

Planning Application file.

5. Consultation

There has been no consultation other than with relevant Borough Council Officers.

6. Other Implications

There are no perceived impacts on Community Safety, Human Resources, Social Exclusion or Asset Management.

7. Author of Report

The author of this report is Ruth Bamford (Acting Head of Planning & Building Control), who can be contacted on extension 3219 (email: ruth.bamford@redditchbc.gov.uk) for more information.

8. Appendices

Appendix 1 - Outcome of Appeal against a Planning Decision - 2008/149/FUL

OUTCOME OF APPEAL AGAINST A PLANNING DECISION

Reference: 2008/149/FUL

Proposal: Retrospective application – outdoor seating area with electronic awning
Astwood Bank Club, 5A Dark Lane, Astwood Bank

(Astwood Bank and Feckenham Ward)

The application sought retrospective permission for the provision of an outdoor smoking / seating area with electronic awning. The application was considered at Planning Committee on the 15 July 2008 and was subsequently approved subject to several conditions including the following condition:-

- 2) The existing heaters erected on the wall for the decking area shall be removed within 3 months from the date of the decision notice. No other forms of heating facilities shall be used in the decking area thereafter.

The reasoning for the condition was to safeguard the prudent use of natural resources in accordance with Policy CS.1 of the Borough of Redditch Local Plan No. 3.

The appellants appealed against the imposition of this particular condition and put a case forward as to why the condition should be omitted. As part of the appeal process, neighbouring residential occupiers submitted representations.

The Inspector understood the issues of the appeal to be whether condition No. 2 was necessary, relevant to the development permitted and reasonable having regard to Policy CS.1 of Local Plan No.3.

The Inspector accepted that the appeal related to two heaters that are visible when the awning is retracted, and obscured when the awning is extended over the seating area. No details had been submitted regarding the efficiency of the heaters, however, the Inspector considered that the impact of two small heaters on natural resources and the pollution of those resources would not result in any adverse harm to the environment.

The Inspector considered all the arguments put forward and concluded that the appeal should succeed, varying the planning permission by deleting the disputed condition.

Planning Committee

No Specific Ward Relevance

31 March 2009

PLANNING APPEALS PROCEDURES – CHANGES

(Report of Acting Head of Planning & Building Control)

1. Summary of Report

To inform Planning Committee members of changes to the regulations and thus procedures and practices relating to the planning appeals system.

These changes are significant for all those engaged in the planning appeals system, especially those who are in receipt of a refusal of a householder planning application. Care should be taken in all cases to ensure that the new procedures are followed accurately, and thus it is recommended that professional advice be sought by Members from Development Control Officers should the need arise.

2. Recommendation

The Committee is asked to RESOLVE that

the information provided below be noted and taken into account in the future decision making and advisory processes.

3. Financial, Legal, Policy, Risk and Sustainability Implications

3.1 The increased number of opportunities to seek costs could result in an increase in the number of applications and thus awards made to the Council. However, providing that Officers and Members provide a robust planning case, the risk should be minimal, as the criteria for awarding costs will be published and so attempts to avoid such situations can be made.

3.2 Changes to internal procedures and systems, and training of staff may have minimal internal costs associated with them but will take time.

Legal

3.3 Officers and Members must be aware of the legislative changes when carrying out their daily functions to ensure compliance with the revised statutory framework.

Policy

- 3.4 There are no policy implications at this stage, although the revised legislation may influence the need for and content of future documents. There is a slight risk that, as the Local Development Framework (LDF) gains weight as it proceeds through to adoption, the Local Plan weight will reduce and result in appeal outcomes that are not as expected at the time of the original planning decision.

This is no different from the current system.

Risk

- 3.5 There are few perceived additional risks, above those already inherent within the appeal system.

Sustainability / Environmental

- 3.6 These are material considerations in each case, and so will always be considered through the statutory planning process and therefore need no further consideration here as they will not result in any specific implications.

Report

4. Background

- 4.1 The appeals system is set up to provide an independent review of planning decisions, in the light of the information submitted to the Local Planning Authority (LPA), the Development Plan framework for the site and any other relevant material considerations.
- 4.2 Through the legislative framework the procedures surrounding the appeals system are set out, implemented and enforced by the Planning Inspectorate (PINS). There are strict requirements and timescales clearly set out, for both LPAs and appellants to follow.
- 4.3 There are many different situations in which a planning applicant can make an appeal, and the most common are:
- a) Against refusal
 - b) Against the imposition of a condition
 - c) Against non-determination
 - d) Against the service of an Enforcement Notice.
- 4.4 The intention of the government, as advised by PINS, is to change the system to provide a *'modern, 21st century appeal service that is focused on the principles of proportionality, customer focus and efficiency'*.

In order to do this, these changes seek to alter the appeal system so that it is brought up to date, and made easier to engage in as well as being simpler and quicker to make decisions. The Inspectorate have circulated details of the proposed changes in a letter to LPAs. However the statutory instruments are yet to be published.

- 4.5 The new guidance and regulations will be provided on the appropriate websites and links to these will be provided to Members once they are available. The information summarised in this report is based on information provided by the Planning Inspectorate regarding legislation that is proposed to be enacted and come into force on 6 April 2009. However it has yet to be published at the time of writing.

Method of appeal

- 4.6 There are three methods of determining a planning appeal – written representations, where each side provide a written statement of case; informal hearings, where an Inspector leads an informal discussion following submission of statements from both sides; and public inquiries, which are a formal arena where each side has to submit initial and detailed statements, a joint statement of common ground (SCG) and have a barrister acting as advocate. This process is formal, with timescales for submission of documents set out in secondary legislation and takes longer to prepare and for the inquiry, and includes cross examination of expert witnesses. Currently, the appellant requests which procedure should be used when making their appeal and, whilst the LPA can challenge this, it is rarely successful as the Inspectorate tend to give appellants their right to be heard, if they have requested it.
- 4.7 Currently, the type of proposed development that is the subject of the appeal makes no difference to the choice of process to be followed.

Costs

- 4.8 Currently, there are strict rules regarding the circumstances in which an award of costs can be upheld by an Inspector, usually relating to unreasonable behaviour of either party. However, costs applications can only be made if the appeal is being determined at a hearing or inquiry, and not when dealt with using the written representations method.

Third party representations

- 4.9 Under the current appeal system, any representations made on the planning application are forwarded to the Inspectorate by the LPA, and the LPA also have a duty to notify all concerned of the appeal,

giving the Inspectorate address, making them aware that they are able to engage in the appeal process, and telling them how to get more information.

Notification of outcome

- 4.10 An appeal against a planning decision currently has to be made within 6 months of the LPA planning decision date (or expiry of determination period if no decision made). The Inspectorate's decision letter is sent by post to the appellant, LPA and anyone else who has requested a copy, as well as published on their website.

5. Key Issues

Method of appeal

- 5.1 The Planning Inspectorate will now have the power to decide which method will be used to determine an appeal – written representations, informal hearing or public inquiry – on the basis of the complexity or otherwise of the case, and, if it is anticipated, a set of criteria yet to be published.

Householder appeals

- 5.2 For appeals relating to householder applications, a new 'Householder Appeals Service' has been set up within the Inspectorate, which will provide a quicker service and be fully electronic, operating along similar lines to the current written representations process. This includes the following changes:-
- a) There is no longer an invitation for third party representations to be made specifically in relation to the appeal (see para 5.4).
 - b) The LPA will no longer be allowed to write a statement of case when the appeal is made, it will have to rely on the information contained on the planning file – either a delegated Officer report or a Committee report and minutes of the meeting, and also the decision notice itself, as before. This clearly has implications for Officers in terms of the way decisions are reached and recorded. Officers from appropriate teams are working together to find the best way forward on this matter. Members may note changes to the way this meeting is minuted in the future as a result of this.

Particular attention will need to be paid to the record of reasons why Members may sometimes seek to overturn Officer recommendations for approval. (Appendix 2 refers)

- c) Changes to the standard information that the LPA provides regarding the appeal process will need to be made internally, particularly in relation to making third parties aware of their potential involvement (or lack of) within any future appeal. The letter notifying of an appeal will also need to be amended in line with the new procedures, as well as the initial planning application notification letter. All these administrative tasks are being undertaken by officers in readiness for the changes in early April. This will be the case for all appeals, not just those relating to householder development.
- d) All information relating to householder appeals will need to be submitted to the Inspectorate electronically, either through their website or via email. Therefore, additional material will need to be scanned in order to be transmittable, and internal processes will need to change to accommodate this.
- e) It will become the LPA's responsibility to ensure that third parties are made aware of the outcome of the appeal, and that they capture and record the appeal decision in their planning file.

Costs applications

- 5.3 It appears that it will now be possible for appellants and LPAs to apply for costs in all cases, regardless of the method of appeal, and thus new procedures will be published regarding the criteria against which costs can be awarded, and the procedure to be followed for making applications for costs. It seems likely that the criteria for awards of costs would be similar to those currently in place, which relate to unreasonable and/or delaying behaviour by either party, failure to comply with procedural matters, incurrance of additional costs unnecessarily and other similar issues. Further information can be circulated to Members regarding these matters once they are published, if they are significantly different from the current system.

Third party representations

- 5.4 Third parties will no longer have an opportunity to make written comments direct to the Inspectorate. However the comments they made in relation to the planning application will still be forwarded to the Inspectorate by the LPA. The information provided at application stage to third parties will need to be altered to reflect this.
- 5.5 It is understood that third parties will, however, be given a right to be heard where the appeal is heard at an informal hearing or a public inquiry, whereas this is currently at the discretion of the Inspector. It is possible that procedures relating to registering to speak may be included in the new regulations.

Statements of Common Ground (SCGs)

- 5.6 The deadline for both parties to submit their SCG for a Public Inquiry has been moved earlier in the process, in order to provide more clarity and avoid wasted time and evidence, which is considered by your officers to be a sensible approach. This means that only the elements that are in dispute will be covered in proofs of evidence and at the inquiry, and those where agreement is reached need not be discussed, thus saving inquiry and preparation time.

Appeal decision notice publication

- 5.7 Appeal decision letters will no longer be posted to LPAs and appellants, but simply be published on the PINS website. This will prevent the current situation where third parties and appellants often make Officers aware of decisions by contacting the LPA about them after they are published online and prior to the receipt by the LPA of a hard copy in the post. It was not previously considered a good use of Officer time to regularly check the website for outcomes. However a new procedure will need to be put in place now to make regular checks for decisions.

6. Other Implications

Asset Management	-	Not normally applicable.
Community Safety	-	No perceived impact (it is a material planning consideration).
Human Resources	-	None perceived currently.
Social Exclusion	-	No perceived implications.

7. Lessons learnt

- 7.1 As this is a new procedure, there are no cases yet that have been processed this way, and therefore it is difficult to review any areas where improvements could be made. However, the changes to the system are in response to lessons learnt in relation to the operation of the current system, and therefore in principle to be welcomed.
- 7.2 It should be noted that the changes appear to relate to all appeals against planning applications registered on or after 6 April 2009, not all appeals received by the Inspectorate after that date, and therefore a period of 'bedding in' will occur over the next few months.

Planning Committee

31 March 2009

8. Background Papers

- 8.1 Town & Country Planning Act 1990 (as amended).
- 8.2 The Planning Act 2008.
- 8.3 Secondary legislation - when published (likely to be between report writing / publication and committee meeting).
- 8.4 Existing secondary legislation and circular (8/93) regarding appeal processes.

9. Consultation

There has been no consultation other than with relevant Borough Council Officers.

10. Author of Report

The author of this report is Ailith Rutt (Development Control Manager), who can be contacted on extension 3374 (email: ailith.rutt@redditchbc.gov.uk) for more information.

11. Appendices

Appendix 1 – Inspectorate letter detailing imminent changes to the system.

Appendix 2 – Annex to Inspectorate letter

There are no further appendices to this report, as the legislation and accompanying guidance have yet to be published at the time of writing.

12. Key

LDF	Local Development Framework
LPA	Local Planning Authority
PINS	Planning Inspectorate
SCG	Statement of Common Ground

INSPECTORATE LETTER DETAILING IMMINENT CHANGES TO THE SYSTEM

The Planning Inspectorate



*From the
Chief Executive*

4/08 Eagle Wing	Dire ct Line	0117-372 8963
Temple Quay House	Swit chb oard	0117-372 8000
2 The Square	Fax No	0117-372 8408
Temple Quay Bristol BS1 6PN	GTN e-mail: Katrine.Sporle@pins.gsi.gov.uk http://www.planning-inspectorate.gov.uk	1371 8963

All Chief Executive Officers
Local Planning Authorities
England

Our Ref: 21cas.lpa.1

Chief Planning Officer, Chief
Development Control Officer

Date: 03rd March 2009

Dear Chief Executive Officer

APRIL 2009 – CHANGES TO THE APPEAL PROCESS

I am delighted to be able to write to you today about the suite of changes to the appeal process that we will be implementing in April 2009. The Planning Act 2008, along with new secondary legislation and general guidance, allow me to offer you a modern 21st century appeal service that is focused on the principles of proportionality, customer focus and efficiency.

The changes that we are now implementing were consulted on in 2007 by Communities and Local Government in the Planning White Paper and the associated document 'Improving the Appeal Process in the Planning System'. The Government listened carefully to the views expressed by stakeholders in response to the consultation exercise, and these views helped focus our efforts in bringing forward the policy changes we believe will have the greatest impact in terms of delivering real improvements to the appeal service.

I am pleased to announce that the following changes will come into force on 6 April:

- The Planning Inspectorate will use its new power under s.319A of the Town and Country Planning Act 1990 to determine the appeal procedure to be followed for all planning and enforcement cases.

- A new, expedited process for householder appeals which are suitable for written representations, to be known as the “Householder Appeals Service”.
- The extension of the Costs regime to planning appeals and other planning proceedings dealt with via written representations.
- Amendments to the Hearings and Inquiries Rules to remove the 9 week written comment stage. Parties will still have the opportunity at the hearing or inquiry event itself to make comments.
- Amendments to the Inquiries Rules to require the submission of Statements of Common Ground 6 weeks after the appeal’s start date, rather than 4 weeks before the inquiry event itself (as now).
- New Guidance which will explain the changes and the procedures to be followed at appeal.

I’d like to draw specific attention to the “Householder Appeals Service”. This expedited process will bring a quicker, more proportionate appeals service to householders, many of whom find the current appeal process confusing and lengthy. I am also confident that Local Authorities will soon realise the efficiency savings that will result from a simpler system.

As with many new initiatives, there are a number of initial changes that need to be introduced in order to secure the long term advantages. Local Authorities will need to make some changes to processes at both the application and appeal stage to enable the Householder Appeals Service to work. I have attached some general guidance on this at **Annex 1** and urge you to take a closer look at this and share it with staff who will be responsible for implementing these changes. When the secondary legislation enabling the new process is made (within the next two weeks), we intend to issue more detailed guidance to Local Authorities explaining exactly what needs to be done to prepare for the Householder Appeals Service. Further information will also be made available on the Planning Portal website at www.planningportal.gov.uk under “21st Century Appeals Service”.

We are also emailing a copy of this letter to your Chief Planning Officer together with a link to two PowerPoint presentations one of which outlines all the changes being made to bring in the 21st century appeals service and the other provides a further overview of the HAS. These can be found at :

http://www.planning-inspectorate.gov.uk/pins/21st_century/appeals.ppt
http://www.planning-inspectorate.gov.uk/pins/21st_century/has.ppt

You may find these useful for when you cascade the necessary training or general awareness to your planning officers, administrators, elected Members and stakeholders. A copy of this letter and Annex is therefore enclosed for you to pass on to your Chief Planning Officer and Chief Development Control Officer or manager appointed to support these planning changes.

Finally if you require any further information or assistance specifically on the Householder Appeal Service please contact Gavin Ewing on 0117 372 8397 or by

emailing gavin.ewing@pins.gsi.gov.uk. For further information on the more general changes to our appeals service please contact our Customer Services Team on 0117 372 6372 or by emailing enquiries@pins.gsi.gov.uk.

Yours sincerely

Katrine Sporle

Katrine Sporle

ANNEX TO INSPECTORATE LETTER

Householder Appeals Service

What Local Planning Authorities need to do prior to 6 April 2009 to be ready for the new Householder Appeals Service

The Householder Appeals Service is officially going LIVE on 6 April 2009. This is the day that the relevant secondary legislation will come into force, bringing legal weight to a new, expedited procedure for householder appeals which proceed on the basis of written representations (to be known as the “Householder Appeals Service”). The secondary legislation will apply to householder applications (not appeals) submitted on or after 6 April. The Householder Appeals Service will be suitable for appeals against refusals on householder applications.

There are a number of changes that local planning authorities need to implement prior to 6 April 2009 to processes at both the application and appeal stage to enable the Householder Appeals Service to work.

When the new legislation enabling the process is made (within the next two weeks) we will publish more detailed guidance on exactly what actions you need to take – so please keep a look out for this.

We have outlined below the key changes:

- **Ownership notices (for applications and appeals); Site notices/Press notices/Website/Neighbour notification letters (for applications).** The minimum requirements for the content of these notices are set out in the Town and Country Planning (General Development Procedure) Order 1995 – we are making some minor amendments to these notices. You will need to ensure that notices relating to householder applications are changed to state that any representations made at the application stage are those that will be taken forward if an appeal against refusal is subsequently made, and that there will be no further opportunity to comment. When we issue more detailed guidance, we will advise of the wording which should be used and will provide templates. These will also be made available on the Planning Portal for you to either link to from your own websites or use as the basis for your own notices.
- **Delegated reports/Decision notices.** These documents will now form the basis of your Council’s position for householder applications which are refused under delegated powers and then proceed to appeal and are dealt with via the Householder Appeals Service. It will not be possible to submit any further written statements setting out your case. You may therefore wish to take this opportunity to review the structure and content of your delegated reports and decision notices for householder applications. You should make sure that in delegated reports you carefully explain the reasons for your decision, and that in decision notices you set out your reasons for refusal

clearly and precisely, including identifying any relevant policies contained in your LDF.

- **Committee reports and minutes/Decision notices.** These documents will now form the basis of your Council's position for householder applications which are refused by a planning committee

and then proceed to appeal and are dealt with via the Householder Appeals Service. It will not be possible to submit any further written statements setting out your case. It is particularly important, therefore, in cases where an officer's recommendation to approve is overturned by a committee, that the committee minutes are sufficiently detailed to explain the reasons for this decision. You should also make sure that in decision notices the reasons for refusal are set out clearly and precisely, including identifying any relevant policies contained in your LDF.

- **Advising applicants of the right to appeal on decision notices.** For householder applications which are refused, we are reducing the appeal time limit to 12 weeks. For other applications, the time limit to appeal will remain at 6 months. You will therefore need to ensure that the time limit specified in the notification of the right to appeal is altered depending on the type of decision. The minimum requirements for the content of this notification are set out in the Town and Country Planning (General Development Procedure) Order 1995 – we are making amendments to the wording in this notification. When we issue more detailed guidance, we will advise of the wording to be used and will provide a template for this notification. This will also be made available on the Planning Portal.
- **Appeal notification letters.** For appeals progressing through the Householder Appeals Service, although third parties will not be given the opportunity to comment, you will still need to notify interested parties that an appeal has been submitted. This will need to be done within 5 working days of the appeal start date. Your letters should notify third parties that an appeal has been submitted, and state that any representations made before the planning application was determined will be forwarded by the Council to the Secretary of State for consideration at appeal. The letters should not invite parties to submit representations. The minimum requirements for the content of this notice will be set out in new Written Representations Regulations. When we issue more detailed guidance, we will provide a form of suggested words in a template. This will be made available on the Planning Portal.
- **Provision of case file in electronic format.** For the Householder Appeals Service, councils will be expected to provide their completed questionnaire and a copy of each of the documents referred to in it to the Planning Inspectorate in electronic format. Please contact us as soon as possible if you cannot arrange for files to be sent electronically by April. Councils are encouraged to send us a sample of an electronic file ("test file"), before the new service is introduced. Please send all test files to gavin.ewing@pins.gsi.gov.uk

Planning

Appendix 2

Committee

31 March 2009

- **Appeal decisions.** The Planning Inspectorate will publish the Inspector's decision promptly on the Planning Portal. You are expected to provide any third parties who have requested a copy of the appeal decision when it is issued, or alternatively to direct them to where they can find an electronic copy of the decision on the Planning Portal, or your website.

Planning Committee

Matchborough and West Wards

31 March 2009

ENFORCEMENT OF PLANNING CONTROL

(Report of the Acting Head of Planning and Building Control)

1. Purpose of Report

To determine appropriate courses of action in respect of planning enforcement issues

Members are asked to consider various Enforcement matters, as detailed in the following reports.

2. Recommendation

The Committee is asked to RESOLVE

whether it considers it expedient to take the enforcement action specified in the following enforcement report(s).

3. Financial, Legal, Policy, Risk and Sustainability / Environmental Implications

Financial

- 3.1 There are no direct financial implications in the reports.

Legal

- 3.2 Legal implications are as detailed in the reports and as set out in the following Acts:-

Town and Country Planning Act 1990.

Planning and Compensation Act 1991.

Planning and Compulsory Purchase Act 2004.

Town and Country Planning (Control of Advertisements) Regulations 2007

Anti-Social Behaviour Act 2003.

Human Rights Act 1998.

Crime and Disorder Act 1998.

Policy

- 3.3 Policy implications are as detailed in the individual report(s), the Planning Enforcement Policy and as set out in the Borough of Redditch Local Plan No. 3.

Risk

- 3.4 As detailed within each specific report as appropriate.
- Town and Country Planning Act 1990.
 Planning and Compensation Act 1991.
 Planning and Compulsory Purchase Act 2004.
- 3.5 In terms of the exempt elements of the report, and the “public interest” test for exempt consideration, Officers consider that it is rarely likely to be in the public’s best interest to reveal information which is the subject of possible subsequent legal action (S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order, 2006) refers.
- 3.6 Under Article 8 of the European Convention on Human Rights, everyone has the right to respect for his/her private and family life, home and correspondence.
- 3.7 Interference with this right is only allowed in limited circumstances where it is in accordance with the law and is necessary in a democratic society for, among other things, the protection of the rights and freedom of others. A balance needs to be drawn between the right to develop land in accordance with planning permission and the rights under Article 8 of adjacent occupiers.

Sustainability / Environmental

- 3.8 As detailed in each individual Enforcement report.

4. Other Implications

Any Asset Management, Community Safety and Human Resources implications will be detailed in the attached separate report(s).

Social Exclusion: Enforcement action is taken equally and fairly, regardless of the status of the person or organisation, or the subject of enforcement action.

5. Consultation

There has been no consultation other than with relevant Borough Council Officers.

6. Author of Report

The author of this report is Iain Mackay (Planning Enforcement Officer) who can be contacted on extension 3205 (e-mail: iain.mackay@redditchbc.gov.uk) for more information

7. **Attachments**

In view of the fact that they contain confidential information relating to the affairs of individuals and their identities and information relating to alleged breaches of Planning Control which could result in prosecution by the Council, the personal information attached to this report has been made available to Members and relevant Officers only.

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

Planning

Committee

3 March 2009

ENFORCEMENT REPORT – 2007/195/ENF

Non-compliance with requirements of a Section 215 Notice Munsley Close, Matchborough, Redditch

(Matchborough Ward)

1. Background / Key Issues

- 1.1 This matter comes before Members with regard to non-compliance with a Section 215 Notice authorised by the Planning Committee at its meeting in September 2008 and issued on 6 October 2008.
- 1.2 The Section 215 Notice related to the condition of a property in Munsley Close, Matchborough which Officers described to you as follows:

“the back garden was so overgrown that it would be almost impossible for the owner to go outside and walk around in it, and further, a lean to extension to the rear of the property was in a state of near collapse. It was also noted that vegetation had taken root and was growing strongly on the roof of the garage”.
- 1.3 The Notice took effect on 10 November 2008 and required the removal of all overgrown vegetation in the rear garden; the removal from the garage roof of all vegetation growing on or through it; the repair of the lean-to extension to the rear; and the pruning and reduction in height of all trees overhanging the boundaries of the adjacent properties. The notice allowed a period of 3 months for compliance. No appeal to the Secretary of State was made with regard to the notice.
- 1.4 On 11 March 2009, the property was visited again, at which time it was found that the rear garden remained heavily overgrown, the lean-to had deteriorated further, the vegetation on the roof remained, albeit the winter weather had killed it off, and that the overhanging trees remained in situ and had gone into flower.

2. Conclusion

- 2.1 It is considered that the Section 215 Notice has not been complied with in that the owner of the property has failed to clear the land as required. Failure to comply with a Section 215 Notice is a criminal offence.
- 2.2 The condition of this site is adversely affecting the residential amenity of the area. Your Officers consider it expedient that legal action be undertaken to secure a cessation of this breach of planning control.

3. **Recommendation**

The Committee is asked to RESOLVE that

authority be delegated to the Head of Legal, Democratic and Property Services, in consultation with the Acting Head of Planning and Building Control, to take enforcement action by way of instigating proceedings in the Magistrates Court, if necessary, to secure a cessation of the breach of planning control.

Planning

Committee

3 March 2009

ENFORCEMENT REPORT - 2008/059/ENF

Non-compliance with requirements of a Section 215 Notice Fenwick Close, Headless Cross, Redditch

(West Ward)

1. Background / Key Issues

- 1.1 This matter comes before Members with regard to non-compliance with a Section 215 Notice authorised by Planning Committee at its meeting in September 2008 and issued on 20 October 2008.
- 1.2 The Section 215 Notice related to the condition of a property in Fenwick Close, Headless Cross which Officers described as follows:

“full of old fence posts, slabs, wood, plastic buckets, wire and other unidentifiable detritus”. The rubbish extended to the front, side and rear of the property.”
- 1.3 The Notice took effect on 28 November 2008 and required the removal of all wood, fencing, plastic buckets, piping, cable, tyres, corrugated plastic, wheelbarrows, trailers, tent-like structures and included all articles stored under tarpaulins, and the tarpaulins themselves. It also required the re-instatement of the fencing to the northern boundary. The notice allowed a period of 3 months for compliance. No appeal to the Secretary of State was made with regard to the Notice.
- 1.4 On 12 March 2009, the property was re-visited when it was noted that the property remained cluttered with the same rubbish and detritus as before, and that no effort had been made to comply with the Notice whatsoever.

2. Conclusion

- 2.1 It is considered that the Section 215 Notice has not been complied with in that the owner of the property has failed to clear the land as required. Failure to comply with a Section 215 Notice is a criminal offence.
- 2.2 The condition of this site is adversely affecting both the visual and residential amenity of the area. Officers consider it expedient that legal action be undertaken to secure a cessation of this breach of planning control.

3. **Recommendation**

The Committee is asked to RESOLVE that

authority be delegated to the Head of Legal, Democratic and Property Services, in consultation with the Acting Head of Planning and Building Control, to take Enforcement action by way of instigating proceedings in the Magistrates Court, if necessary, to secure a cessation of the breach of planning control.

Planning Committee

3 March 2009

ENFORCEMENT REPORT - 2008/165/ENF

Non-compliance with requirements of a Section 215 Notice Barford Close, Matchborough, Redditch

(Matchborough Ward)

1. Background / Key Issues

- 1.1 This matter comes before Members with regard to non-compliance with a Section 215 Notice authorised by the Planning Committee at its meeting in September 2008 and issued on 23 September 2008.
- 1.2 The Section 215 Notice related to the condition of a property in Barford Close, Matchborough which Officers described as follows:

“the garage had lost its roof and had been covered with unattractive blue tarpaulin like material and the side wall and fence of the property had partially collapsed, revealing a very overgrown rear garden. There were bags of waste materials, bricks and other detritus both on and around the curtilage of the property”.
- 1.3 The Notice took effect on 31 October 2008 and required the removal of the tarpaulin from the garage roof and a permanent roof put on; the re-instatement of the boundary fencing and repairs to the brickwork; and the tidying of the rear garden, including the removal of all waste materials and overgrown vegetation. The notice allowed a period of 2 months for compliance. No appeal to the Secretary of State was made with regard to the notice.
- 1.4 On 15 January 2009, the property was visited again, at which time it was noted that the property remained in a poor condition and that the works required by the Notice had not been carried out.
- 1.5 On 4 March 2009, Officers again visited the property and found that there had been no improvement since their previous visit.

2. Conclusion

- 2.1 It is considered that the Section 215 Notice has not been complied with in that the owner of the property has failed to clear the land as required. Failure to comply with a Section 215 Notice is a criminal offence.
- 2.2 The condition of this site is adversely affecting both the visual and residential amenity of the area. Your Officers consider it expedient that legal action needs to be undertaken to secure a cessation of this breach of planning control.

3. **Recommendation**

The Committee is asked to RESOLVE that

authority be delegated to the Head of Legal, Democratic and Property Services, in consultation with the Acting Head of Planning and Building Control, to take Enforcement action by way of instigating proceedings in the Magistrates Court, if necessary, to secure a cessation of the breach of planning control.