

EXISTING CASES

ENF.170/3354

Date First Placed on Agenda: 14.7.04

Relevant Policy: D.3, D.10

Ward: Areley Kings

N. Grid Ref. SO 800 699

Alleged Breach of
Planning Control:

**The erection of a fence
which encloses amenity
land and the laying of a
gravel hardstanding area
on land adjacent
34 BOWPATCH ROAD
STOURPORT ON SEVERN**

1. Location and Description

- 1.1 The site lies adjacent to a public footpath which connects the two cul-de-sacs of Callow Close and Wrekin Walk in Areley Kings. It was described as an "open green area" on the plans for the estate which were originally approved in 1971.
- 1.2 Although the land has been maintained by the District Council for many years it is not within Council ownership. The land has been purchased by the occupiers of 34 Bowpatch Road and is now being used to access the footway crossing located in the turning head of Callow Close. It is understood that this is in order to avoid using Bowpatch Road which is unadopted and consequently poorly maintained.
- 1.3 A cotswold stone driveway and turning area has been laid and fencing has been erected around the area. Because the hardstanding is not within the curtilage of the dwelling house planning permission is required. The fencing consists of concrete gravel boards with close-boarded fencing on top bringing the approximate height to 1.8 metres. Part of the fencing is adjacent to a highway and therefore requires planning permission in its own right.
- 1.4 As the fence encloses land which has previously been 'amenity land' this is an indication that the use of the land has changed to land used in association with a dwelling house. Officers take the view that this constitutes a material change of use and is therefore development which requires planning permission.

2. Planning History

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| 2.1 | SU.275/71 | 111 dwellings with garages. | Approved 7 th December 1971 |
| | WF.987/04 | Change of use of land to private residential curtilage, erection of fence and gates and laying of hardstanding in association with creation of new access (Retrospective) | Refused |

3. Officer Comment

- 3.1 The former 'open space' provided considerable amenity value for, not only immediate neighbouring properties, but also a wider area of Areley Kings particularly as the adjacent footpath forms a part of a well-used network of public paths.

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- 3.2 The matter has become a focus of concern for residents and several letters have been received both in support of, and in opposition to, the development. In addition, an action group (Areley Kings Amenity Protection) has been formed.
- 3.1 A planning application for a reduced scheme has been refused by the Planning (Development Control) Committee and at a previous meeting of this Committee, Members authorised the service of an Enforcement Notice.

4. Conclusion

- 4.1 The case has been considered in the light of the Human Rights Act of 1998 in respect of Article 1 of Protocol 1 (Right to Property) and Article 8 (the Right to a Private Family Life). Members will need to consider whether the extent of the interference is proportionate to the public interest.
- 4.2 The Enforcement Notice has been served and notification of appeals against the refusal of planning permission and the Enforcement Notice have been received.

5. Recommendation

- 5.1 Await the result of the Appeals.

Current Position on 13th July 2005

Planning Application	✓	Enforcement Notice Served	✓
Planning Appeal	✓	Enforcement Notice Compliance Date	
Planning Contravention Notice Served	✓	Enforcement Appeal	✓
Planning Contravention Notice Returned	✓	Prosecution	