



Date: 20th September 2012

Report of Head of Planning and Building Control

84 Broadway North, Walsall.

1.0 PURPOSE OF REPORT

To inform Members of the unauthorised display of a business advertisement at the property, and consider the justification for taking planning enforcement action.

2.0 RECOMMENDATIONS

2.1 That authority is granted to the Head of Legal and Democratic Services, in consultation with the Head of Planning and Building Control, to carry out prosecution action in respect of the display of the advertisement sign which announces the name of the business and its nature.

3.0 FINANCIAL IMPLICATIONS

None arising from the report.

4.0 POLICY IMPLICATIONS

The report recommends enforcement action in order to seek compliance with planning policies.

5.0 LEGAL IMPLICATIONS

The Town and Country Planning (Control of Advertisements) Regulations 2007 grant an automatic consent (called 'deemed consent') for certain types of advertisements in certain circumstances. Advertisements may also be displayed following a grant of consent following application to the local planning authority or an appeals inspector. However where no consent exists for displaying an advertisement, a prosecutable offence is being committed under section 224 of the Town and Country Planning Act. There is no enforcement notice that can be served in such circumstances an enforcement action takes the form of prosecution in the Magistrates Court.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None

7.0 ENVIRONMENTAL IMPACT

The report seeks enforcement action to remedy an adverse environmental impact.

8.0 WARD(S) AFFECTED

Paddock

9.0 **CONSULTEES**

None

10.0 **CONTACT OFFICER**

Philip Wears

Planning Enforcement Team: 01922 652485

11.0 **BACKGROUND PAPERS**

Enforcement file not published

D Elsworthy

Head of Planning and Building Control

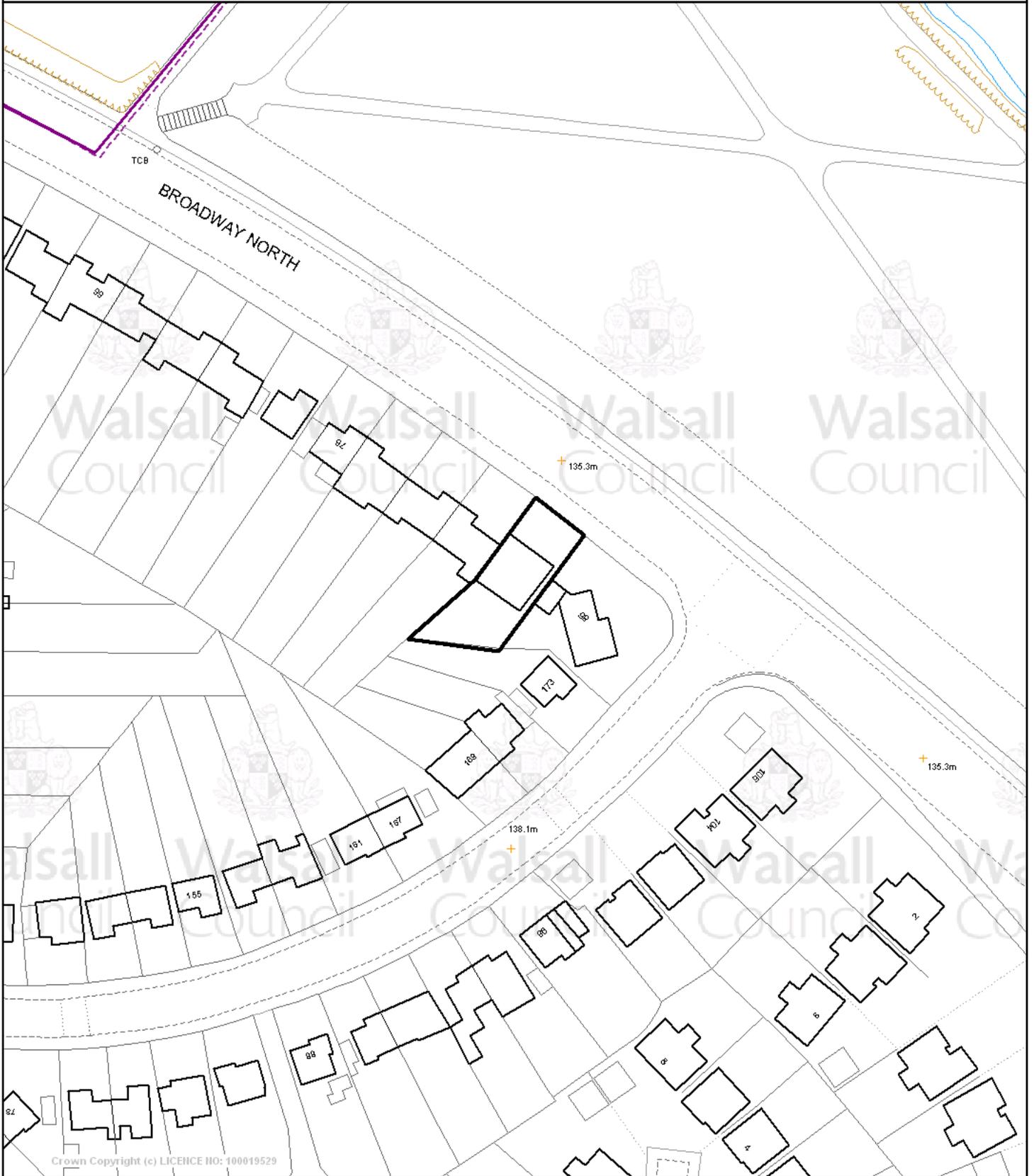
Planning Committee
20th September 2012

12 BACKGROUND AND REPORT DETAIL

- 12.1 84 Broadway North is an extended 4-bedroomed house located in a residential frontage. A location plan is attached to this report. Following a report to the Planning Committee in May 2011, and subsequent planning applications, an Enforcement Notice was issued in respect of the use of two rooms for providing tuition classes to children and teenagers. Prosecution action has taken place on two occasions for failure to comply with the Notice, the latest on 6th August 2012, with fines and costs being awarded on both occasions. Very shortly before the last Court appearance the classes ceased and it is understood that these are now taking place elsewhere, and with planning permission.
- 12.2 Whilst the business was being carried on at the house your officers accepted that a freestanding sign in the front garden, which has been displaying the business name, and indicating tuition classes are available, has been lawful under the Control of Advertisements Regulations. This lawfulness did not derive from the provisions for full business premises owing to the domestic nature of the premises, but was under a provision for miscellaneous advertisements relating to the premises on which they are displayed. This provision consents one advertisement only, up to a maximum size of 0.3 sq metres only, where it relates to any person, partnership or company separately carrying on a profession, business or trade at the premises where it is displayed.
- 12.3 Officer inspections indicate that tuition classes at the house have ceased and the business use is no longer being carried on to a significant extent. Although the owners state that phone calls are still taken and some work is done on business accounts out of hours, this does not in your officers view comprise a significant business use which affects the character of the property and requires planning permission. Officers consider that this allowance under the Control of Advertisements Regulations should not be interpreted as applying to 'de-minimis' business uses such as this. On that basis the sign is unlawful.
- 12.4 The sign is located about 1 metre back from the pavement and consists of a sign board, measuring about 0.9 metre long and 0.3 metre deep, mounted on a post to give an overall height of about 2.4 metres. The sign and post are in neutral colours and relatively small, and therefore are not considered to be unduly obtrusive in the street scene. However when viewed at close range from the carriageway on Broadway North and the pavement, the sign may be considered to appear rather incongruous and harmful to amenity, by reason of its height, position and commercial content. Also, when the rear of the sign is viewed from adjoining houses to each side, its height and utilitarian nature may be considered to cause some harm to residential amenities. In considering whether to enforce Members need to be aware that a sign of similar position, height and size could be lawfully displayed under another allowance to show for example the house name, but this could not include commercial content. On balance officers consider that enforcement action is justified against the existing free-standing sign .

12.5 Other signage on the premises comprises two signs on the house itself, namely a brass plaque showing the name and qualification of an occupant, and a small house-name sign. Although having two such signs appears to your officers to exceed strict application of the Control of Advertisements Regulations, these signs are not considered harmful and no action is therefore recommended against these.

84 Broadway North, Walsall



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