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Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 1.

Reason for bringing to committee: Major Planning Application

Location: LAND AT WINTERLEY LANE, RUSHALL, WALSALL

Proposal: TO COMPLETE THE INFILLING OF MINESHAFTS ON SITE AND RESTORATION OF THE LAND TO PROVIDE A NATURAL BURIAL GROUND.

Application Number: 17/0439

Applicant: Aldridge Construction Engineering Limited

Agent: Mrs Rebecca Ballinger

Application Type: County Matters: Minerals Application

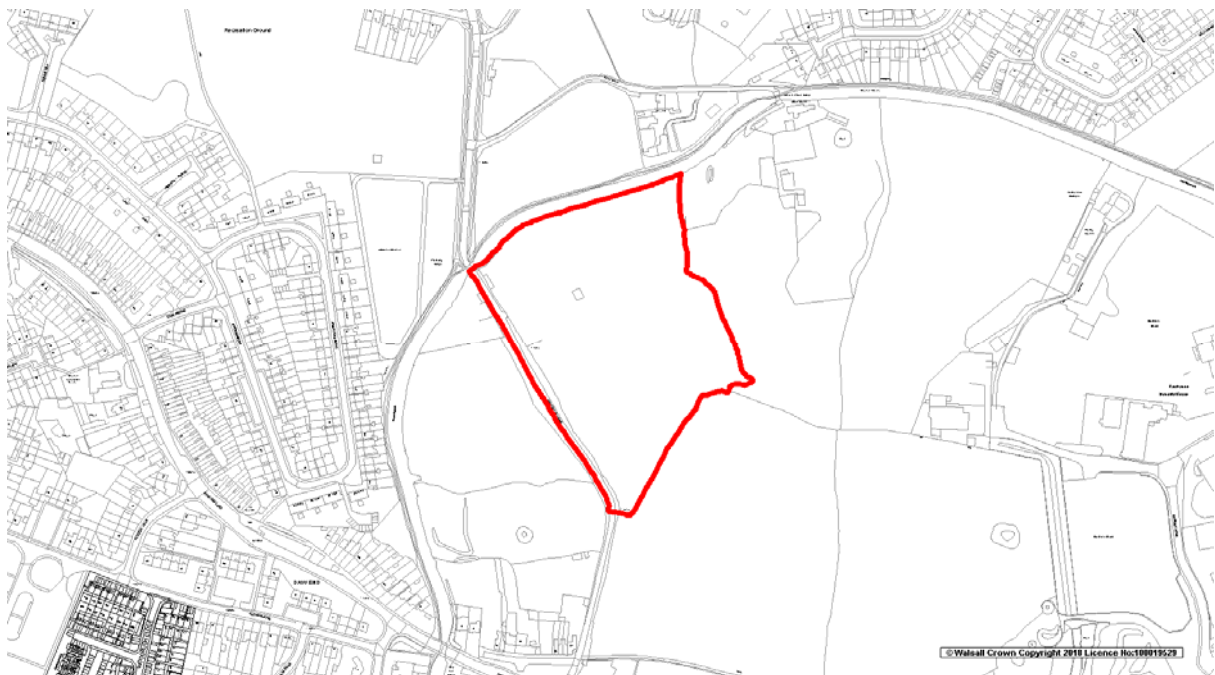
Case Officer: Stuart Crossen

Ward: Rushall-Shelfield

Expired Date: 23-Aug-2017

Time Extension Expiry:

Recommendation Summary: To allow the head of planning, engineering and transportation to grant permission subject to conditions and no new material considerations which have not already been assessed, following the conclusion of the re-consultation on the amended car parking layout.



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Proposal

The application proposes to complete infilling of existing mineshafts and for the restoration of the land to provide a natural burial ground cemetery.

The application proposes to create a cemetery with capacity for around 6,450 burial plots. A sculpture garden network of mown paths and hard surfaced paths using crushed stone chippings embedded in a geotextile matrix are also proposed.

The proposed cemetery / natural burial ground would be accessed from Winterley Lane, using the existing access point and a surfaced roadway which connects to the car park.

The agent has confirmed 50 car parking spaces are proposed, 2 would be designated disability spaces.

There would be one employee based at the site.

The opening hours are proposed to be 09:00 – 17:00 Monday to Saturday and 10:00 – 16:00 on Sunday.

The **general design statement** explains that “Natural burial is a term used to describe the burial of human remains where the burial area creates habitat for wildlife or preserves existing habitats (woodland, species rich meadows, orchards, etc.), sustainably managed farmland, in-situ or adjacent aquatic habitats or improves and creates new habitats which are rich in wildlife (flora and fauna). Where a funeral precedes such burial, it would typically seek to minimise environmental impact.”

The **planning statement** argues that there is a local need for the natural burial ground as the other nearest one is in Wrotesley near Wolverhampton. The statement argues very special circumstances on these grounds and in addition that that the scheme would enhance biodiversity, regenerate derelict land and would deliver economic benefits through construction operational employment.

The **archaeological survey** concludes that the potential for complex archaeological remains predating 19th Century to be on site are low to moderate and high for 20th Century lime working.

A **biodiversity, mitigation and management plan** has been submitted which proposes enhancements including bird and bat boxes, reptile log pile.

The **design and access sustainability statement** provides the following relevant details:

Post and rail fencing currently secures the four perimeters of the proposed site. It is proposed to maintain this fencing but enhancing it with the planting of hedge species where hedging has become defunct or where no current hedging exists. The burial areas will be seeded to provide formal grassed lawn areas.

The eastern boundary will be replanted with indigenous trees to form a screen from the canal towpath and to provide a woodland/natural burial area.

Page 7 also refers to the use of traditional carved head stones, however the agent has confirmed that only wooden plaques to mark individual grave plots which will decompose over time.

The submitted **Ecological Report** considers the likely impacts on nature conservation of the scheme for the treatment of the remaining two shafts, the reprocessing of all previously deposited waste materials (by way of crushing and screening and to remove unsuitable materials) and to condition imported materials to produce suitable restoration materials. The report recommends the retention of the hedges and the brick walled and tile roofed stable block at the north-west of the site to ensure there is no significant impact on bats

Mitigation measures are proposed to address potential negative impacts on the adjacent canal SLINC (including the water vole and otter it may support).

The submitted **habitat survey** states that in respect to Ecology there are no overriding constraints to prevent development. Recommends bat and bird boxes

The **flood risk assessment** (FRA) proposes a bund to be constructed 5 metres from the canal with a ditch to prevent runoff towards the canal and all water will be directed into an excavated areas within the site. The ditch will last for a 30 month period (the duration of the estimated mine shaft infilling) and will be regularly inspected to remove any silt build up during the works.

The **submitted transport statement** concludes that the likely additional traffic movements could be comfortably accommodated without significant impact on the safety or capacity of the surrounding transport network. Off peak operation would ensure virtually no impact on existing peak times. It also recommends that the main access is from Bosty Lane and that there is sufficient parking provision.

A **Land Visual Impact Assessment** has been submitted which concludes that any landscape and visual impacts derived can be mitigated and can also provide opportunity to enhance the biodiversity of the site.

A **supporting statement** has been submitted in support of a further four month period for infilling and capping of the former limestone mineshafts. The following key information has been provided:

The scheme was originally covered by the 2014 permission however due to weather constraints the work is not yet complete and didn't achieve the approved July 2016 deadline.

3 Shafts have been infilled and capped.

2 further shafts have been identified and will be treated as part of the next phase of work.

Confirms that the bund referred to in the FRA was implemented to carry out the mitigations measures along the canal which are completed and this bund now removed.

The **Pollutant Impact Assessment** is based on 40 to 50 burials per annum and concludes that the results of the assessment undertaken it is possible that Ammonium or Nitrate contamination from the proposed cemetery development could cause some impact to the off-site groundwater quality. However, with the application of a zeolite layer it is unlikely that there would be impact to the off-site groundwater quality.

Site and Surroundings

The site area is 3.74 hectares.

The site is located in Rushall, a residential area one mile northeast of Walsall. In the past, the area was widely mined for coal and limestone. The site has also historically been used for horse grazing and latterly inert landfill. A branch of the Wyrley & Essington Canal (The Daw End Branch) bounds the site to the north. The site is located to the east of Lichfield Road (A461) which connects Rushall to Walsall in the South and Lichfield to the Northeast.

The site is in the Green Belt and there is a Tree Preservation Order on trees near the front of the site (AB2/1960).

Relevant Planning History

16/0769 - Change of use to create a cemetery/natural burial ground – Withdrawn 05/01/17

14/0191/WA - Infilling and capping of former limestone mine shafts using on site and imported inert fill processed using a crusher and screen to make engineered infill materials with a reduced scheme to protect the area of the former lime kilns and to restore the ground within 12 months to open space. – GSC 19/05/14

13/0652/FL - Fill and cap mine shafts including ancillary aggregate/waste recycling to produce materials suitable for reclamation of the site and treatment of shafts and voids, construct a temporary bund along the canal and restore original land levels to return the site to open grazing. Construction of new access and provision of temporary passing bays on Winterley Lane – Withdrawn 21/11/13.

09/0695/FL – Fill and cap collapsed mineshaft and restore original levels to an area in a field which has compressed due to previous mine workings – Granted subject to conditions 31/7/09.

05/0512/FL/E5 – Proposed alteration/extension to 2 no. Existing stabling units – 1 traditional construction, 1 cladding to existing frame – Withdrawn 20/12/07

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic,

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social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act ’) sets out 9 protected characteristics which should be taken into account in all decision making.

It is considered that the development which takes account of the context of the land designation and past mining activities may not benefit people of all characteristics as set out in the Equalities act, however it is considered that it also does not disadvantage any of these character groups and for this reason is acceptable.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM1: Sustainable Waste and Resource Management
- WM2: Protecting and Enhancing Existing Waste Management Capacity
- WM3: Strategic Waste Management Proposals
- WM4: Locational Considerations for New Waste Management Facilities
- WM5: Resource Management and New Development

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV1: The Boundary of the Green Belt
- ENV2: Control of Development in the Green Belt
- ENV3: Detailed Evaluation of Proposals within the Green Belt
- ENV4: Major Developed Sites in the Green Belt
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV32: Design and Development Proposals

- ENV33: Landscape Design
- T1 - Helping People to Get Around
- T2 - Bus Services
- T3 - The Rail and Metro Network
- T4 - The Highway Network
- T5 - Highway Improvements
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC8: Local Community Facilities

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm

- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Planning Policy – Comments provided based on pre 2018 NPPF and examples of case law.

Pollution Control – No objections, recommend conditions to secure measures of controlling noise and dust. A method of cleaning vehicle wheels before they exit the site onto the highway should also be agreed. The site is some distance from residential premises and no noise complaints have been received but it is recommended that measures to control noise are secured by condition and mitigation measures proposed are fully implemented. A condition is recommended to ensure the materials to make up the ground levels are chemically tested for suitability.

Structures – No objections subject to methodology statement

Transportation – No objections subject to conditions for passing bay engineering details, traffic warning signs, consolidated surfaces and construction methodology statement. Concern raised about the 30 parking spaces which conflicts with transport statements parking requirements of 50 spaces.

Canal & Rivers Trust – No objections subject to a condition preventing burials within 10 metres of the Canal, details of protective bunds, landscaping and drainage and for the submission of a restoration methodology.

Structures – No objections subject to methodology.

Bereavement Services – No objections, confirmed that Walsall Council has no plans to provide a natural burial ground.

Flood Risk Officer – No objections, do not consider that there will be any increase in surface water runoff.

Coal Authority – No objections

Environment Agency – No objections, infilling may require controlled waste permit and a condition is required in relation to requirements for burials to prevent pollution.

Natural England – No objections

Environmental Health – No objections

Inland Waterways Association – No objection likely to have a positive impact on the outlook from the canal.

Archaeology Officer – No objection subject to a condition requiring survey work across the whole site.

Representations

28 Objections received from 19 residents, a Unison representative and a former resident on the following grounds (*officer comments in italics*):

Environmental disaster

Will require more HGVs

Making money for site owners

Winterley Lane too narrow for funerals and HGVs

Contamination risk to caverns, canal and ditches

Land should be given to residents as compensation for existing work

Newspaper cutting from the Daily Express about a Councillor in Wealdon District Council who altered her grade 2 listed house illegally. (*Not clear what the objection is or how it relates to this case*)

Grainy photos supplied which may relate to unauthorised tipping, water on the highway and sinking of ground. (*None relate to the proposal but previous complaints*)

Pollution from dust

The application is being delayed because of the number of objections

Accusations of corruption by members and Council Officers. Historic complaint letters resent.

Flooding

Unstable land not appropriate for burials

Smell

Land should returned to its original form

Water pollution

The company applying for permission do not follow rules, regulations or planning permission.

Bridge unsafe to use

Dangerous access from Winterley Lane onto Daw End Lane

The previous permission should be completed in full.

Land is an eyesore

Land should be made available for local people to enjoy the outdoors.

There might be more unrecorded mineshafts

Noise

Winterley Lane isn't 20mph contrary to application suggestions

Contamination of Meekes farm would lose their organic status

Limited legislation covering private burial grounds

There needs to be a retaining structure to protect the canal.

Too much hardstanding

Taking too long to determine

Public would not want to use the site due to the proposed use

Consultation period not long enough

Devalue properties (*not a material planning consideration*)

Air pollution

Would affect horses

Will the material infill be monitored

No need for the development

A large number of the complaints relate to the previous work carried out at this site.

8 petitions have been received with a combination of 842 signatures on the following grounds:

Previous permission isn't completed

Inappropriate use due to geology and presence of underground water courses.

Winterley Lane not suitable for proposed use

The applicant has also used the representations process to complain about anti-social behaviour on their site.

Determining Issues

- **Principle of Development**
- **The Character and Openness of the Green Belt**
- **Neighbouring Amenity**
- **Pollution**
- **Archaeological Considerations**
- **Canal**
- **Land Stability**
- **Ecology**
- **Parking and Access**
- **Environmental Impact Assessment (EIA) Screening Opinion**

Principle of Development

The principle of remediation and mitigation of derelict and unstable land is supported, where appropriate, by paragraph 109 of the NPPF and saved policy ENV14 of the UDP. The site is a former lime works site where mine shafts have been identified that are affecting the stability of the land. In this case the key consideration is whether the proposed use is acceptable in the green belt.

When the application was submitted Paragraph 90 of the NPPF included a list of further development that was considered to be not inappropriate in the green belt has been taken to be a closed list; this list did not include crematoria, cemeteries or green burial grounds. In July the NPPF was updated and paragraph 146 provides a new list of other forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This list includes changes of use for burial grounds. The principle of the change of use is therefore acceptable. Whether the ancillary structures or buildings preserve the openness of the green belt is considered below.

The Character and Openness of the Green Belt

The proposed physical development of the site relates to hardstanding pathways and parking areas. The site would predominantly be soft landscaped. Taking account that a change of use is not inappropriate development in the green belt it is reasonable to expect a level of infrastructure to ensure that the use can be functional, and the minimal level of hardsurfaced path and the 50 car parking spaces proposed is considered would preserve the openness of the green belt and would not conflict with the purposes of including land within it.

The use of traditionally carved head stones are considered would potentially have an impact on the character and openness of the green belt, as the agent has confirmed that only wooden plaques would be used a condition to this effect can be attached to permission if granted.

Neighbouring Amenity

The site is in a semi-rural location but is accessed via residential areas. Remediation work to the mine shafts began in January 2013 and residents experienced disruption from noise and dust, particularly from the crusher on the site and increased commercial vehicles utilising Winterley Lane.

Pollution Control acknowledges the distance from the site to the nearest residential premises and the fact that, to date, we have not received any noise complaints about activities at the site. Notwithstanding this, in order to safeguard the amenity of the nearest residential premises, Pollution Control recommends that a planning condition is incorporated into any permission granted that will ensure noise from the site should not have a significant impact on occupiers of nearby residential premises..

Concern has been raised about the impact on amenity of the proposed natural burial ground use. It is recognised that the comings and goings of up to 50 cars in relation to the proposed use would have some impact on local amenity, however the

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application proposes just 40 to 50 burials a year which is less than 1 a week, is considered to be low impact and unlikely to cause any significant disturbance to warrant refusal.

Previously the timescale for the completion of the infilling was restricted to five years. Unfortunately this previous undertaking was not completed in time which has required a new application. In addition to the standard commencement time condition, a condition is required to restrict the overall period of operations to ensure that adverse impacts of development do not continue indefinitely.

Complaints have also been raised about the appearance of the site. The Council has powers to take action against untidy sites where warranted through a section 215 notice.

The applicant has submitted operating hours for the site but Pollution Control recommends that the condition regarding hours of operation from planning Decision Notice 14/0191/WA is carried forward to this application in the interests of neighbouring amenity.

Pollution

The Environment Agency (EA) consider that the modelling appears thorough and realistic. The modelling indicates that the proposed natural cemetery would not pose a risk to groundwater in the area over time. Measures to prevent pollution to the adjacent canal must be taken, e.g. no overland flow and no site drainage to canal allowed. The EA have advised that a condition is attached with minimum requirements for burials if planning permission is approved.

The proposals indicate that made ground currently covering the site to a depth of up to two metres is to be excavated, screened and re-deposited following filling and treatment of any mine shafts discovered during the works. No mention is given of how the suitability of such materials for this use is to be managed. The applicant has not provided any information that chemical testing of the constituents of the made ground has been undertaken or that there is to be any testing of materials, post excavation and screening, to ensure their suitability for use before they are re-deposited. To address this Pollution Control recommend that a condition is imposed requiring chemical testing of materials and soils to be deposited or re-deposited in order to achieve the proposed landform levels detailed in the application. A validation report containing details of the testing and confirming that materials re-deposited are suitable for the end use should also be required.

Measures for controlling dust, flying debris and drag-out from activities on the site are provided in a supporting statement contained within the application. Whilst the dates given in the report are not relevant to this application, (we understand that the statement was provided in support of a previous application), the specified mitigation measures remain relevant to this application. Under such circumstances, a condition to implement these measures can be included with any permission granted.

The Environment Agency have recommended that burials are a minimum of 30m from a watercourse or spring, 20m in excess of that required by Canal & River Trust which can be conditioned.

There are no air pollution concerns raised by Pollution Control other than the requirement to control dust.

Neither Pollution Control, Environmental Health nor the Environmental Agency have raised specific concerns about potential smell as a nuisance.

Materials and soils used for infilling require chemical testing and a condition can be attached in accordance with Pollution Control advice, furthermore this would be managed as part of the waste management permit through the Environment Agency.

An objection has been raised about potential contamination of Meekes farm who could lose their organic status. Contamination is considered above and mitigation is proposed, no evidence or specific information has been provided about the potential for cross contamination, for these reasons greater weight is given to benefits of remediating the site.

Archaeological Considerations

The NPPF encourages protection and enhancement of valued landscapes and geological conservation and preservation of heritage assets where appropriate. Saved policy ENV26 of the UDP seeks to protect the Borough's industrial archaeology including canal heritage. The site was last used for grazing purposes but was formerly occupied by Winterley Lane Limeworks. The approved scheme and this application proposes to retain an area of land in the north of the site that is not to be disturbed as it is where the most significant archaeological remains are located.

The NPPF requires consideration of the scale of any harm or loss and significance of the heritage asset. In considering the previous scheme the proposals were amended to reduce the potential archaeological impact by identifying an area not to be disturbed adjacent to the canal where the archaeology will remain. This area was considered where the most significant remains were been identified. Although the remainder of the site is to be excavated which would disturb or remove the archaeological remains the site is not listed as a Scheduled Monument so was not considered a significant heritage asset worthy of permanent retention. It was acknowledged that not all archaeology throughout the site would remain. The public safety benefit of completing the treatment of the mine shafts and restoring the land back to use were considered to outweigh the loss of this non-designated heritage asset.

The Archaeological Officer has raised concerns about the previous approach and the work which was previously conducted on the site, however no recommendations are made specifically for this proposal and it is not possible to use the current application to put right any previous issues through condition as they would not meet the six tests. Notwithstanding this assessment a condition supported by the Archaeology Officer can be attached which requires that the approved methodology contained within the Archaeology Report will be carried out and the project monitored, reported, published and archived in relation to the current scheme.

Canal

The current restoration proposals indicate the provision of a 5m buffer to the canal with a 1m high bund during the restoration works. It is therefore important to ensure

that the works are carried out appropriately and the full details on the bund and overall restoration methodology are submitted for assessment.

There is a discrepancy between the supporting statement and flood risk assessment relating to the requirement for drainage ditches and bunds. Notwithstanding the submitted details the full details on the construction of the bund and measures to prevent the material, from which the bund is constructed, from washing into the canal are required by Canal and River Trust. The Trust also require details to demonstrate that the bund does not impart any additional loads onto the bank and has been constructed using 'clean' material, free from invasive species along with details on planting proposed to the bund. These details can be conditioned.

The proposed use of the site following restoration as a cemetery does not include any new buildings adjacent to the canal boundary though there does appear to be the potential for burial plots to be within close proximity to the canal boundary

In order to ensure there is no adverse impact to the structural integrity of the waterway the details of any burial plots within 10m of the canal boundary should be submitted to and agreed in consultation with the Canal and River Trust. This could be required by condition and should include detail on the location of the burial plots and excavation works required.

The drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is therefore important to ensure that appropriate drainage systems are in place on site prior to any restoration works being undertaken and full details should be submitted for assessment.

This detail should include mitigation measures, construction methodology and cross sections to demonstrate that there will be no surface water discharge to the canal either during restoration works or after when the site is to be utilised as a burial ground. The final details of surface water drainage should therefore be required by condition. The Canal & Rivers Trust have recommended a condition for a 10m buffer between the canal and burials, however this condition is not required because the Environment Agency condition exceed this distance by 20m.

The proposals for the burial ground seek to retain existing landscaping to the canal corridor and introduce additional planting to aid screening of the development. Any planting should be native, appropriate to the waterside location and set back sufficiently to allow for future growth. The use of more trees of value to pollinators along the canal, such as Lime (*Tilia*) trees and orchard trees should be considered. The detailed landscape proposals should ensure, either through layout or provision of a robust boundary fence, that vehicles cannot enter the waterway. These details should be required by can be conditioned.

Land Stability

The developer has indicated that the former Lime Works shafts and mine workings will be capped with a concrete cap. The Structures & Geotechnical officers recommends a condition to ensure the satisfactory infilling of the remaining mineshafts.

The area has a history of land collapses and there is a concern that stockpiling of materials around the site may destabilise the land. However, the recommended conditions will ensure the satisfactory stabilisation of the land. The Canal & River Trust do not have any adverse comments regarding the stockpiles along the canal edge.

On the basis of the above it is considered that adequate measures to stabilise and treat the former lime workings to stabilise the land will be secured.

Ecology

The submitted Ecology report proposes mitigation, compensation and enhancement for habitats and species. The Ecology report takes account of the Daw End Branch Canal which is a SLINC and Canal and River Trust have recommended conditions considered elsewhere in the report which provides further ecology protection.

Conditions for construction methodology, to ensure the implementation of the mitigation, enhancement and management plan received 04/04/18 and the landscaping details submitted, the inclusion of bat and bird boxes and reptile log pile shelters are considered to be sufficient to ensure significant improvement for the future Ecology of the site.

Parking and Access

As there is no precedent for this use in Walsall, in order to understand the likely transport impact the applicant has submitted additional transport related information including traffic/parking survey data from other similar natural burial grounds around the country to establish the likely trip generation. In summary, the data reveals that such uses do not generally attract high trips rates, both vehicular and pedestrian.

The survey data shows up to 50 cars could be present at any one time during a funeral. As the current proposal provides 30 spaces, further details were requested of how the potential additional 20 or so spaces will be accommodated to minimise any potential displaced parking onto Winterley Lane for which it is unsuitable. The agent has updated the layout plan to include overspill for up to 50 cars in accordance with the transport information

One of main considerations for the Highway Authority is accessibility particularly in terms of access by pedestrians. Winterley Lane is relatively narrow, unlit, with passing places and does not have segregated footways. It is designed for 20mph speeds controlled with speed humps. It is considered the installation of footways and street lighting is not practicable nor would this be considered reasonable or appropriate based upon the intended use of the site. It is shown that the type of use is unlikely to generate significant additional pedestrian trips along Winterley Lane and the passing places, road side verges together with the 20 mph speed controlled should provide adequate protection for pedestrians. Furthermore, the proposed use will only operate between 09:00 to 17:00 Monday to Saturday and 10:00 to 16:00 on Sundays and so will not attract vehicle and pedestrian movements in the evenings.

The nearby canal bridge has a 3 tonne m.g. weight limit to restrict heavy vehicles. Winterley Lane has a 20mph speed limit.

Environmental Impact Assessment (EIA) Screening Opinion

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

The development falls within Schedule 2 part 11(b)(ii) as it is an installation for the disposal of waste where the area of development that exceeds 0.5 hectares and part 11(b)(iii) as the installation is sited within 100 metres of controlled waters (Daw End Branch Canal). The scale, nature and characteristics of the proposed restoration are considered not to have a significant permanent impact on the Green Belt and surrounding area or upon amenities of nearby residents.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

Other Issues Raised Through Consultation

Complaints have been raised about the previous work at the site. These complaints have previously been reported and do not relate to the current proposal.

The applicants motives for making the application are not a material consideration.

Whether the land should be given to residents as compensation for existing work is not a material planning consideration. The land does not belong to the Council.

No evidence has been provided about the accusations of corruption at the Council.

The application was delayed at the request of the agent to an agreed timeframe to take account of the imminent release of the updated National Planning Policy Framework which Officers were aware from the draft would likely affect the assessment of this application.

The concern that there is limited legislation covering private burial grounds cannot be addressed through planning conditions and would be controlled through separate legislation.

Whether or not members of the public would not want to use the site cannot be quantified the scheme represents an improvement to the existing condition.

The Council has abided by the statutory consultation period and has accepted comments up to the date of determination in excess of a year.

Property values are not a material planning consideration.

There is no known impact on nearby horses or evidence provided to suggest that there would be and as such sufficient reason to refuse the application.

The need for the development is a matter for the applicant.

Conclusions and Reasons for Decision

The Principle of Development of the site to infill the remaining mineshafts is established through the 2014 permission and the proposed change of use of the site to a natural burial ground complies with the NPPF 2018. The use of land for a burial ground does not amount to inappropriate development in the Green Belt and, as such, no very special circumstances need to be demonstrated.

The proposed hard surfacing is considered to have little impact on the Character and Openness of the Green Belt and accords with the saved UDP policies ENV2 and ENV32.

Conditions to ensure that the infilling does not result in unacceptable noise and disturbance to residents have been recommended by Pollution Control. The proposed natural burial ground use which through amended plans now proposes up to 50 cars per burial and up to 50 burials per year can be conditioned and is not considered to be significantly detrimental to neighbouring amenity to warrant refusal.

Possible pollution in terms of air quality and water courses can be controlled through the conditions recommended by Pollution Control Officer and the Environment Agency to minimise any impact on the local area in accordance with saved UDP policies ENV10 and ENV40.

A pre-commencement condition which enshrines the submitted methodology detailed in paragraph 4.3.3 of the *project design for an archaeological watching brief 2014* would ensure the safeguarding of any remaining archaeology near to the remaining mineshafts and an additional condition to cover the rest of the site as recommended by the Archaeology Officer would ensure that any potential remaining heritage is not lost in accordance with saved UDP policy ENV25.

Conditions recommended by the Canal and Rivers Trust are sufficient to safeguard the canal from contamination as a result of infilling or future burials and is considered adequate to comply with saved UDP policies ENV23 and ENV40

The proposal represents an improvement to the land stability of the site and measures recommended by the structural engineers is considered sufficient mitigation to comply with saved UDP policies GP2 and ENV14

The submitted Ecology report proposes mitigation, compensation and enhancement for habitats and species. Conditions for construction methodology, to ensure the implementation of the mitigation, enhancement and management plan received 04/04/18 and the landscaping details submitted, the inclusion of bat and bird boxes, and reptile log pile shelters are considered to be sufficient to ensure significant improvement for the future Ecology of the site in accordance with saved UDP policy ENV23

On balance, subject to the recommended Conditions above and amended plan which provides up to 50 car parking spaces, the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

Taking into account the above factors it is considered that the application should be approved

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding previous NPPF green belt policy and of the proposed changes in the draft NPPF. The application has been delayed at the agents request in anticipation of the revised NPPF which now enables support to be given to the scheme.

Recommendation

To allow the head of planning, engineering and transportation to grant permission subject to conditions and no new material considerations which have not already been assessed, following the conclusion of the re-consultation on the amended car parking layout.

Conditions and Reasons

1) This development must be begun not later than 3 years after the date of this decision.

Reason; Pursuant to the requirements of Section 92 of the Town and Country Planning Act, 1990.

2a) The permitted period of time for the infilling operation shall be limited to 48 months from the date of commencement. Written notice of the date of commencement shall be given to the local planning authority within seven days of such commencement.

2b) The mineshaft infilling operation shall be completed prior to the use of the site as a natural burial ground.

Reason: To ensure the works do not continue indefinitely in the interests of neighbouring amenity and to comply with saved UDP policies GP2 and ENV10

3) This development shall not be carried out other than in conformity with the following plans and documents: -

Location Plan received 30/03/18
Entrance Detail Plan received 30/03/17
Drainage Layout Plan received 30/03/17
Detailed Landscape Proposals received 30/03/17
Shaft Location Plan received 25/10/17
Shaft Capping as Built Details received 25/10/17
Amended General Site Layout (CDS_DCY_WIN_02 rev09) received 16/10/18
Planning Policy Statement received 18/05/17
Transport Statement received 04/05/17
Transport Addendum received 18/05/17
Transport Statement Appendices received 04/05/17
Supporting Statement received 30/03/17
Road and Car Park Soakaway Design received 30/03/17
Pollutant Impact Assessment received 30/03/17

Planning Statement received 18/05/17
Outline Landscape Proposal 30/03/17
Land Visual Impact Assessment received 04/05/17
General Design Statement received 18/05/17
Flood Risk Assessment received 30/03/17
Extended Phase 1 Habitat Survey received 30/03/17
Ecological Assessment received 30/03/17
Design and Access Statement received 30/03/17
Design and Access Statement and Sustainability Statement received 30/03/18
Biodiversity Mitigation Enhancement and Management Plan received 04/05/17
Bat Survey received 30/03/17
Archaeology Desk based Assessment received 04/05/17
Shaft Capping Input log received 25/10/17
Imported Material Log received 21/12/17
General Site Layout received 30/03/17
Tree Plan received 30/03/17
Mitigation, enhancement and management plan received 04/04/18.

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

4a) Prior to the commencement of the development, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority with the following details:

- 1) the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development;
- 2) measures to control the emission of dust and dirt during restoration;
- 3) details of protective measures (both physical measures and sensitive working practises) to avoid impacts during restoration;
- 4) A timetable to show phasing of restoration activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons);
- 5) Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation
 - iii) Installation of physical protection measures during construction;
- 6) Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction
- 7) Provision of training and information about the importance of Environmental protection measures to all construction personnel on site.
- 8) Details to demonstrate that any proposed earthmoving, excavations, or other operations can be safely carried out without adversely affecting the stability of the adjacent canal.
- 9) Details of the proposed bund to the canal along with associated drainage infrastructure, measures to protect the canal infrastructure including any bank protection, and details on the removal of the bund following completion of the mineshaft infilling works

4b) The works hereby approved shall be completed in accordance with the approved methodology.

Reason: In order to protect the structural stability and water quality of the canal in accordance with Paragraphs 178 & 179 of the NPPF, saved UDP Policy ENV40 of the Walsall UDP and Policy ENV4 of the adopted Black Country Core Strategy

5a) Prior to the development first coming into use, the internal access road and all parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain and the parking bays clearly demarcated on the ground.

5b) These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with saved UDP policies GP2, T7 and T13.

6a) Prior to the commencement of the development details of surface water drainage including measures to mitigate water from entering the canal shall be submitted to and agreed in writing by the Local Planning Authority.

6b) The development shall be completed in accordance with the agreed details and maintained thereafter.

Reason: To ensure that surface water from the site is disposed of in a safe and appropriate manner in order to protect the integrity of the waterway structure and water quality in accordance with saved Policy ENV40 of the Walsall UDP and Policy ENV4 of the adopted Black Country Core Strategy.

7a) Prior to commencement the applicant will secure the implementation of a programme of archaeological evaluation in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority.

7b) Prior to commencement the applicant will secure the implantation of a programme of archaeological mitigation of impact in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority.

7c) Following completion of archaeological fieldwork a report/reports will be produced in accordance with an approved programme including where appropriate post-excavation assessment, specialist analysis and reports, publication and public engagement.

Reason: To ensure the conservation, protection and enhancement of the archaeological heritage of Walsall and to comply with UDP policy ENV25 and ENV26

8a) Prior to the commencement of any earthworks the methodology detailed in paragraph 4.3.3 of *the Project Design for an Archaeological Watching Brief 2014* shall be carried out.

8b) The project will be monitored by the Archaeological Officer (AO) on behalf of the Local Planning Authority. (At least five working days notice for the commencement of development will be given to the AO).

8c) A report of the findings will be submitted to and approved by the AO for approval prior to remediation being carried out.

8d) On completion of the remediation work the results and all finds recovered will be analysed and an illustrated report shall be produced to include:

- Location, aims and methodology
- A written summary of the findings together with appropriate illustrations, which should be related to the national grid. Levels should be related to the Ordnance Datum.
- An analytical summary of features and deposits, including an annotated survey plan showing identified geophysical anomalies potentially representative of archaeological features.

8e) Copies of the report shall be presented to the Local Planning Authority and the Walsall Local History Centre. A digital copy will be lodged with the Black Country Sites and Monuments Record. Arrangements for deposition of finds and records will be agreed with Walsall Museum and Walsall Local History Centre and an OASIS record will be completed and a summary report should be sent for publication in West Midlands Archaeology and any other appropriate local or national archaeological journal.

Reason: To ensure the conservation, protection and enhancement of the archaeological heritage of Walsall and to comply with saved UDP policies ENV25 and ENV26

9) The methodology agreed under 14/0191/WA condition 8b for the cleansing of vehicle wheels before they exit onto the highway with the Local Planning Authority, shall be continued and maintained throughout the remaining duration of the infilling and restoration work.

Reason: To protect the adjacent highway and in order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety and in accordance with saved UDP policy T4.

10) The advanced site access warning signs on Winterley Lane, agreed under 14/0191/WA condition 11a (iv), shall be retained throughout the remaining duration of the infilling and restoration works and removed thereafter.

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with saved UDP policy T4.

11) The location of parking for site operatives and visitors within the application site, agreed under 14/0191/WA, shall be retained, maintained and kept available throughout the remaining duration of the infilling and restoration works.

Reason: To protect the adjacent highway and in order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety and in accordance with saved UDP policy T4.

12) The infilling works hereby approved shall not be carried out other than in accordance with the following requirements:

- All records shall be kept strictly in accordance with the original Environarm's Method Statement and Working Plan Ref: EL/MAD/IRWP/1.00/2014
- The applicant shall notify the Local Planning Authority by contacting Engineering and Transportation Services (Mr Mo Rahimi, Tel: 01922 654655, email mo.rahimi@walsall.gov.uk) for arranging an appointment for the inspection of the infilling work, the first of which shall be the starting date for the approved the infilling work. A notice of 24 hours shall be given for the inspection.
- The applicant shall submit quarterly statements from the date of approval for the previous phase to update the Local Planning Authority on the progress of the infilling work. The quarterly statements shall include a summary of the loads imported cross referenced to the source site reports/chemical testing results.
- Stage completion reports shall be submitted at the end of each phase of the work as shown on Drawing ESID 8 of the Enviroarm Method statement
- The applicant shall submit a quarterly statement of monitoring of the settlement of the infill material in the treated shafts

Reason: To ensure the satisfactory stability of land and to accord with saved UDP policies GP2 and ENV14.

13a) Prior to vehicles entering the site to perform the infilling works, details shall be provided to and approved by the Local Planning Authority which demonstrate a sufficient quantity of water is available on-site for suppressing dust and clean vehicle wheels on a daily basis prior to works commencing.

13b) The approved water quantities available for use at the site shall be maintained through the infilling works.

Reason: To ensure the satisfactory completion of the development and protect residential amenities of surrounding occupiers in accordance with the saved UDP policy GP2.

14a) Prior to the creation of any stockpile of material in relation to the infilling works a plan shall be submitted to and approved by the Local Planning Authority of the location.

14b) Material stockpiles shall not exceed 4 metres in height.

Reason: To protect the residential amenities of surrounding occupiers and to comply with saved UDP policy ENV32.

15a) Prior to the development first coming into use, full engineering details of the reconstructed passing bays on Winterley Lane together with the closure of the existing northerly access and conversion into a passing bay shall be submitted to the Local Planning Authority for technical approval in writing. The details shall include layouts and alignments, widths and levels together with all necessary drainage arrangements and run off calculations and details of appropriate Passing Bay signing and lining details.

15b) Prior to the development first coming into use, the passing highway infrastructure works detailed above shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Highway Authority.

Reason: To ensure the satisfactory completion and operation of the public highway, to improve accessibility to the site and in the interests of highway safety and in accordance with saved UDP policy T4.

16a). Prior to the commencement of the development full details and the locations of traffic warning signs to be installed in Winterley Lane to warn motorists that there may be pedestrians in the road ahead and to be installed at the junction of Winterley Lane and Bosty Lane and Winterley Lane to indicate the main vehicular route to and from the cemetery, shall be submitted to and agreed by the Local Planning Authority.

16b) The approved signage shall be installed prior to the commencement of the natural burial ground use.

Reason: In the interests of highway safety on the grounds that the development may intensify pedestrian movements along Winterley Lane where there is no segregated footway provision and in accordance with saved UDP policy T4.

17) A 2.4m x 25m minimum visibility splay in both directions shall be maintained at all times at the site entrance, within which a visibility envelope of between 600mm and 2000mm above carriageway level shall be kept clear of any structure or vegetation.

Reason: To ensure adequate inter-visibility at the site access based upon a 20mph speed limit, in accordance with saved UDP Policy GP2 and in the interest of highway safety and in accordance with saved UDP policy T4.

18a) The development hereby approved shall not proceed otherwise than in accordance with detailed landscaping plans which have been submitted to and approved in writing by the Local Planning Authority. The details shall provide for planting details and timetable for implementation for planting to the proposed bund to the canal boundary and site following restoration and prior to the commencement of the use as a burial ground.

18b) Any plants which within a period of 5 years die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area and biodiversity of the waterway corridor in accordance with Policy ENV4 of the Black Country Core Strategy.

19) All plant, machinery, hard standings and haul roads which are required for the infilling works and do not form part of the approved details for the natural burial ground, shall be removed from the site within 3 months of the cessation of landfill operations.

Reason: To protect the character and openness of the Green Belt and visual amenities of the area in accordance with saved UDP policies ENV2 and ENV32.

20) No works, (including, land reclamation, stabilisation, preparation, and deliveries etc.), shall take place on any Sunday, Bank Holiday or Public Holiday*, and Site operations shall not be conducted between the hours 1800 and 0700 Monday to Saturday or after 1300 on Saturdays, with the material processing activities not taking place between 1600 to 0800 Monday to Saturday or after 1200 on Saturdays.

(* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).

Reason: To protect the residential amenities of surrounding occupiers in accordance with saved UDP policy GP2.

21) Noise from the application site, either individually or cumulatively, shall not exceed 55 dB (A) LAeq,1h (free field) and 5 dB(A) above background levels 1 metre from nearby sensitive premises.

Reason: To protect the residential amenities of surrounding occupiers in accordance with saved UDP policy GP2.

22) No burials shall take place other than in accordance with the following:

- Burials shall be a minimum of 250m from a potable groundwater supply source;
- Burials shall be a minimum of 30m from a watercourse or spring;
- Burials shall be a minimum of 10m from field drains;
- Burials shall have at least 1m of subsoil below the base of the grave
- Burials shall not take place into standing water and the base of the grave must be above the local water table.

Reason: To protect the quality of Controlled Waters in the local area and to comply with saved UDP policy ENV40 and to ensure that the proposed works do not have any adverse impact on the stability of the canal and therefore protect the integrity of the Daw End Canal in accordance with Paragraphs 178 & 179 of the NPPF.

23) The proposed bat and bird boxes, reptile log pile shelters shall be carried out in accordance with the submitted biodiversity, mitigation, enhancement and management plan received in the 04/05/17.

Reason: To ensure the satisfactory restoration of the site in the interests of nature conservation and to comply with saved UDP policy ENV23

24) There shall be no more than 50 burials conducted at the application site per calendar year.

Reason: To minimise the impact on neighbouring amenity and to accord with saved UDP policy GP2.

25) Graves shall only be marked with wooden plaques.

Reason: To minimise the impact on the openness of the green belt and to accord with saved UDP policies ENV2 and ENV32.

Notes for Applicant

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

2. The applicant will be expected to enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway.

3. Traffic warning signs shall be in accordance with the Traffic Signs Regulations General Directions 2016

The applicant/developer is advised to contact Works Engineering Team (0303 040 4040) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

The infilling of (flooded) mine entries and workings associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted. Additional 'Environmental Permitting Guidance' can be found at: <https://www.gov.uk/environmental-permit-check-if-youneed-one>

The Agency needs to compile reports to meet DEFRA high level targets and consequently a copy of the required decision notice should be forwarded following determination of the application.

End of Officers Report

Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 2.

Reason for bringing to committee: Major application.

Location: LAND ADJACENT 17 HATHERTON STREET, WALSALL

Proposal: CONSTRUCTION OF 2 X TWO STOREY OFFICE BUILDINGS TO PROVIDE A TOTAL OF 6 X OFFICES AND ASSOCIATED WORKS

Application Number: 18/0993

Applicant: Jessup

Agent: S.P. Faizey

Application Type: Full Application: Major
Use Class B1 (Business)

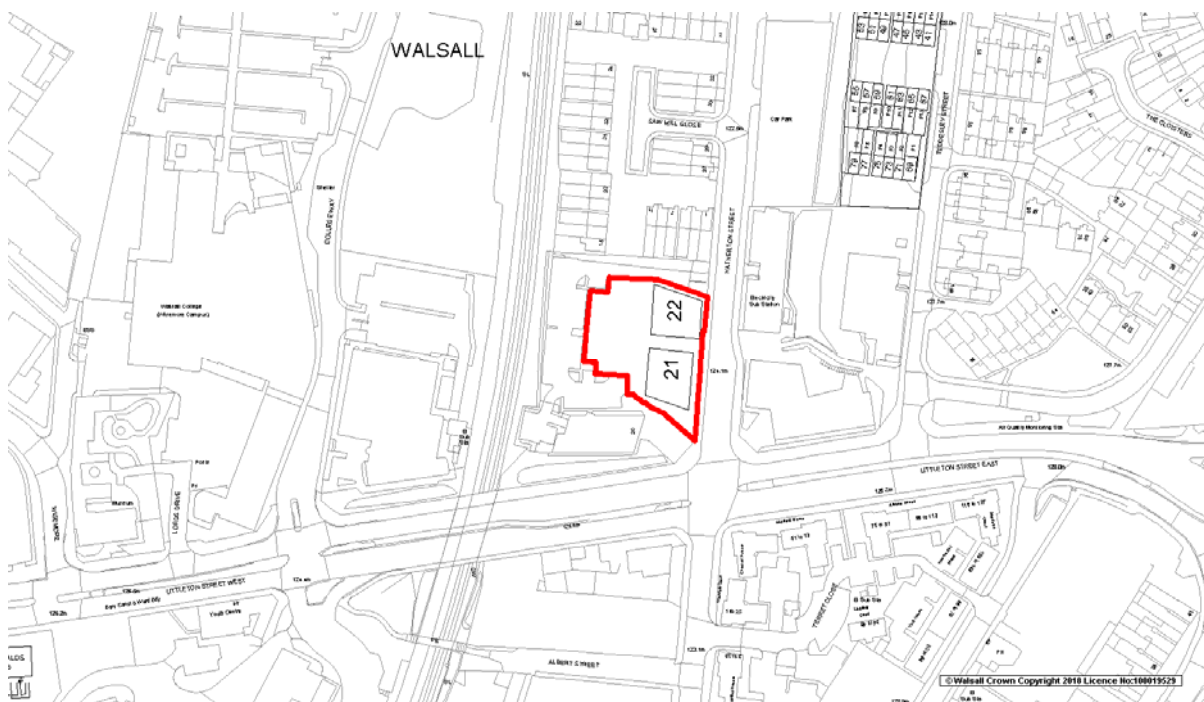
Case Officer: Paul Hinton

Ward: St Matthews

Expired Date: 20-Nov-2018

Time Extension Expiry:

Recommendation Summary: Grant permission subject to conditions.



Proposal

This application seeks planning permission for the erection of six B1a offices provided as two blocks of two storey developments. Each of the offices would be set across two floors. The application is the second phase of the development of this site, with building A (more recently constructed four storey building occupied by Jhoots and Handelsbanken) with pedestrian access from a piazza at the corner of Littleton Street West and Hatherton Street. Proposed building B would also be accessed from the piazza. Building C is proposed to have its pedestrian access along the southern side of the building between building B with an access ramp from Hatherton Street where the ground levels drop in a western direction.

A total of 1675sqm of floor space would be provided. Building B would have a street frontage of 26m wide, with building C 17m wide at this point. Both buildings would have a mono pitched roof 7.8m at its highest where it fronts the street dropping to 6.2m at the rear. The buildings would have a depth of up to 20m.

The lower parts of the building would be blue brick with the rest of the elevations white render with grey cladding panels.. Windows frames and doors would be finished in a grey colour. Glazing is proposed to each of the elevations.

49 parking spaces are proposed, including six disabled bays.

The buildings would be set back 3.8m from the Hatherton Street pavement with a mix of soft and hard landscaping between including a beech hedge and evergreen shrubs.

The following information has been submitted in support of the application:

Design and Access Statement

- Speculative office development
- Market research has established the optimum units sizes
- The building will include high performance windows and doors and low energy light fittings.

Transport Statement March 2014

- Good pedestrian and cycle infrastructure in the vicinity of the site.
- Highly accessible by public transport

Site Investigation Report January 2013

Remediation Strategy January 2013

- Elevated concentrations of lead have been identified which are considered to pose a potential risk to future site users. A clean cover is required.
- Asbestos fibres have been identified.
- Not considered to represent a significant risk to controlled waters
- Ground gas protection measures will be required.

Site and Surroundings

The application site is part of the Gigaport area, located along Hatherton Street close to the junction with Littleton Street East (A4148 – Strategic Highway Network and dual carriageway). The site is within the Town centre boundary.

This is a generally flat site currently secured by hoardings where the ground levels drop around 2m in height from the pavement in Hatherton Street towards the railway. There is an existing vehicle access from Hatherton Street (via secured barrier) leading to the existing car park for the existing office building. The proposed seeks to complete the car park and landscaping areas. Areas for cycle provision is also proposed with a cycle part running along Littleton Street East.

To the north boundary are the residential properties along Saw Mill Close, to the east is the WHG head office building, a four storey modern white rendered finish office. To the south, across the ring road are the four storey apartments of Terret Close with a decorating shop and tyre repair business also across the road. To the west boundary is the railway line in a cutting with the modern Walsall college buildings further to the west.

Relevant Planning History

08/0951/OL – Walsall Gigaport - Outline Application (Access Only Considered). Erection of 127,000 sqm of B1(A) offices, a 4,206 sqm data centre, 4,300 sqm hotel with conference facilities, 23,195 sqm of live/work space, a 5,890 sqm health and sports facility and 621 sqm of A1/A3 (retail/non-retail) floorspace together with associated highways works, public transport facilities, new public square, landscaping and car parking. (Revision of planning application reference 07/2659/OL/W7). GSC 18/12/08.

11/1541/TE - Time extension to 08/0951/OL: (Walsall Gigaport - Outline Application (Access Only Considered). Erection of 127,000 sqm of B1(A) offices, a 4,206 sqm data centre, 4,300 sqm hotel with conference facilities, 23,195 sqm of live/work space, a 5,890 sqm health and sports facility and 621 sqm of A1/A3 (retail/non-retail) floorspace together with associated highways works, public transport facilities, new public square, landscaping and car parking. (Revision of planning application reference 07/2659/OL/W7). GSC 3/2/12

14/0119/FL - Hybrid application - detailed application for 4 storey office building on Littleton Street frontage with associated car parking and landscaping. Outline planning application (considering access, landscaping, layout and scale) for two office buildings (3 and 4 storeys in height) with associated car parking and landscaping fronting Hatherton Street, with vehicle access from Hatherton Street. GSC 11/4/14

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in

both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a *“presumption in favour of sustainable development”*.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment

- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN3: Growth in the Strategic Centres
- CEN8: Car Parking in Centres
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness

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- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV34: Public Art
- ENV35: Appearance of Commercial Buildings
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- T1 - Helping People to Get Around
- T4 - The Highway Network
- T5 - Highway Improvements
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Walsall Area Action Plan

- AAPB1: Office Development
- AAPLV6: Securing Good Design
- AAPLV8: Environmental Infrastructure
- AAPT5: Car Parking
- AAPINV3: Walsall Gigaport includes site TC43 (Former Noirit site)

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character

- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)

While an Urban Development project, at 0.24ha the development site would not fall with the criteria of Schedule 2 and therefore would not require an Environmental Statement.

Consultation Replies

Planning Policy – no comments received.

Transportation – no objection subject to use of conditions in regard to providing the parking and cycling areas and construction management plan.

Pollution Control – no objection subject to the use of recommended conditions in regard to controls over construction times, measures to control dust and controls over vibration. In the absence of a Remediation Statement in regard to contaminated land and ground gas further surveys are required. Electric vehicle charging points will be required.

Coal Authority – no objection.

Environment Agency – no objection.

Natural England – no objection.

Archaeology and Historic Environment Officer – no archaeological implications.

Network Rail – require a method statement should vibro-compaction machinery / piling machinery or piling and ground treatment works be required.

Fire Services – Water supplies for firefighting should be in accordance with “National Guidance Document on the Provision for Fire Fighting

Severn Trent Water – no objection subject to use of recommended drainage condition and note for applicant.

Police Crime Prevention Design Advisor – no objection subject to use of recommended security measures in regard to window and door standards, access control measures, lighting, cycle parking, CCTV and alarm systems.

Flood Risk Officer – no comments received.

Structures – no objection.

Representations

Surrounding occupiers notified by letter, site notice displayed and application advertised in the local newspaper.

No comments received.

Determining Issues

- Principle of use
- Character and appearance of the area
- Relationship with neighbours
- Ground conditions and air quality
- Flood Risk
- Security
- Highway safety

Assessment of the Proposal

Principle of use

The site received outline planning permission for two office blocks in 2014, but the permission has since expired. The site is vacant and enclosed by timber hoarding. The site continues to be part of Gigaport with AAP policy B1 explaining the Council aims to deliver 73,000sqm gross of offices by the end of 2026. This will be achieved by focussing new office investment in the Gigaport area. AAP policy IV3 allocates this site for office development. Accordingly the principle of the development would be acceptable. A condition defining the use as B1a Offices is necessary in the interests of retaining the office led regeneration of the area and considered to meet the Governments 6 tests.

Character and appearance of the area

The AAP explains the Gigaport will be a series of high quality office developments designed to meet the evolving needs of business and enterprise. AAP policy INV3 explains that the design of buildings should make the best use of the land including multi-storeys and creating a strong multi storey built-up frontage of at least 4 to 5 storeys high to Littleton Street. In this case the applicant has justified a two storey

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building on the basis that there is currently no market for additional office space in Walsall. The design approach would allow for additional upper floors if demand requires in the future but seeks to deliver development of this currently vacant site.

AAP policy LV6 explains that new development must create a positive environment with an identity that relates to the specific character of Walsall. New buildings should be of appropriate scale and massing to the street-scene, provide active, distinctive frontages, avoiding blank elevations. The appearance and massing of the buildings relate to the emerging developments within the Gigaport, WHG building and Jhoots building. The two storey development provides a balance between the four storey Jhoots building and the two storey houses in Saw Mill Close. The proposed materials provide a modern and attractive building that would be a positive addition to the area.

Landscaping is provided to the frontage and car park being a mix of trees, hedge and shrubs. This would be appropriate and complement the design of the building. To ensure the landscape establishes, a condition requiring a five year retention is required and meets the Government's six tests.

The space between buildings B and C are to be secured by fencing, the plans as submitted show this to project forward of the building line. Officers consider this to detract from the positive quality of the proposal and recommend this is positioned level with the front of the building. The agent considers the boundary proposed necessary on the grounds of security to the proposed ramp. The WHG building has a similar ramp without any security fencing and officers are not aware of any ongoing security issues with this arrangements. In the interests of visual amenity a boundary treatment condition to address this concern is necessary and meets the Government's six tests.

AAP policy LV8 seeks a green roof for developments over 1000 sqm unless it can be demonstrated it is not feasible or viable. The developer has confirmed that the development as proposed requires grant funding, the provision of a green roof would have a further negative effect on viability.

Relationship with neighbours

Building C would be to the south and between 24m and 29m from the rear windows of the houses along Saw Mill Close. There is an existing 2m boundary wall to the rear gardens of the houses. The two-storey building includes windows at both ground and first floor to each elevation. The first floor windows meet the standards set out in Designing Walsall SPD. While these specifically refer to residential separation distance, they are a good guide for general amenity standards. In this case sufficient privacy is provided. Due to the height and distance of the building, it is considered would not result in a loss of outlook of a material loss of light.

The use of the building as an office would not give rise to an unacceptable level of noise and disturbance.

The plans currently indicate that plant (machinery) rooms are to be located within the buildings. If plant is to be located externally, particularly Building C then there will be a need to consider acoustic shielding/barriers, to ensure the nearby residential

premises are not affected by noise. A safeguarding condition is recommended that would meet the Government's six tests.

As with the previous construction, the applicant will need to submit for agreement a Construction Management Plan to control local impacts.

As any ground stabilisation works progress towards the housing on Saw Mill Close then engineers/contractors should ensure that vibration levels are below levels for adverse comment. A safeguarding condition is recommended that would meet the Government's six tests .

Network Rail raise no objection to the application subject to use of recommended working practices. These are included as a note for applicant.

Ground conditions and air quality

The site falls within a High Risk Area as defined by the Coal Authority who note that the site investigation confirms the risks posed by coal mine workings were consolidated and the information is sufficient to demonstrate the site is safe and stable to accommodate the development in respect of coal mining legacy.

It is understood that part of the site, where Jhoots office building is and parts of the car park have been remediated and a Validation Statement produced, under Phase 1. While the contaminated land investigation for 14/0119/FL will have incorporated the entire site, it is unclear whether the site where the proposed buildings are to be erected have been remediated. No information has been supplied with the current application.

In the absence of the original site investigation and remediation, Pollution Control recommend that the applicant undertake site remediation, or produces evidence to confirm that the site has been remediated to satisfactory levels. The applicant's agent considers the information submitted addresses these issues. Officers have re-consulted with Pollution Control and will update Planning Committee.

In addition the site is affected by ground gas and it will be necessary for the Applicant to incorporate ground-gas ingress protection measures into the office buildings.

Walsall Council has adopted the Black Country Air Quality Supplementary Planning Document; this will require the Applicant to install electric-vehicle charging points and infrastructure for future points to mitigate against the longer term air quality impacts from users of the car park. A safeguarding condition is recommended that would meet the Government's six tests.

The site is above part of the treated Wolverhampton Street Limestone mine, Structures raise no objection to the proposal.

Flood Risk

While the west part of the car park site is shown at risk of flooding from the Ford Brook, detailed work for the area shows that the land is at low risk from flooding, which has been endorsed by the Environment Agency. Therefore the site is at low risk of flooding.

While drainage details have been provided Severn Trent Water are seeking a drainage condition which by its nature would require information prior to the commencement of development. The applicant's agent has explained some of the drainage infrastructure is already in place and therefore alongside the proposed drawings a condition is not required. Officers are seeking advice from Severn Trent on this point and will update Planning Committee.

Security

The Police raise no objection to the application subject to the use of recommended door and window standards, good external lighting, cycle storage standards, monitored CCTV and alarm systems. Lighting to the car park is already in place so any lighting would be to the building only. The cycle storage details were approved under the terms of the previous application. The NPPF says decision should aim to achieve safe places, BCCS policy ENV3 and AAP policy LV6 require development to consider security, referencing Secured by Design principles. These policies would be addressed by use of a safeguarding condition that would meet the Government's six tests to require the above security measures.

Highway safety

The application site is 500m from Walsall Bus Station with good pedestrian links to the Town Centre. National cycle route 5 runs directly in front of the application site.

49 parking spaces are proposed within the secured car park to the rear, including six disabled bays. Provision for two cycle storage areas are also proposed.

AAP policy INV3 sets a lower parking threshold than saved UDP policy T13 due to the sustainable credentials of Gigaport, being a maximum car parking ratio for office development of 1 space per 60 square metres. In this case the level of parking provided is within this ratio. The policy also explains that unless otherwise justified any car parking proposed would be expected to serve the Gigaport area as a whole. In this case the car park could also serve the Jhoots building. It would be unreasonable to expect it to serve other developments in the Gigaport due to the physical separation, management and security of the car park and offices.

AAP policy T5 explains parking will be available to serve the needs of the centre as a whole. Due to its location and operation it would be unreasonable to expect this car park to serve the town centre as a whole, as it is considered it may impact on the operation of the offices and raise safety issues for the offices.

Highways raise no objection to the application subject to the use of conditions in regard to provision and retention of parking, cycle storage provision and construction management plan. This safeguarding condition is recommended and considered necessary that would meet the Government's 6 tests.

It is considered that the development would not give rise to conditions prejudicial to highway safety contrary to NPPF paragraph 32.

Conclusions and Reasons for Decision

In weighing the key material considerations and consultee responses against the national and local planning policies and guidance, it is considered that the principle of development is an acceptable use of the land. The buildings and their proposed use would have a positive impact upon the visual amenities of the area without causing harm to neighbouring residential occupiers. Sufficient off-street parking is provided to meet the needs of the development. On balance the proposal would provide social, economic and environmental benefits.

Safeguarding conditions in regard to ground contamination and ground gas, drainage, construction management plan, landscaping renewable energy, boundary treatment, security measures, cycle and vehicle parking, electric vehicle charging, noise from external plant and defining the use are necessary and meet the six tests. Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, the Black Country Core Strategy policies CSP1, CSP4, DEL1, CEN1, CEN3, CEN8, TRAN2, TRAN5, ENV2, ENV3, ENV5, ENV7 and ENV8 C; Walsall Unitary Development Plan saved policies GP2, ENV10, ENV14, ENV32, ENV33, ENV35, S4 and T13; Walsall Town Centre Area Action Plan policies B1, LV6, LV8, T5 and NV3 plus Supplementary Planning Documents Designing Walsall and Air Quality.

Positive and Proactive Working with the Applicant

Officers have worked with the applicant's agent seeking clarification on details of the scheme to enable support to be given. A number of pre-commencement, pre-occupation and on-going conditions have been agreed and others are subject to further discussions and those not on agreement have been justified in planning terms as discussed in the report.

Recommendation

Grant permission subject to conditions.

Conditions and Reasons

1. This development must be begun not later than 3 years after the date of this decision.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This development shall not be carried out other than in conformity with the application form and following plans and documents: -

- Location plan received 1/8/18
- Site plan received 1/8/18
- Site layout received 1/8/18

- External works area received 1/8/18
- Building B plans and elevations received 1/8/18
- Building C plans and elevations received 1/8/18
- Landscaping plan (Rev E) received 1/8/18
- Landscape schedule received 1/8/18
- Site Investigation Report (January 2013) received 3/8/18
- Remediation Strategy (January 2013) received 1/8/18
- Cycle store details received 19/10/18

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3a. Prior to the commencement of development hereby approved a ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

3b. Prior to the commencement of development a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority for agreement in writing. (see Note for Applicant CL2)

3c. Prior to the commencement of development a 'Remediation Statement' setting out details of remedial measures to deal with all of the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

3d. The remedial measures as set out in the 'Remediation Statement' required by part c) of this condition shall be implemented in accordance with the agreed timetable.

3e. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

3f. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into first use. (see Note for Applicant CL3)

3g. The remedial or mitigation works shall be retained throughout the life of the development

Reason: To ensure safe development of the site and to protect human health and the environment.

4a. Prior to the commencement of development a surface and foul water drainage scheme for the site, based on sustainable drainage principles where possible, shall have first been submitted for written approval of the Local Planning Authority. The submitted surface water drainage scheme shall include:

- i) The ability to accommodate surface water run-off generated up to and including the 1 in 100 year plus 30% climate change critical storm, based upon the submission of drainage calculations; and
- ii) Details to show the outflow from the site is limited to Greenfield site run-off and demonstrate betterment on the current discharge rates; and
- iii) Subject to detailed design, on-site storage shall be provided by way of oversized pipes and crated attenuation tanks, and the use of permeable paving within multi-use drive areas should also be considered; and
- v) Finished floor levels are to be set no lower than 150mm above adjacent ground levels and higher of practicable; and

4b. The development shall not be brought into use until the approved drainage scheme has been fully implemented in accordance with the approved details and thereafter retained for the life of the development.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

5a. Prior to any engineering, site clearance/preparation, and/or construction works commencing a Construction Management Plan setting out how the works will be undertaken and giving details of arrangements for the control of noise, vibration, dust and debris (including site drag-out), the management of any materials arising from the works, details for the parking and turning facilities for site operatives and construction deliveries, the loading and unloading of plant and materials, the storage of plant and materials used in constructing the development, full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway and the hours of working on site during the period of construction shall be submitted for written approval of the Local Planning Authority.

5b. The Construction Management Plan shall be implemented upon commencement of any works and shall be maintained until the site is completed.

5c. Vibration levels during ground stabilisation/piling works shall not exceed the Low Probability of Adverse Comment, as prescribed within British Standard BS6472-1:2008 'Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting'.

5d.

Reason: To protect the amenity of local residents and in order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety.

6a. Prior to the commencement of development details of at least 10% of the energy supply for the development from decentralised and renewable or low-carbon energy sources shall be first submitted for written approval of the Local Planning Authority.

6b. The approved details shall be implemented prior to first occupation of any part of the buildings and retained as operational thereafter.

Reason: In the interests of energy efficiency. Details are required prior to development as measures could involve ground works.

7a. The approved landscaping scheme shall be fully implemented within 12 months of the buildings being externally completed.

7b. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (i) grassed areas shall be retained and any areas that fail to establish shall be reinstated;
- (ii) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (iii) any damage to protective fences shall be made good.

Reason: To ensure the satisfactory appearance of the development in this prominent location.

8a. Notwithstanding the details as submitted and prior the first occupation of the development details of boundary treatment in regard to the access way between Buildings B and C, and the pedestrian gates to the other sides of Buildings B and C shall have first been submitted for written approval of the Local Planning Authority. All gates should have access control measures, be self-closing with hinges mounted to the rear of the public side and where possible flush with the front elevation of the building.

8b. The approved details shall be carried out prior to first occupation of the premises and shall be retained thereafter.

Reason: In the interests of visual amenity and securing the development in accordance with BCCS policy ENV3 and saved UDP policy ENV32.

9a. Prior to the first occupation of the development, details of a scheme of decorative and functional external lighting (functional lighting to be on the buildings themselves) for the development, shall have first been submitted to and approved in writing by the Local Planning Authority. Any External lighting shall be directed away from residential properties.

9b. The development shall be implemented and completed in accordance with the approved details and retained and maintained thereafter

Reason: To ensure satisfactory functioning and appearance of the development, in the interests of community safety and to safeguard the amenities of neighbouring and nearby residents.

10a. Notwithstanding the details submitted and prior to the commencement of any part of the development above damp proof course hereby approved details of electric vehicle charging points to be provided for three parking bays and infrastructure cabling for a further three spaces for future demand shall have first been submitted to and approved in writing by the Local Planning Authority.

10b. Prior to first occupation of the development hereby approved the electric vehicle charging points and additional infrastructure cabling shall be fully installed in accordance with the approved details and shall be retained and maintained for the life of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy and the Black Country Air Quality Supplementary Planning Document.

11a. Prior to the first occupation the parking areas and vehicle manoeuvring spaces shown on the approved site layout plan shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the clear delineation of the parking bays.

11b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with saved UDP policy GP2, T7 and T13.

12a. Prior to the first occupation of any part of the development, the bin and cycle store shall have been installed in compliance with the approved details and made available for future occupiers of the development hereby approved. These facilities shall thereafter be retained, available for the future occupiers of the development and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13 and Black Country Core Strategy TRAN4.

13. The materials for both the building and external areas shall be those stated on the approved drawings.

Reason: In the interests of visual amenity in accordance with saved UDP policy GP2 and ENV32 and Black Country Core Strategy Policies ENV2 and ENV3.

14. The development shall be constructed to meet the following minimum security measures and thereafter retained as such;

- All ground floor windows and any accessible windows should have at least one pane of 6.4mm laminated glass and be to BS EN 356 grade P1A standard.
- PAS 24:2016 doors should be on all entrance and exit doors.
- Monitored CCTV to BS EN 50132-7 standard and security alarm.

Reason: To ensure the safety and security of the development and its occupiers.

15. Any external machinery, including at roof levels, shall be placed within acoustic enclosures, such that the noise does not exceed background levels at nearby residential premises.

Reason: To safeguard the amenities of neighbouring residents, in particular to Saw Mill Close.

16. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (as amended) the development shall be used for office floor-space in accordance with the submitted plans and be retained thereafter in Use Class B1(a) (offices).

Reason: In order to meet the strategic aims of the Black Country Core strategy and Walsall Town Centre Area Action Plan for delivery of office accommodation.

Notes for Applicant

Severn Trent Water

Advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Pollution Control

CL1 Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A2:2017 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2 When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for

contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3 Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08:00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)*

Note to Applicant Air Quality SPD

Ultra-Low NOx boilers have maximum dry-NOx emission no greater than 40 mg/kWh for gas and liquefied petroleum gas (LPG) boilers, and a maximum of 120 mg/kWh for oil-fired boilers.

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),

- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are future-proofed to the European Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and are eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

Network Rail

If vibro-compaction machinery / piling machinery or piling and ground treatment works are to be undertaken as part of the development, details of the use of such machinery and a method statement must be submitted to the Network Rail Asset Protection Engineer for agreement.

All works shall only be carried out in accordance with the method statement and the works will be reviewed by Network Rail. The Network Rail Asset Protection Engineer will need to review such works in order to determine the type of soil (e.g. sand, rock) that the works are being carried out upon and also to determine the level of vibration that will occur as a result of the piling.

The impact upon the railway is dependent upon the distance from the railway boundary of the piling equipment, the type of soil the development is being constructed upon and the level of vibration. Each proposal is therefore different and thence the need for Network Rail to review the piling details / method statement.

Maximum allowable levels of vibration - CFA piling is preferred as this tends to give rise to less vibration. Excessive vibration caused by piling can damage railway structures and cause movement to the railway track as a result of the consolidation of track ballast. The developer must demonstrate that the vibration does not exceed a peak particle velocity of 5mm/s at any structure or with respect to the rail track.

West Midlands Fire Service

Water supplies for firefighting should be in accordance with "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK: <https://www.dropbox.com/s/5s5i45fxr3m3hrt/national-guidance-document-on-water-for-ffg-final.pdf?dl=0>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

Vehicle access route to meet the requirements of ADB Volume 2, Table 20, noting that WMFS appliances require a carrying capacity of 15 tonnes.

The approval of Building Control will be required with regard to Part B of the Building Regulations 2010.

End of Officers Report

Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 3.

Reason for bringing to committee: Significant community interest

Location: SITE OF FORMER OAK PARK LEISURE CENTRE, LICHFIELD ROAD, WALSALL WOOD, WS9 9DQ

Proposal: VARIATION OF CONDITION 23 ATTACHED TO PA 13/1471/FL TO ALLOW THE SITE OF THE FORMER LEISURE CENTRE BUILDING TO BE USED FOR ADDITIONAL PARKING (202 SPACES) INSTEAD OF THE TWO JUNIOR FOOTBALL PITCHES APPROVED.

Application Number: 18/0095

Applicant: Walsall MBC

Agent: Baily Garner

Application Type: Regulation 3: Major Application (SI 1992/1492)

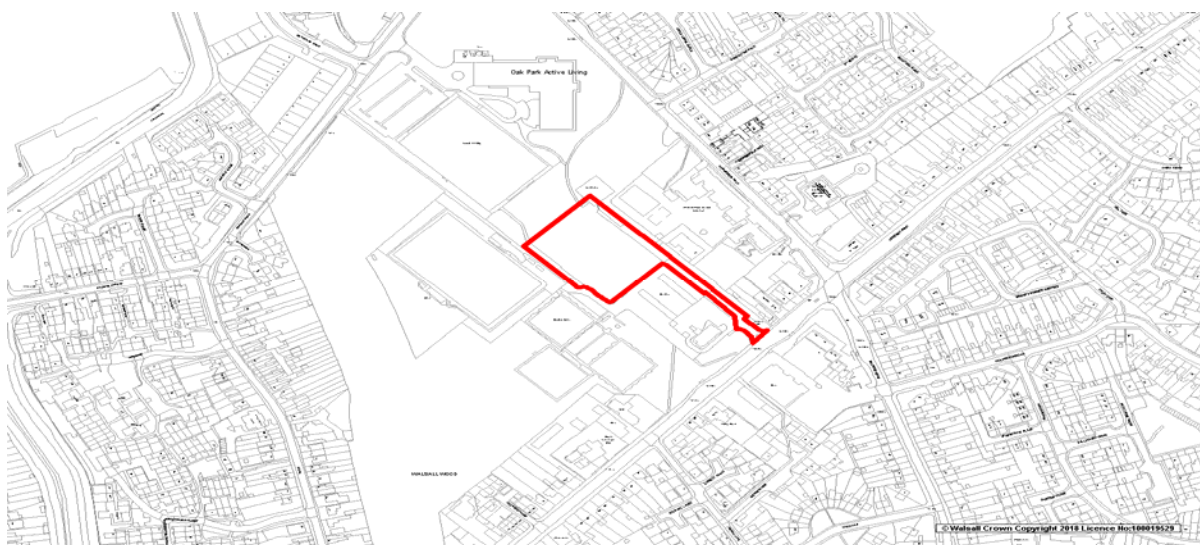
Case Officer: Devinder Matharu

Ward: Aldridge North And Walsall Wood

Expired Date: 17-Aug-2018

Time Extension Expiry:

Recommendation Summary: Delegate to the Head of Planning, Engineering and Transportation to grant planning permission subject to no new material planning considerations being put forward following further neighbour consultation on amended plans.



Proposal

Variation of Condition 23 attached to PA 13/1471/FL to allow the site of the former leisure centre building to be used for additional parking (202 spaces) instead of the two junior football pitches approved.

Vehicular access to the new car park would be via the existing car park off Coppice Road with a link road between the existing and proposed car park. The existing pedestrian path to the south of the site would be upgraded and a new path around the proposed car park linking to the existing pedestrian paths on site would be provided. The proposed car park area would be landscaped and a lighting scheme covering the car park and pedestrian paths would be included in the proposed works.

The following documents have been submitted in support of the proposal:

Planning Statement which states:

- Sport England outline five exceptions in which circumstances they will not oppose development.
- Application based on exception 5: the proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the playing area.
- The proposed car park is a fundamental ancillary facility to support the operation of the new Oak Park active living centre, which provides the sporting facilities.
- Enabling the effective operation of these facilities more than outweighs the limited sporting value that can be offered by the grass pitches.
- The new facilities at Oak Park are available to the public for 15 hours per day Mondays to Fridays and 10 hours a day Saturday and Sunday and operate 362 days a year.
- The grass football pitches would be able to be used for not more than 6 hours per week, 9 months a year without the quality of the pitches deteriorating.
- Sport England are supportive of the development on the basis that car park expansion was integral to the successful operation and growth of the sporting opportunities at the wider Oak Park development.
- Walsall Playing Pitch Strategy (PPS) adopted in 2018 presents a comprehensive assessment of supply and demand for sports pitches – specifically for football, rugby union, hockey and cricket in consultation with Sport England.
- The key component of PPS is the movement of football at junior level away from natural grass and onto 3G synthetic surfaces.
- Synthetic pitches are delivered to a high standard and every football team is able to play their competitive fixtures on a 3G pitch.
- The limitations of grass pitches even the very best pitches cannot accommodate more than 6 hours play, 4 matches a week
- The limited quality of Walsall's grass pitch stock with poor drainage leading to water logging and fixture cancellations.
- Limited resources to constantly improve the quality of the grass pitches.
- PPS places limited value on the junior grass pitches previously proposed at Oak Park and supports optimising the use of 3G pitch.

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- LC6 of the UDP sports loss/reduction of sports pitches if it can be demonstrated with an up to date needs assessment that the pitches are no longer required to meet local demand.
- The PPS is a requisite needs assessment and the move to 3G surfaces indicates that local need can be better met by full access to 3G surfaces rather than natural grass pitches.
- SAD contains policy OS1 that states the loss of open space will be considered against the requirements of national and local plan policy.
- The undeveloped site of the demolished 1974 leisure centre presents the best option for the development of the additional car parking on site.
- Proposal meets the criteria of exemption 5 of Sport England's planning policy.
- PPS is to achieve reliable and sustainable pitch provision by moving football from natural grass to 3G surfaces.

Design and Access Statement which states:

- The site extends toward as B4153 Coppice Road and the B4152 Brownhills Road to the north and includes a grass football pitch and a synthetic all weather pitch. There are two further grass football pitches adjacent the south west.
- The proposal is to build a car park on the site of the former leisure centre.
- The new car park is proposed to address the overspill of the parking for the new leisure centre and its pitches.

Transport Statement which states:

- The main leisure centre opened in 2016, the 3G pitch opened in April 2017 with junior grass pitches to follow afterwards, after the demolition of the oak park leisure centre.
- The car parking provision at the new Oak Park leisure centre has proven inadequate. The space in the centre is used very intensely with service demand having significant peaks and troughs, creating further pressures on parking.
- The opening of the 3G pitch in 2017 has made the situation much worse. The pitch provides 4 seven a side football pitches, which at booking changeover times can bring upwards of 114 additional customers to the site.
- Pressure on car parking has led to significant problems, customers parking unsafely outside marked bays, on access routes and obstructing emergency exits.
- The centre receives daily complaints about the car park.
- The proposed solution to the car parking pressure to develop a 160 space car park.
- The location of the car park was identified following an options appraisal within the site.
- Land to the south of the 2016 car park was rejected the land is held in a trust and it would be expensive to undertake stabilisation works.
- Land to the north of 2016 car park was rejected due to expensive stabilisation works, lighting disturb neighbours and drainage attenuation issues.
- Land to the south of 1974 car park was rejected as it is not in Council ownership, it would discharge traffic onto Lichfield Road and it would be remote.

- Proposed location has benefits including there are no adjacent residential properties, it is close to active living centre and next to the 3G pitch and the ground conditions are known.
- Proposed location presents two specific concerns the loss of two sports pitches and discharging traffic onto Lichfield Road.
- The loss of the grass pitches is supported by Sport England on the basis of a net sporting gain.
- Current 220 parking spaces are inadequate to service demand. The pinch points are Monday to Thursday 4pm -8pm and all day weekends.
- Little can be done to reduce parking demand during peak times.

A desk report which identifies localised pollution on site.

Coal mining report which states the site is in an influence area of coal workings.

Arboricultural Survey which identifies tree protection areas.

In support of the application Leisure Services have advised:

- The mounds were part of the previous development.
- There remain a range of outdoor facilities on the site – a skate park, a children's play area and grass pitch. In addition the indoor facilities that will be serviced by this car park are very well used by children.
- The Council works with a wide range of National Governing Bodies for sport to deliver participation and talent development programmes. Indeed programmes focusing on football, swimming, basketball and badminton are currently delivered from the site.
- Grass pitches offer limited community use – typically not more than 6 hours per week, without damage to the playing service. The additional car parking will deliver far more community use, by increasing access to the Active Living Centre.
- There will be a fee for playing on the pitch, however these fees are lower than for comparable facilities elsewhere in the area. The management team also work with local groups including the police to deliver free activities targeting local young people.
- These fees are lower than for comparable facilities elsewhere in the area. 3G pitch is very well used in evenings and weekends, but quieter during the day; this is common to facilities of this nature. The management team is working with local schools and community groups to offer discounted daytime usage.
- The fees and charges at Oak Park Active Living Centre are benchmarked and are among the lowest charges in the region. Sport and Leisure is a charged-for service in almost all local authorities, the income from charges is used to offset the running costs and remove the requirement from a subsidy from the Council.
- The grass pitches on the site are marked out and goals erected only during the football season.
- The grass pitches on the site are marked out and goals erected only during the football season. The goals are explicitly removed at the end of the season to reduce the number of people playing on the pitches in the summer so the grass has time to recover / re-establish. This is normal practice for almost all community grass football pitches.

- Having carefully considered the options and the detrimental effect the limited parking was having on the usage of the Active Living Centre, it was felt that greater benefit would be provided by the increased parking provision.
- There remains a range of outdoor facilities on the site – a skate park, a children’s play area, grass pitch. In addition the indoor facilities that will be serviced by this car park are very well used by children.
- It is intended that the car park will remove the parking pressure from surrounding streets. The new car park is included within the injunction area preventing travellers remaining on the site. There are no plans to implement charging for the car park.

Site and Surroundings

The site is located to the south west of Lichfield Road (A461), which forms part of the Strategic Highway Network through the Borough. The site comprises a new leisure centre building, car park and service yard with new vehicle access off Coppice Road, the facilities also include 3G pitches on former sports fields approved under PA 13/1471/FL. The centre opened in the summer 2016. The original leisure centre closed when the new centre opened and has recently been demolished, demolition was completed in March 2017.

Relevant Planning History

12/1422/FL, construction of replacement leisure centre including new access off Coppice Road, new parking area, refurbishment of existing artificial pitch (including new flood lights and fencing), demolition of existing leisure centre and provision of 2 new junior football pitches, granted subject to conditions 14-12-12.

13/1471/FL, material amendments to planning consent 12/1422/FL for proposed new leisure centre, granted subject to conditions 23-12-13.

15/0188/NMA, Non Material Amendment to planning application 13/1471/FL including alterations to the floor plans, elevations and general site layout approved 19-05-16

16/0969, Non Material Amendment to apply an exterior film to swimming pool glazing. Approved 28-07-16

17/0592 - Variation of condition 23 attached to 13/1471/FL to allow an extension of time until 30/06/18 to provide two junior football pitches on the site of the former leisure centre building. GSC 15-08-17

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government’s position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a *“presumption in favour of*

sustainable development'.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- DEL1: Infrastructure Provision
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites

- ENV17: New planting
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S5: The Local Centres
- S6: Meeting Local Needs
- T4 - The Highway Network
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC6: Sports Pitches
- LC7: Indoor Sport including Health and Fitness Centres

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1: Sustainability
- DW2: Safe & Welcoming Places
- DW3: Character
- DW5: Ease of Movement
- DW6: Legibility
- DW7: Diversity
- DW8: Adaptability

- DW9: High Quality Public Realm
- DW 10: Well Designed Sustainable Buildings

Consultation Replies

Arboricultural Officer – No objection subject to planning condition regarding planting.

Public Lighting Manager – No objection

Transportation – No objection

Sport England – No objection

Transportation – No objection

Representations

Ten letters have been received from six residents objecting to the proposal on the following grounds:

- Earth mound is an eyesore and was supposed to be landscaped
- Children left with no outdoor facilities
- Council do not want to develop young people's talent
- Football pitches will be used by community
- Football pitches would stop children becoming obese
- Astro turf is use has limited free play time
- Astro turf expensive to use and left empty most days
- Did not realise new centre would stop children from playing free sports
- Grass has no goals or pitch
- Goals should stay put throughout the summer
- Land promised for football pitch
- More money invested to develop facilities for children in the area
- Parking issues including parking in Little Lawns Close by customers, staff and parents of Streets Corner/Walsall Wood school, neighbours unable to park outside homes, cars parked on pavement, residents unable to unload shopping and grandchildren safely, restrict emergency access to Little Lawns Close, parking relocated on earth mound, already parking by KFC and new leisure centre, new car park open invitation for caravans to be parked on car park, parking charges will be implemented

Determining Issues

- Whether to grant the variation of Condition 23 attached to PA 13/1471/FL to allow the site of the former leisure centre building to be used for additional parking (202 spaces) instead of the two junior football pitches approved.
- Planning Conditions

Assessment of the Proposal

Whether to grant the variation of Condition 23 attached to PA 13/1471/FL to allow the site of the former leisure centre building to be used for additional parking (202 spaces) instead of the two junior football pitches approved.

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Planning permission was originally granted in 2013 under planning application 13/1471/FL for the redevelopment of Oak Park Leisure Centre. The new sports facility was proposed to be constructed on an existing area of playing field that was laid out as an adult football pitch. As part of the proposals, it was intended to provide two mini grass football pitches to mitigate the loss of the adult grass pitch, whilst also providing the wider sporting benefits of developing a new leisure centre.

Subsequently, planning consent has been granted under 17/0592 to vary condition 23 attached to 13/1471/FL to allow an extension of time until 30th June 2018 to provide the two replacement grass pitches.

The old leisure centre was demolished in 2017 and the land remains earthed over, it is on this part of the site that the new car park would be created, the area where the junior pitches were to have been provided. To the south east of the new leisure centre building is an earth mound which is the excavated earth from the adult pitch area to construct the new leisure centre building.

The new leisure centre has a car park that is accessed from Coppice Road. The old leisure centre car park which is located directly behind KFC outlet on Lichfield Road remains and customers to the leisure centre have use of this car park facility. The old leisure centre car park is also used by the members of the Bowling Green, tennis courts and football pitches to the south of the application site.

The submitted planning statement states the new car park is proposed to address the overspill of the parking for the new leisure centre and its pitches as the car parking provision at the new Oak Park leisure centre has proven inadequate. The statement also highlights the new facilities at Oak Park are available to the public for 15 hours per day Mondays to Fridays and 10 hours a day Saturday and Sunday and operate 362 days a year whereas the grass football pitches cannot be used more than 6 hours per week, 9 months a year without the quality of the pitches deteriorating. It is through the service demand of the leisure centre and the 3G pitch that have created further pressures on parking resulting in daily complaints.

The Transport Statement notes the opening of the 3G pitch in 2017 has made the parking situation much worse, as the pitch provides 4 seven a side football pitches, which at booking changeover times can bring upwards of 114 additional customers to the site. It also states pressure on car parking has led to significant problems, customers parking unsafely outside marked bays, on access routes and obstructing emergency exits. Nearby residents have also raised these concerns about parking congestion in the surrounding area. The Transport Statement also highlights that the site selected for the proposed car park was selected after discounting three other sites in and around the site due to various reasons including land ownership, amenity factors, highway issues and the cost of land stabilisation works.

The key considerations here are whether Sport England, Highways, lighting and amenity issues can be overcome.

Sport England advise that they will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of all or any part of a playing field, land which has been used as a playing field and remains undeveloped or land allocated for use as a playing field, unless the development meets one of the five specific policy requirements.

As part of the development of the leisure centre, an existing sand based artificial pitch was upgraded to 3G specification. Since the completion of the development, the use of the leisure centre and upgraded artificial pitch is understood to have put severe pressure on the existing car parking facilities. Notwithstanding that this was assessed as being sufficient to meet the needs of the development at the time, it is understood that the existing car parking has proven to be insufficient to cope with demand, especially during peak times. Following complaints from local residents, Leisure Services have explored various options for making additional provision.

The proposed application has to be assessed against both Sport England planning policy and Development Plan policies. In terms of Sport England's planning policy, the needs to be considered against exception 5 of the policy which states 'the proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field'. The submitted application will need to demonstrate that the loss of any area of playing field will not have an unacceptable impact upon the current and potential playing pitch provision on the site.

Sport England have sought advice from the FA/Football Foundation who have advised that the 3G pitch is fully booked every night of the week and on weekends. The land where the old leisure centre was sited would require a lot of work to turn the land into suitable pitches and then would require extensive maintenance to keep them at good level of use. They also advise the costs associated with maintaining these grass pitches would outweigh the income brought in, adding to the financial pressure on the Local Authority for maintaining grass pitches.

The Football Foundation/FA also advise the Local Authority have expressed an interest to have an additional 3G pitch on the site due to the success of the current pitch. This has been identified in the Local Football Facility Plan as a key project. The Local Authority are currently exploring this option with a view to developing a project.

Walsall Playing Pitch Strategy (PPS) adopted in 2018 presents a comprehensive assessment of supply and demand for sports pitches – specifically for football, rugby union, hockey and cricket in consultation with Sport England. The PPS does not include the proposed two mini pitches and only identifies the 3G pitch at this site, and indicates the local need for mini pitches is being met in the Borough. The provision of the 3G pitch at Oak Park has addressed some of the need for this type of provision, nonetheless the PPS identifies that even with this new facility there is a shortfall of 3G pitches in Walsall. Leisure Services are exploring options to deliver further 3G pitches to cater for this identified need, and if further provision was made at Oak Park, the additional car parking would be needed to serve the additional 3G pitch. Additional 3G provision would then most likely address the predicted future shortfalls for mini pitches in this catchment area going forward.

The provision of adequate car parking is considered to be important to ensure the existing 3G pitch and leisure centre facilities can be used to their capacity in order to maximise the sporting benefits to the local community. The leisure centre provides a range of new facilities which include a 25m 8 lane swimming pool, 17m learner pool, a gym/fitness suite, 6 badminton court sports hall, 2 squash courts, dance studio,

sauna/steam room/hydropool, and associated changing, café and ancillary spaces. This broad range of facilities therefore makes a significant contribution to provision of built sports facilities in Walsall Wood, in line with the Council's Built Sports Facilities Strategy. Given the acknowledged benefits of the leisure centre, the identified capacity in existing mini football pitches in the area, the transfer of some mini/youth football to be played on 3G, and the identified need for additional car parking, it is considered that the proposed car parking represents the greater need at this point in time, to sustain the benefits of the existing facilities. For these reasons, Sport England accepts that the development meets with Exception E5 without having to provide the replacement grass pitches as originally agreed.

With regards to neighbouring amenity the car park is located away from residential properties, so as not to impact upon neighbouring amenity. The car park and pedestrian paths will be illuminated by lighting columns to ensure they provide safe, convenient routes. The Public Lighting Manager has no objection to the proposed flood lighting.

Neighbouring occupiers have raised concerns that the earth mound is an eyesore and should be landscaped. This is a separate matter that will need to be investigated separately as a planning enforcement issue.

Neighbouring occupiers also raise a number of concerns primarily that children will be left without outdoor facilities, the Council do not want to develop peoples talents, football pitches would be used by the community and stop children becoming obese. Leisure Services investment into a 3G pitch clearly demonstrates that the welfare of children and the community are at heart, furthermore, the FA/Football Foundation have advised that the Council are considering another 3G pitch to meet demand. The above evidence in the report demonstrates that the 3G pitch is used at full capacity during the evenings and weekends and there is also a set period of time when the pitches can be used to maintain their longevity. Leisure Services also respond that there remain a range of outdoor facilities on the site – a skate park, a children's play area and grass pitch. They also advise that they work with a wide range of National Governing Bodies for sport to deliver participation and talent development programmes. Indeed programmes focusing on football, swimming, basketball and badminton are currently delivered from the site.

Neighbouring occupiers also state the astro turf has limited free play time and expensive to use and left empty most days. Leisure Services respond that there will be a fee for playing on the pitch, however these fees are lower than for comparable facilities elsewhere in the area. The management team also work with local groups including the police to deliver free activities targeting local young people and these fees are lower than for comparable facilities elsewhere in the area. The 3G pitch is very well used in evenings and weekends, but quieter during the day; this is common to facilities of this nature. The management team is working with local schools and community groups to offer discounted daytime usage.

The issues neighbouring occupiers raise regarding parking and the parking of vehicles in neighbouring streets would be overcome by the creation of the new car park, which will meet the shortfall in parking needs. Neighbours also state the new car park would be an invitation for caravans and the parking charges will be implemented. The car park would be on land owned by the Council, if the site

attracts unauthorised use from the parking of caravans then the Council will need to pursue this separately from planning legislation. Leisure Services advise the fees and charges at Oak Park Active Living Centre are benchmarked and are among the lowest charges in the region. Sport and Leisure is a charged-for service in almost all local authorities, the income from charges is used to offset the running costs and remove the requirement from a subsidy from the Council. They also advise the new car park is included within the injunction area preventing unauthorised encampments on the site and there are no plans to implement charging for the car park.

Neighbouring occupiers refer to the new leisure centre stopping children from free sports and the grass has no goal or pitch and the goals should remain throughout the summer. Leisure Services respond that the grass pitches on site are marked out and goals erected only during the football season and the goals are explicitly removed at the end of the season to reduce the number of people playing on the pitches in the summer so the grass has time to recover / re-establish. This is normal practice for almost all community grass football pitches.

The Highways Officer has no objection to the proposal.

The benefits of the car park outweigh the loss of the potential grass pitch and benefit to sport provision overall.

Planning Conditions

Since the original consent in 2013, some of the conditions have been discharged, some implemented or deleted through further amended applications. Condition 23 will be varied accordingly. The conditions from the original consent have been updated to reflect the current planning position. The time limit condition will be amended to allow the development to proceed within the remaining time limit.

Conclusions and Reasons for Decision

The provision of adequate car parking is considered to be important to ensure the existing 3G pitch and leisure centre facilities can be used to their capacity in order to maximise the sporting benefits to the local community. The leisure centre provides a range of new facilities which include a 25m 8 lane swimming pool, 17m learner pool, a gym/fitness suite, 6 badminton court sports hall, 2 squash courts, dance studio, sauna/steam room/hydropool, and associated changing, café and ancillary spaces. This broad range of facilities therefore makes a significant contribution to provision of built sports facilities in Walsall Wood, in line with the Council's Built Sports Facilities Strategy.

Given the acknowledged benefits of the leisure centre, the identified capacity in existing mini football pitches in the area, the transfer of some mini/youth football to be played on 3G, and the identified need for additional car parking, it is considered that the proposed car parking represents the greater need at this point in time, to sustain the benefits of the existing facilities.

The car park is located away from residential properties, so as not to impact upon neighbouring amenity. The car park and pedestrian paths will be illuminated by lighting columns. The Public Lighting Manager has no objection to the proposed flood lighting.

The proposal meets the aims and objectives of the NPPF, policies CSP4, DEL1 and ENV6 of the BCCS, saved policies GP2, ENV10, ENV11, ENV14, ENV32, ENV33, ENV17, T4, T7, T13, LC1, LC6 of the UDP, policy DW3 of Designing Walsall SPD and Conserving Walsall's Natural Environment SPD.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Delegate to the Head of Planning, Engineering and Transportation to grant planning permission subject to no new material planning considerations being put forward following further neighbour consultation on amended plans.

Conditions and Reasons

1. This permission will need to be implemented before 15th August 2020.

Reason: In order to ensure the satisfactory development of the site within the permitted timescales pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. The development shall be completed in accordance with the following materials:

Bricks – Cadeby red multi as submitted sample board and sample panel constructed onsite at Bloxwich

Mortar – Natural light grey

Render to Sportshall gable – Permarock technical through coloured render – light texture (as supplied sample)

Colours – refer ST0 render

Above dpc to +4m above FFL – colour blue reference 35202

Above +4m –colour off white (very light blue) - reference 35208

To Graffiti wall – sand cement render (to allow redecoration) – colour off white (very light blue) - reference 35208 and texture to match as closely as possible.

Method and design of applied graphic to be determined

Roof and associated accessories – facia etc – Mill finish aluminium standing seam system as per submitted sample

Curtain walling - Senior Aluminium Thermally broken system (as sample on site) – frame RAL 7011 dark grey – green body colour glass and spandrel panels

Metal Cladding - Insulated Cladding – Kingspan Microrib silver metallic panels (horizontal ribs) - RAL 9006

(Non - insulated cladding to staircases –vertical trapezoidal – colour – silver metallic RAL 9006)

Flashings etc to match.

Reason: To ensure the satisfactory appearance of the development.

3. The disposal of foul sewage and surface water drainage for the site shall be implemented in accordance with Severn Trent Water Development Enquiry (ND/WEST/37622) as approved under discharge of conditions application 14/1836/DOC on 29th January 2015.

Reason: To ensure the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

4a. All hard and soft landscaping for the site shall be implemented in accordance with:

Soft Landscaping scheme detailed in drawings: GC144116.08.02.B and GC 144116.08.03.B submitted on 23-05-16

The street furniture details submitted on 01-03-16

Hard Surfacing details within drawing: IABR14005200/OP-1004 Rev A submitted 10-05-16

4b. All planting shall be maintained for a period of 5 years from the full completion of the landscaping scheme. Within this period any trees, shrubs of plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to define the permission and to safeguard the visual amenity and natural environment of the area.

5. The refuse bin storage area, electricity sub station, sprinkler tank and pump shall be implemented in accordance with Drawing IABR14005200/OP-1011 approved on 31st May 2016.

Reason: In order to safeguard the visual amenity of the area amenities of the surrounding residential occupiers.

6. The external lighting on the site shall be implemented in accordance with details within drawing ISG05/EX/6000 Rev C5 approved on 6th June 2016. The floodlights for the all-weather pitch have been implemented in accordance with details submitted and approved on 13th September 2016.

Reason: In order to safeguard the amenities of the surrounding residential occupiers.

7. All Highway works shall be completed in accordance with the following drawings: AIS-W-409/B - Proposed road lighting layout

UTC-081/1 - Signal Civils / loop layout

UTC-0181/2 - Signal Layout

HM711/S100/01/A – Proposed layout

HM711/S200/01/A – Proposed Site Clearance

HM711/S700/01/A – Proposed Construction Details

HM711/S900/04/A – Proposed Cross Section Sheet 1

HM711/S900/05/A – Proposed Cross Section Sheet 2

HM711/S1200/02/A – Proposed Road Markings and Signs

HM711/BG/02/A – Proposed Zebra Crossing (Brownhills Road)

HM711/BG/01/A – Proposed Humped Zebra Crossing (Coppice Road)

The signal junction was fully operational from 14-05-16

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

8. Parking for site operatives during construction was implemented in accordance with details submitted and approved under discharge of conditions application 14/1836/DOC on 22nd December 2014.

Reason: To prevent indiscriminate parking in the interest of highway safety.

9. Wheel cleaning and the prevention of mud on the road during construction was undertaken in accordance with details submitted and approved under discharge of conditions application 14/1836/DOC on 22nd December 2014.

Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interest of highway safety.

10. The access, turning areas, speed cushions and parking facilities shown on the proposed car park plan drawing number HM742/01/PL submitted 29-08-18

and the proposed car park levels drawing number HM742/02/PI submitted 16-10-18

have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details submitted and approved prior to the first use of the car park.

Reason: In the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway.

11a. Prior to implementation details of a method to prevent greases entering the drainage system have been submitted to and approved in writing by the Local Planning Authority.

11b. Prior to first occupation of the building the agreed scheme shall be fully implemented.

11c. The approved equipment shall thereafter be retained and maintained in accordance with the manufacturer's or installer's requirement.

Reason: To prevent grease entering into the drainage system in the interests of the free flow, capacity and the prevention of pollution of the system.

12a. Prior to implementation details of the extract systems serving hot food cooking points being shown to be fitted with an odour arrestment system and details of the external finish of the flue have been submitted to and approved in writing by the Local Planning Authority.

12b. The development shall be completed in accordance with the approved details and retained and maintained at all times.

Reason: To safeguard the amenities of the occupiers of nearby adjoining residential premises.

13. The flue serving the commercial hot food cooking points shall terminate at least 1 metre above the building roof level or building ridge level (whichever is the highest) of any building within 20m of the proposed development, and in any case, 1m above the building roof level or building ridge level housing the commercial kitchen / cooking facility. [Note: These requirements may be varied subject to the fitment and retention of a high efficiency odour control system].

Reason: To safeguard the amenities of the occupiers of nearby adjoining residential premises.

14. The pedestrian ramped access from the car park to the main building has been implemented in accordance with Drawing IABR14005200-OP-1004 Rev A approved on 26th May 2016, prior to the first occupation of the building.

Reason: In order to ensure satisfactory access for all.

15. The scheme shall be implemented in accordance with Site Investigation reference SMD/J-B04543.01 (R02) dated January, 2014 by Opus International Consultants and a Remediation Strategy letter report reference EB1588/GB/4267 dated 15th December, 2014 by Curtins.

Reason: To ensure the protection of controlled waters and human health.

16. The scheme shall be implemented in accordance with Site Investigation reference SMD/J-B04543.01 (R02) dated January, 2014 by Opus International Consultants and a Remediation Strategy letter report reference EB1588/GB/4267 dated 15th December, 2014 by Curtins.

Reason: To ensure the protection of controlled waters and human health.

17. Remediation of the site shall be maintained in accordance with the details contained within the site investigation report Ref: SMD/J-B0453.01 (R02) dated January 2014 by Opus International Consultants and remediation strategy report

letter Ref: EB1588/GB/4267 dated 15-12-14 by Curtins approved under discharge of conditions application 14/1836/DOC on 31st May 2016.

Reason: To address risks to human health arising from soil contamination or ground gas

18. Remediation of the site shall be maintained in accordance with the details contained within the site investigation report Ref: SMD/J-B0453.01 (R02) dated January 2014 by Opus International Consultants and remediation strategy report letter Ref: EB1588/GB/4267 dated 15-12-14 by Curtins approved under discharge of conditions application 14/1836/DOC on 31st May 2016.

Reason: To ensure the protection of controlled waters

19. Tree protection measures were implemented in accordance with details in the Arboricultural Report by A L Smith of Tree Health Consulting Ltd dated October 2012 and approved under discharge of conditions application 14/1836/DOC on 22nd December 2014.

Reason: To safeguard the retained trees on site.

20. The Travel Plan approved on 1st June 2016 shall be fully implemented.

Reason: In order to encourage sustainability at the site and to promote use of alternative modes of transport.

21a. Prior to the commencement of constructing the new grass playing field, the following documents shall have been submitted to and approved in writing by the Local Planning Authority:

- i) A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the new area of playing field which identifies constraints which could affect playing field quality; and
- ii) Based on the results of the assessment to be carried out pursuant to above, a detailed scheme which ensures that the playing field will be provided to an acceptable quality. The scheme shall include a written specification of soils structure, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation.

21b. The approved scheme shall be carried out in full.

21c. The new grass playing field shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose.

22. The floodlights to the artificial pitched shall not be illuminated outside the hours of 1000 – 2200 hours daily.

Reason: To safeguard the amenities of the occupiers of nearby adjoining residential premises.

23. The site of the former leisure centre building shall be used for additional parking (202 spaces) as shown on drawing number drawing number HM742/01/PL entitled proposed car park plan submitted 29-08-18.

Reason: The proposed car parking represents the greater need to sustain the benefits of the existing facilities.

24. The premises shall not be open for use outside the following times: 0700 – 2230 hours Monday – Friday, 0800 – 2230 hours Saturdays and 0800 – 2130 hours Sundays and Bank Holidays, except for 6 individual days throughout the normal calendar year when the premises shall be open between the hours 0800 and Midnight.

Reason: To safeguard the amenities of the occupiers of nearby adjoining residential premises.

25. Noise from plant, machinery and extraction systems shall be designed, installed and operated, with due regard to the Noise Impact Assessment submitted as part of the application (ref HHACY/50949/R01/PAK, by H and H Acoustic Consultancy Division), to ensure that noise emissions do not give rise to a Rating Level of 5 dB at nearby residential premises as determined in accordance with British Standard BS 4142: 1997 '*Method for Rating industrial noise affecting mixed residential and industrial areas*'.

Reason: To safeguard the amenities of the occupiers of nearby adjoining residential premises.

26. No consent is given for signage within the site.

Reason: In order to protect the visual amenity of the area.

27. The existing and proposed pedestrian access routes through the site shall remain available for public access at all times.

Reason: In order to ensure safe and adequate pedestrian access through the site.

28. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and no such works shall take place outside the hours of 08.00 to 18.00 Monday to Fridays and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

Reason: In order to safeguard the amenities of the surrounding occupiers.

29. The works hereby approved shall only be carried out in accordance with details contained within drawings:

Location Plan Drawing J27/500 submitted 1st November 2012

Existing Site Survey Drawing J27/502 submitted 1st November 2012

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Existing Site Analysis Drawing J27/501 submitted 1st November 2012

Existing Site Sections Drawing J27/503 submitted 1st November 2012

Proposed Site Plan Drawing J27/504 Rev A submitted 28th November 2013

Proposed Site Sections Drawing J27/505 submitted 1st November 2012

Proposed Ground Floor Plan Drawing J27/506 Rev D submitted 31st October 2013

Proposed First Floor Plan Drawing J27/507 Rev D submitted 31st October 2013

Proposed Roof Plan Drawing J27/508 submitted 1st November 2012

Proposed Elevations sheet 1 of 2 Drawing J27/509 Rev A submitted 31st October 2013

Proposed Elevations sheet 1 of 2 Drawing J27/510 Rev A submitted 31st October 2013

Proposed Sections sheet 1 of 2 Drawing J27/511 submitted 1st November 2012

Electrical Services External Lighting Layout WBS/NS/63/ME01 Rev A submitted 1st November 2012

Indicative Soft Landscaping Proposals DD 42013/2 Rev A submitted 5th December 2012

Indicative Hard Landscape Proposals DD 42013/1 Rev A submitted 5th December 2012

Revised Planning Statement submitted 31st October 2013

Proposed car park plan drawing number HM742/01/PL submitted 29-08-18

Proposed car park levels drawing number HM742/02/PI submitted 16-10-18

Proposed car park landscape treatment trees drawing number HM742/03PL submitted 17-10-18

Transport Statement by Phil Jones Associates dated November 2012, submitted 26th November 2012

Framework Travel Plan by Phil Jones Associates submitted 1st November 2012

Noise Impact Assessment by Acoustic Consultancy Division dated 31st October 2012 submitted 1st November 2012

Bat Survey by Ecology and Land Management dated October 2012, submitted 1st November 2012

Tree Report by A L Smith Ref THC/20121/10/30 AS dated 30th October 2012, submitted 1st November 2012.

Desk Study Report by Opus dated October 2012, submitted 1st November 2012

Statement of Community Involvement submitted 1st November 2012

Energy Strategy Proposals Statement submitted 1st November 2012.

Statement of Planning Amendments submitted 31st October 2013

Lighting details and the car park lighting plan submitted on 12-10-18

Reason: In order to define the permission.

30. All tree planting shall be carried out in accordance with the proposed car park landscape treatment trees drawing number HM742/03PL submitted 17-10-18.

If within a period of five years from the date of the planting of any tree, that tree, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted in the same place, unless the Borough Council gives its written consent to any variation.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the Walsall UDP 2005.

31. The development hereby approved shall be carried out in accordance with the lighting details and the car park lighting plan submitted on 12-10-18.

Reason: In the visual amenities of the area and to prevent light pollution.

End of Officers Report

Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 4.

Reason for bringing to committee: Major application

Location: LAND AT FORMER CAPARO WORKS, BETWEEN THE WYRLEY AND ESSINGTON CANAL, MINER STREET, GREEN STREET AND OLD BIRCHILLS, WALSALL

Proposal: OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF UP TO 252 DWELLINGS (ACCESS AND SCALE TO BE CONSIDERED)

Application Number: 11/1411/OL

Applicant: LPA Receivers for the Caparo
1988 Pension Scheme

Agent: Harris Lamb

Application Type: Outline Permission: Major
Application

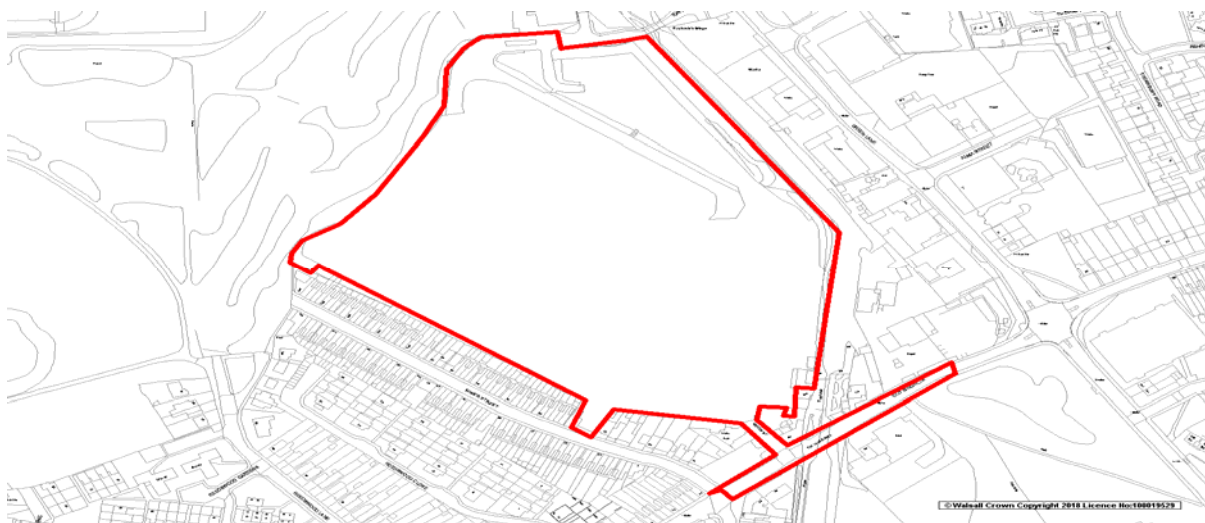
Case Officer: Alison Ives

Ward: Pleck, Birchills Leamore

Expired Date: 25-Dec-2018

Time Extension Expiry:

Recommendation Summary: Grant permission subject to conditions and a Section 106 Agreement to secure provision for affordable home ownership, highway improvements and urban open space unless no grant assistance is available and to receive a further viability assessment when all costs known. Delegate to the Head of Planning, Engineering and Transportation.



Updated Current Status

The application was reported to Planning Committee on 4th October 2018 where the following resolution was reached:

That planning application number 11/1411/OL be granted permission for the reasons set out in the report and supplementary paper and subject to conditions and a Section 106 Agreement to secure provision for affordable home ownership, highway improvements and urban open space unless no grant assistance is available and to receive a further viability assessment when all costs known. Delegate to the Head of Planning, Engineering and Transportation subject to no new material planning considerations following publicity of amended plans and subject to necessary amendments to conditions to address consultee responses as contained within the report and supplementary paper now submitted.

This updated status includes the information from the supplementary paper for 4th October 2018 Committee and the new representations received as a consequence of the further consultation on amended plans which ended on 12th October 2018.

New Consultee Replies

Archaeology - The Cultural Heritage Statement 2005 suggests that there is unlikely to be any below-ground archaeology of significance within the site, which is agreed. The Statement recommends the recording of the standing buildings prior to demolition. The 2018 Heritage Assessment suggests that the proposed demolition of the site's boundaries to the adjacent conservation area would not adversely affect the conservation area, and recommends a condition requiring building recording prior to demolition as an appropriate mitigation. This is agreed.

Coal Authority - No further comments to add other than those made previously.

Environment Agency – No further comments to add other than those made previously.

Historic England – No further comments to add other than those made previously.

Independent Valuer – Whilst the findings of the Harris Lamb valuation is largely agreed with there has been some double counting on abnormal costs which include elements that are part of the build costs so ultimately this will improve the viability position. The developer's profit on cost is calculated as 22.65% (18.46

Pollution Control – Original comments remain valid with the inclusion of a restriction for permitted development rights due to the development requiring contaminated land and ground gas ingress mitigation measures to be incorporated into the development properties.

Structures – No objections in principle subject to no building within the limestone consideration zone which covers part of the site off Green Street.

New Representations

There have been four further representations including 3 objections and 1 supporting comment.

Objections

- Loss of parking and restricted footway width to accommodate the right turn lane
- Loss of parking for Top Lock Cottage and Former Canal Museum and canal users
- Assurances sought that proposed highway improvements do not compromise access to the canal and Listed Buildings including access for the disabled
- Does the proposal affect the agreed collection point for refuse bins for existing properties
- Don't need new housing adding to congestion in Miner Street which is one-way
- Concern about traffic congestion in Hospital Street and rat-running

Support

- Good idea housing needed in Birchills area preferably 4 bedroom

Determining Issues

The following determining issues are unchanged from the previous report:

- Principle of Development
- Scale of Development
- Relationship to surrounding properties
- Ground Conditions (pollution/coal/limestone/flood risk)
- Ecology
- Impact on Heritage Assets
- Local Finance Considerations

Following the further consultation period on amended plans the following determining issues are updated:

- Means of Access
- Provision for affordable housing and open space

Additionally in terms of Archaeology recommended condition 5 addresses the archaeologist comments. In terms of pre-commencement conditions the applicant has not raised any issues with regard to the recommended pre-commencement conditions. The letter of support welcomes new housing in the Birchills area and suggests some 4 bed properties which supports the principle of development.

Assessment of the Proposals

Means of Access

The amended plan extended the application site boundary to include the highway improvements on Old Birchills. The Transportation officer does not object to the proposals and is satisfied that the means of access will not have a severe impact on the highway network.

The neighbouring resident has raised concerns about displacement of on-street parking on Old Birchills which is used by residents and the potential impact the highway improvements would have on access to Top Lock Cottage and Former Canal Museum Listed Buildings and the canal. Concerns include whether refuse collection and disabled access will be maintained. The proposed highway improvements include provision of right turn lane and some kerb realignments on Old Birchills. This will maintain a continuous footway along Old Birchills sufficient to accommodate disabled access to the canal, the existing dropped crossing serving the canal will be maintained so access to refuse bins for collection day and vehicle access to the neighbouring premises is unaffected. The kerbs are to be adjusted which will in fact result in a wider footway along Old Birchills. It is likely that a TRO (double yellow lines) will be required along part of Old Birchills to accommodate the highway improvements that will displace some on-street parking immediately within the visibility splays. Nevertheless on-street parking will be available in the vicinity and neighbours should not rely on availability of on-street parking.

Other residents have raised concerns regarding traffic congestion and rat-running in the areas of Miner Street and Hospital Street. There is no vehicular access proposed onto Miner Street and in regards to rat-running in Hospital Street the highway improvements and traffic signals should manage the traffic adequately in the area. Transportation officers are satisfied that the proposals will not have severe highway implications.

The recommendation seeks to secure these highway improvements through a S106 Agreement and subsequent S278 Highways Agreement.

Provision for affordable housing and open space

The Independent Valuer has advised that the Harris Lamb viability assessment includes some double counting on abnormal costs which include elements that are part of the build costs so ultimately this will improve the viability position. The Independent Valuer calculates a developer's profit on cost of 22.65% (18.46% on GDV) rather than 13.11% calculated by the developer. The 18.46% is considered a reasonable developers profit as it is in the region of 20%. The Independent Valuer concludes that having regard to the associated abnormal costs and low value location the proposed scheme does not show sufficient developer's profit to sustain any affordable housing (or any other obligations for that matter).

Notwithstanding the above the Independent Valuer did highlight that paragraph 64 of the NPPF states *"where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups."*

Whilst the Valuer's advice is the scheme cannot support affordable homes or any other provision it does not take into account any grant funding that may be available. In light of the fact that the NPPF directs LPA's to secure at least 10% affordable home ownership and the earlier scheme sought to secure 14% affordable housing it is recommended that committee accept 10% affordable home ownership in accordance with the NPPF to be secured by a S106 Agreement. This is unless any of the following clauses from paragraph 64 of the NPPF apply:

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- a) provides solely for Build to Rent homes;*
- b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
- c) is proposed to be developed by people who wish to build or commission their own homes; or*
- d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.*

It is considered that none of these exemptions apply to the current outline scheme.

Provision for open space should also be secured to be policy compliant with DEL1 of the BCCS and LC1 of the UDP and SPD Urban Open Space. The level of contribution required should be in accordance with the policies and determined at a rate dependant on the eventual mix of housing and number of bedrooms.

The Planning Committee resolution of 4th October 2018 endorsed the officer recommendation to secure provision for affordable homes, highway improvements and urban open space by a S106 Agreement unless no grant assistance is available and to receive a further viability assessment when all costs known. In other words, a S106 Agreement with a trigger to require submission of a further viability assessment once all costs are known and to secure these provisions in the event that the scheme proves viable is required.

It should be noted that the National Planning Practice guidance (NPPG) states that the weight to be given to a viability assessment which accompanies an application is a matter for the decision maker. (NPPG Paragraph: 008 Reference ID: 10-008-20180724). In addressing the gross development value of a scheme, (NPPG Paragraph: 011 Reference ID: 10-011-20180724) states that grants and other external sources of funding should be taken into account.

Taking this into account it is considered that if grant funding is made available to this scheme, the policy contributions identified above should be secured.

Officers are working with the developers on a mechanism for securing the further viability assessment and implications of the same and will update Committee at the meeting.

Amended Conclusions and Reasons for Decision

In addition to the conclusions and reasons in the original report below it is considered that the proposed highway improvements will not adversely affect accessibility for the adjacent occupiers or disabled access to the canal or servicing arrangements. This is in accordance with the NPPF and BCCS policies CSP5, TRAN2, TRAN4, TRAN5 and saved UDP policies GP2 and T10. Also, archaeological concerns have been addressed in accordance with saved UDP policy ENV25.

Amended Recommendation

Grant permission subject to conditions and a Section 106 Agreement to secure provision for affordable home ownership, highway improvements and urban open space unless no grant assistance is available and to receive a further viability

assessment when all costs known. Delegate to the Head of Planning, Engineering and Transportation.

Conditions

As set out in the original report below.

The original report from 4 October 2018 now follows:

Current Status

The application was originally registered in November 2011. At that time the application was described as “Outline application (considering access only) for up to 310 dwellings. Resubmission of 08/0163/OL”. On 5th January 2012 Committee resolved to grant permission subject to conditions and a S106 Planning Obligation as set out in the report. The S106 was to have delivered the following:

- Equivalent of 14% Affordable Housing towards shared equity housing
- A maximum of £965,000 towards Walsall Children Services with any surplus from this figure directed towards other service areas (e.g. Greenspaces)
- £170,000 primarily directed towards the junction improvement of Green Lane/Hospital Street/Old Birchills in the first instance with any remaining contribution to be provided towards Urban Open Space

The S106 has not been completed hence the application remains undetermined.

In April 2018 the application was updated with new supporting documents and a viability assessment provided in order to justify waiving any S106 obligations. In September 2018 amended details were provided extending the application site boundary along Old Birchills to incorporate highway improvements and to change the description to “Outline application for residential development of up to 252 dwellings (access and scale to be considered)”. Reserved matters to be determined at a later stage are appearance, landscaping and layout.

The applicant's details have also been updated as Receivers for the Caparo 1988 Pension Scheme.

The following supporting documents have been updated:

Design & Access Statement, Heritage Statement, Supplemental Site Investigation Report, Transport Assessment, Residential Travel Plan, Ecological Appraisal, Flood Risk Assessment and Drainage Strategy, Noise Assessment, Air Quality Assessment, Financial Viability Assessment.

Proposal

The application seeks outline permission for residential development of up to 252 dwellings, considering access and scale only.

The proposed layout plan identifies the main vehicular access from Green Street (off Old Birchills) leading into the site. This is 5.5m wide with footways on either side. The amended plan extends the site boundary along the highway in Old Birchills to

incorporate the land required for highway improvements proposed in the form of curb realignment and vehicle turning lanes. There is an emergency access to the site via Rayboulds Bridge off Green Lane that will be available for pedestrians and cyclists. There is a further pedestrian access leading from the site onto Miner Street and a pedestrian access to the Wyrley & Essington Canal.

In terms of scale the proposals identify up to 252 dwellings and the supporting documents identify this could be a mixture of 2 to 4 storey buildings including a mix of housing and apartments throughout the site to respect the surrounding context.

The site is 6.6 hectares.

Design & Access Statement – Describes the site context, proposals, potential layout, scale, access, parking and refuse provision, boundary treatments, landscape design and sustainability.

Heritage Statement – Concludes the physical impact to Walsall Junction Conservation Area would not significantly affect its architectural or historic values and the non-designated heritage assets affected are of negligible value. The setting of designated heritage assets, Old Birchills Toll House and Boatman's Rest are not adversely affected and their setting may be enhanced by demolition of current building that detract from them.

Geoenvironmental Investigation Desk Study and Factual Report (2011) – Prepared when the application was originally submitted in 2011. This identifies the site history, geology and mining, hydrology, hydrogeology and gas risks. It also gives results of fieldwork, soil-gas and groundwater monitoring, chemical testing and geotechnical testing. It identifies a risk evaluation and remediation proposals.

Supplemental Site Investigation Report – This supplements the original site investigation desk study. There were 22 trial pits and 16 light percussion boreholes undertaken to enable detailed investigation of sub-surface ground conditions. Conditions identified include subsurface obstructions (e.g. relic foundations, below ground pits and tunnels, redundant site drainage), deep made ground, elevated levels of metals within made ground, PAH hotspots at 0.8m below ground level, elevated VOCs in soils, asbestos, elevated levels of carbon dioxide, Japanese Knotweed, a 34m depth shaft, Limestone Mining considerations, pile design to take account of shallow mine workings. Proposals for dealing with these are included in the report.

Transport Assessment – Identifies the site as being highly accessible to the local highway network with links to the strategic highway network. Traffic surveys and analysis of road traffic accidents have been carried out identifying no existing highway safety concerns that may be exacerbated by the proposals. Pedestrian and cycle links are close to the site and give access to Walsall town centre, there are frequent bus services and access to Walsall railway station. A new primary ghost island priority junction with Old Birchills is proposed plus a TRO along the extent of the primary access (double yellow lines). A secondary emergency access that will also provide pedestrian and cycle access is proposed off Rayboulds Bridge. Parking and cycle storage can be accommodated on site. Travel demand indicates approximately two additional vehicles every minute as a result of the proposals. The

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signalised junction at Green Lane/Hospital Street/Old Birchills operates over capacity and some phasing/timing adjustments may be required. The proposals will result in cumulative implications on Junction 10 of the M6 but as these impacts are expected as part of the wider growth of the local area and have been considered as part of the planned major highways scheme. In conclusion the proposals would have no significant impact on the surrounding highway network.

Residential Travel Plan – Details sustainable travel measures to be made available for the proposed development with a main objective of reducing single occupancy car trips in favour of more sustainable modes of transport. A Travel Plan Co-Ordinator will be appointed to monitor for a period of five years post initial occupation.

Ecological Appraisal – This identifies habitats of brownfield land subsequently vegetated with scrub and short perennial species with the exception of a belt of trees along the north-eastern boundary which benefits the green infrastructure along the boundary with the canal. There is limited potential for common amphibians, badgers are not currently resident on site, no evidence of roosting bats as the buildings on site have negligible potential to support roosting bats and trees have low potential to support roosting bats, no reptiles were recorded on site, nesting birds should be safeguarded. Japanese Knotweed is also present on site.

Precautionary measures during site clearance are recommended to protect all species including a review for new evidence of badger activity no less than 3 months prior to commencement of works, precautionary felling of trees, sensitive lighting, avoidance of vegetation removal during bird nesting season (Sept-Feb) and a Method Statement for removal of vegetation detailing best ecological practice. If works to the canal become necessary a survey and assessment for water voles and white-clawed crayfish should be undertaken prior to any works commencing.

Flood Risk Assessment and Drainage Strategy – Assesses risk of flooding at the site and identifies the site within Flood Zone 1 (low risk of fluvial and tidal flooding) and low risk of flooding from other sources. In order to ensure the proposed development does not have an adverse impact and increased flood risk elsewhere sustainable drainage of surface water and foul drainage should be achieved. Surface water run-off will be designed to achieve less than greenfield run-off and discharged into public sewers at a limited discharge rate (15 litres per second) requiring attenuation storage and SuDS design. Foul water will be discharged into the combined sewer in Old Birchills.

Noise Assessment – Main sources of noise are identified as traffic on Green Lane and Old Birchills and industrial activity at Walsall Boat Builders. Noise monitoring was carried out at four locations in September 2017. Existing noise levels are below current World Health Organisation guidelines in outdoor living areas and indoor noise limits can be achieved by thermal double glazing with windows closed. Acoustic ventilation will be incorporated where required. Appropriate mitigation will be required to protect future residents from noise from Walsall Boat Builders as the specific noise level exceeds the daytime background noise level.

Air Quality Assessment – Identifies construction phase and operational phase air quality measures. Specific mitigation measures are proposed for construction phase

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to reduce the effects from earthworks, construction and trackout. There will be negligible impact on air quality from development-generated vehicles and air quality effects within the site will not be significant. Mitigation measures are proposed in accordance with the Air Quality SPD.

Financial Viability Assessment - Demonstrates how the scheme is unviable with 25% full policy compliant affordable housing provision and would fail to deliver housing to the open market. With full policy compliant affordable housing the project would deliver a profit margin of -0.9% on the gross development value. Without any affordable housing the project delivers a profit margin of 13.11%. A list of abnormalities on the site is identified such as contamination, deep made ground materials, elevated metals, asbestos, Japanese Knotweed, mine shafts and Limestone mining, pile design and the need for 750cm capping across the site. The detailed costs include for suspended floor slabs, piling, imported topsoil, stormwater attenuation, remediation/gas membrane/mine shafts.

Site and Surroundings

The application site comprises the land formerly occupied by Caparo Industries and is bordered by Miner Street, the Wyrley and Essington Canal and Reedswood Park and Golf Course. To the southeast of the site is located a public house and the former lock museum and Top Lock Cottage. The site has now been largely cleared of buildings with only minimal structures remaining.

The site is accessed principally from Green Street, off Old Birchills. Also located on Green Street is a small car repairs business. The Caparo Industries southern car park (fronting onto Old Birchills) is not included in the application site. Rayboulds Bridge is an adopted public highway.

The existing site has a pedestrian entrance from Miner Street. Miner Street is a terrace of Victorian houses with a strong design character and built form. On the opposite side of the canal are further employment uses including Metafin Ltd and a boatyard.

The application site is designated as Core Employment Land within the UDP but is allocated for housing development in the emerging SAD. Much of the canal, which bends around the site, is designated as a Conservation Area with the locks being listed. In addition Old Birchills Tollhouse (the former lock museum), Top Lock Cottage and Rayboulds Bridge are also Grade II Listed buildings. In addition a small portion of the south-eastern corner of the site is designated as a Limestone Mine Consideration Zone. The site is in Flood Zone 1.

This proposal has been screened under the Environmental Impact Assessment Regulations (2017) and found not to require an Environmental Statement as part of this planning application.

Relevant Planning History

08/0163/OL – Outline Application for residential development of up to 310 dwellings (access and scale to be considered) – GSC & S106 Agreement 30/11/2010. The S106 Agreement sought to secure 14% affordable housing, £965,000 education contribution and junction improvement contributions.

06/0397/ND/W7 – Screening Opinion for an Environmental Impact Assessment for the demolition of existing buildings and erection of 300 residential dwellings. EIA not required – March 2006

Former Canal Museum

17/1330 (& 17/1331 Listed Building Consent) - Change of use from D1 (Canal Museum) to C3 dwelling house and erection of single storey rear extension - GSC 04/07/18.

206 Old Birchills

13/0936/FL (& 17/0937/LB Listed Building Consent) - Change of use from offices to residential including general refurbishment of the building and internal and external alterations – GSC 10/01/14. Various minor amendments granted subsequently.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a *"presumption in favour of sustainable development"*.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- EMP1: Providing for Economic Growth
- EMP3: Local Quality Employment Areas
- EMP4: Maintaining a Supply of Readily Available Employment Land
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation

- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- JP5: Core Employment Areas
- JP8: Bad Neighbour Industrial Uses
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T1 - Helping People to Get Around
- T4 - The Highway Network
- T5 - Highway Improvements
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces

Emerging Site Allocation Document

HC1: Land allocated for New Housing Development (Site HO181 – Former Caparo)

HC3: Affordable Housing and Housing for People with Special Needs

Supplementary Planning Documents:

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species

- NE3 – Long Term Management of Mitigation and Compensatory Measures
Survey standards

- NE4 – Survey Standards
The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision
Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW5 Ease of Movement
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites

- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Archaeologist – Comments awaited.

Building Regulations – No comments on access consideration only.

Canal & River Trust – Comments awaited.

Coal Authority – No objections. The Coal mining legacy potentially poses a risk to the proposed development and further intrusive site investigation works are necessary to establish the exact situation regarding coal mining legacy issues on the site. A condition to secure this is recommended.

District Valuation Officer – Comments awaited.

Education Services – No comments received.

Environment Agency – No objections. A condition is recommended to protect controlled waters. A comprehensive assessment had been undertaken and all groundwater quality samples obtained indicated that no dissolved pollution seemed present. The soil analyses data showed that there were some (shallow) areas of metal and hydrocarbon pollution, which had been broadly delineated and put forward for remediation in order to remove potential long-term sources. The Agency agree this approach and the applicants specific conclusions for ground and surface waters at the time (i.e. Georisk concluded that there was not a significant risk to Controlled Water receptors at the site, having only found perched water within the varying Made Ground deposits and no linkage to the adjacent canal either). On this basis the Agency endorsed the applicants outline clearance and clean-up proposals.

Fire Service – No objections subject to provision of suitable water supplies for firefighting purposes.

Flood Risk Officer – The site is in Flood Zone 1. No objections subject to the development being carried out in accordance with the details in the submitted Flood Risk/Drainage Strategy. A condition is recommended to secure such measures.

Historic England – Specialist conservation and archaeological views should be sought where relevant. The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3 (2nd edition) recommends a staged approach to the assessment of impact based on an understanding of the significance of the heritage assets involved, how their setting contributes to their significance and how this will be changed by the development.

Natural England – Up to date ecological appraisals have been provided to enable the Council to fully assess ecological impacts.

Pollution Control –No objections in principle. Conditions are recommended to ensure the future occupants and their homes are not exposed to significant levels of contaminants and ground gases; noise mitigation measures are undertaken to protect future occupants; electric vehicle charging points are installed for use by future occupants and an Environmental Management Plan is implemented to control noise, vibration, dust and debris drag-out during engineering or construction works.

Strategic Housing – The original consideration of the application set the affordable housing complement at 14%. However, reviewing the application in the current policy climate 25% affordable housing would be sought, this equates to 63 dwellings. The tenure of the affordable housing is recommended as a mixture of social rent and shared ownership units.

Structures – Awaiting comments.

Transportation – No objections subject to addressing issues in respect of highway design. Whilst it is acknowledged the proposal has been previously approved, highway design guidance has changed since and there are a number of design issues around the submitted layout mainly concerning access to the site. This will need to be secured as part of a Reserved Matters submission.

Parking provision of about 220% across the development is indicated which is considered acceptable taking into account the site being in a relatively sustainable location. The predicted trips to the site will impact on the A34 Green Lane/Old Birchills junction and therefore improvements have been recommended by the applicant's Transport Consultant, the details and costs of which to be agreed with the Highway Authority.

Representations

Three letters of objection received summarised as follows:

- Another 310 houses not needed in the area
- Existing properties difficult to sell
- Poor reputation in the area
- Many occupiers of proposed houses will be on benefits so costs the Council
- Heavy traffic congestion in the surrounding area already
- How close are properties to neighbours
- Support the development in principle with reservations regarding how the proposals impact on the Listed Buildings Old Birchills Tollhouse and Boatman's Rest
- More details required on the proposed method of demolition of the warehouse which is attached to the Listed Buildings
- More details required on levels and boundaries to maintain security and outlook to the Listed Buildings
- The boundary wall is in Walsall Locks Conservation Area and requires consent
- Concern over safety of the partially demolished warehouse building
- Falling debris from the partially demolished warehouse
- Unsatisfactory demolition has caused the walls of the warehouse to bow (as confirmed by a Chartered Surveyor)

- An independent survey identifies that the retaining walls need rebuilding with designed drainage and waterproofing systems
- No remediation to wall in three years and this is causing damage to the Listed Buildings (including water ingress dissolving mortar in the foundations due to high sulphate levels)
- Request rebuilding of wall and some interim security/safety measures to prevent risk to human safety
- Water drainage details are required
- An independent survey of the “rear boundary wall and other matters” has been prepared by a Chartered Surveyor on behalf of the objector which concludes:
 - *Areas of the boundary wall at former Caparo works are unstable and could collapse onto 206 Old Birchills*
 - *The vegetation growth along the boundary wall is disturbing masonry loosening brickwork and vulnerable to dropping onto 206 Old Birchills*
 - *The method of demolition of buildings at the Caparo site has not considered stability and made them vulnerable to movement*
 - *The demolition of buildings at the Caparo site and abandoned drainage system means increased levels of water are likely to enter the ground on the Caparo site*
 - *Groundwater on the Caparo site contains elevated levels of contaminants which are potentially hazardous to public health*
 - *A means of intercepting and collecting any contaminated ground water flows needs to be installed*

Determining Issues

- Principle of Development
- Means of Access
- Scale of Development
- Relationship to surrounding properties
- Ground Conditions (pollution/coal/limestone/flood risk)
- Ecology
- Impact on Heritage Assets
- Provision for affordable housing and open space
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The principle of redevelopment for residential purposes has previously been accepted by Planning Committee in their resolution to grant permission in 2012.

BCCS policy CSP1 seeks to create a network of regeneration corridors to provide for strategic local employment and new homes. This site would contribute towards provision of new homes. Policy HC1 of the emerging SAD allocates the site for residential development.

Residents are concerned there is no need for new housing in the area. Nevertheless the Development Plan relies on the Council to allocate land to deliver new homes and this proposal will contribute towards that provision.

The site is a vacant brownfield site that is in a highly sustainable area.

The principle of residential development of the site is supported.

Means of Access

The means of access to the site is via Green Street with a secondary emergency access via Rayboulds Bridge. The Transport Assessment demonstrates the site is highly sustainable and the proposals will cause no significant highway safety concerns. It does acknowledge that there will be additional traffic and this will be safely accommodated including proposed alterations to the highway in Old Birchills to create a right turn lane and some adjustment to the traffic signals timing on Old Birchills/Green Lane/ Hospital Street. A TRO is also proposed to prevent on-street parking at the Green Street access. Other measures to encourage sustainable means of travel are included such as appointing a Travel Plan Co-Ordinator to help implement the proposed Travel Plan and by providing pedestrian/cycle links and cycle storage.

Whilst there will be cumulative impacts of additional traffic on Junction 10 of the M6 these are accommodated as part of the planned major highways scheme for the area.

Despite residents' concerns about increased traffic congestion in the area the proposals have taken into consideration the cumulative impact and the access arrangements will not have severe impacts on the surrounding highway network.

The access is 5.5m wide which is acceptable provided that the emergency access is available. Transportation officers accept this arrangement. Works to provide highway improvements will be secured by a S278 Highways Agreement.

The pedestrian access onto Miner Street will improve access for residents to the wider transport network (bus/cycle routes) without allowing additional vehicles to utilise this access onto Miner Street, which is already heavily congested.

On the basis of the above the proposals have demonstrated how the access can accommodate routes into the site that link with existing networks and comply with the NPPF and BCCS policies CSP5, TRAN2, TRAN4, TRAN5 and saved UDP policies GP2 and T10.

Scale of Development

The proposals indicate up to 252 dwellings, which equates to a density of 38 dwellings per hectare. Paragraph 122 of the NPPF advises planning decisions should support development that makes efficient use of land taking account of the need for different forms of housing, local market and viability, availability and capacity of the infrastructure and services and the scope to promote sustainable travel modes. This scale of development in terms of this density proposed is considered appropriate at this sustainable site.

Consideration of the scale of development includes the size of the development, including the height, width and length of each proposed building. Whilst the layout is not for consideration as part of this outline application the scale of the buildings indicated in supporting documents and suggested heights of between 2 to 4 storeys is considered acceptable and allows provision of a mixed development to take account of the surrounding context.

This accords with the principles of the NPPF and BCCS policies CSP4 and HOU2 and saved UDP policies GP2, ENV32 and H3.

Relationship to surrounding properties

This outline application does not consider layout although supporting documents demonstrate how a layout may be accommodated on site. In the circumstances matters of consideration as to how the development will relate specifically to individual surrounding properties cannot be determined at this stage and will be a reserved matter for later consideration. Nevertheless the indicative layout demonstrates that minimum separation distances between dwellings both within and surrounding the site can be achieved.

There are existing industries on the opposite side of the canal and near the entrance to the site that will have a potential to impact on the future occupiers at the site in terms of noise, disturbance and air quality. Pollution Control officers have recommended conditions to ensure amenities are protected.

Neighbour concerns regarding the safety of the partially demolished buildings on site and potential for damage to private property by falling debris, water seepage and contamination is a civil matter between the applicant and neighbouring occupiers. Although the buildings abut the adjacent Listed Buildings site they do not form part of the Listing. Other matters raised in terms of required details of levels, boundary treatments and drainage will be matters for consideration at reserved matters stage and conditioned accordingly.

It is considered that the redevelopment of the site for residential purposes is more in keeping with the character of the surrounding area and will offer an improvement both environmentally and visually to surrounding occupiers. This accords with saved UDP policies GP2, ENV32 and H3.

Ground Conditions (pollution/coal/limestone/flood risk)

Pollution

Recent intrusive ground investigations have been carried out to determine the level of contaminants on site and proposals for a remediation strategy to mitigate any harmful effects. This will include provision of ground gas mitigation measures, further geotechnical advice to inform foundation design, methods of handling asbestos and eradicating Japanese Knotweed, provision of clean cover to residential gardens and methods for remediation of hydrocarbons. Pollution Control officers are satisfied that a suitable remediation strategy can be agreed by condition. Neighbour concerns regarding potential for contaminants to enter the groundwater or affect neighbouring properties will be addressed by appropriate mitigation and remediation. In terms of noise officers agree with the noise assessment recommendation for provision of acoustic glazing and ventilation and sound attenuation where required. A condition is

recommended to control the impacts of remediation, engineering and construction works through a Management Plan to be secured by condition. There will also be a requirement for electric vehicle charging points and low NOx boilers in order to reduce emissions and accord with the Air Quality SPD. With these safeguarding measures in place the proposals will accord with BCCS policies ENV7 and ENV8 and saved UDP policies GP2, ENV10 and ENV14 and Air Quality SPD.

It is recommended that permitted development for extensions, garden buildings, hardstandings, porches and boundary treatments at any new dwellings is removed given the ground contamination issues and inevitable requirement for gas protection measures.

Coal

The Coal Authority have identified that the coal mining legacy across the site poses a risk to the proposed development and further intrusive investigations are necessary. They recommend a condition to secure the intrusive investigations and appropriate mitigation and subject to this provision have no objections. The proposals thereby accord with saved UDP policies GP2 and ENV14.

Limestone

The site is partly within the Limestone Mine Consideration Zone. This affects the part of the site nearest to Green Street and includes the access, the former Caparo car park (not within the application site) and adjacent boat yard. The indicative layout provided in the supporting documents suggests there will be no new buildings or structures within this area but may include a water attenuation feature. The comments of the Structures officer will be updated at committee.

Flood Risk

The site is in Flood Zone 1 with low risk of fluvial and tidal flooding and low risk of flooding from other sources. In order to ensure the proposed development does not have an adverse impact and increased flood risk elsewhere sustainable drainage of surface water and foul drainage is proposed with appropriate attenuation. The Flood Risk officer is satisfied that these measures are achievable and a condition recommended to secure such measures. This accords with BCCS policy ENV5 and saved UDP policy ENV40.

Ecology

An up to date ecological appraisal has been carried out by a qualified specialist. This identifies habitats and species present on site. The appraisal confirms limited potential for common amphibians, badgers are not currently resident on site, no evidence of roosting bats as the buildings on site have negligible potential to support roosting bats and trees have low potential to support roosting bats, no reptiles were recorded on site, nesting birds should be safeguarded. Japanese Knotweed is also present on site.

Precautionary measures during site clearance are recommended to protect all species including a review for new evidence of badger activity no less than 3 months prior to commencement of works, precautionary felling of trees, sensitive lighting, avoidance of vegetation removal during bird nesting season (Sept-Feb) and a Method Statement for removal of vegetation detailing best ecological practice. If

works to the canal become necessary a survey and assessment for water voles and white-clawed crayfish should be undertaken prior to any works commencing.

On this basis the ecology should not pose a constraint to development on site subject to conditions as recommended in the ecological appraisal. This is in accordance with BCCS policy ENV1 and saved UDP policy ENV23 and SPD Conserving Walsall's Natural Environment.

Impact on Heritage Assets

The site adjoins Walsall Locks Conservation Area and Old Birchills Tollhouse and former Boatman's Rest Listed Buildings.

The redevelopment of this derelict site for residential purposes and remediation works to deal with contamination on the site are considered to offer an improvement to the area and will have a positive impact on the adjacent Heritage Assets.

Both Listed Buildings have recent consents for conversion to residential premises (see planning history). The neighbouring occupier of the Listed Buildings is concerned about how the proposals may impact on these Heritage Assets as the application site is at a higher ground level and they have concerns for safety/security of the property and method of demolition of the buildings and potential contamination and water seepage from the site that abuts the Listed Buildings curtilage. These matters are addressed earlier in the report as detailed matters subject to reserved matters approval but conditions are recommended to secure appropriate measures.

Provision for affordable housing and open space

Under the terms of policies DEL1 and HOU3 of the BCCS and SPD Affordable Housing the proposal triggers the need for provision of affordable housing. Provision of 25% would equate to the need for 63 units. This would comprise a mix of social rent and shared ownership units to be secured by a S106 Agreement. Whilst the Committee previously approved a lower level of affordable housing (14%) for the site given the lapse of time since the application was originally considered a current review of policies has been undertaken.

Under the terms of policies DEL1 of the BCCS and policies GP3 and LC1 of the UDP and SPD: Urban Open Space the proposal triggers the requirement for a contribution towards provision of urban open space. This would be based on the number of overall bedrooms, which is not known at this time as the layout is not for consideration. However, based on the policy requirements a contribution should be secured by a S106 Agreement in accordance with the levels of contribution highlighted in the SPD Urban Open Space.

The 2012 committee resolution included for contributions towards Education provision and junction improvements (and any excess towards open space). Education have not responded to the consultation response. In the circumstances, it is assumed there is no provision required for Education purposes. In terms of junction improvements, the proposals include for junction improvements at Old Birchills to be secured through a S278 Agreement and conditioned on any approval.

The developer has provided a new Viability Assessment highlighting that the viability of the scheme is such that nil affordable housing can be provided. Also that no other

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contributions can be secured for the site given the abnormal costs for this contaminated site with mining and limestone legacy issues. The developers have identified a profit margin of just 13.11% (-0.9% if 25% affordable housing is required). The Viability Assessment is currently being reviewed by the District Valuation Office and by an independent surveyor at Lambert, Smith Hampton. Comments will be updated at committee.

It is recommended that measures for affordable housing and urban open space provision are secured by a S106 Agreement unless the District Valuation Officer or independent surveyor concur with the developer that the development would not be viable were such obligations to be secured.

Neighbouring occupiers are also concerned that properties would be difficult to sell as the area has a poor reputation.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes up to 252 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

The principle of redevelopment for residential purposes has previously been accepted by Planning Committee in their resolution to grant permission in 2012 and the site is allocated for residential development in the emerging Site Allocation Document. The proposal is supported in principle and accords with BCCS policy CSP1 and HC1 of the emerging Site Allocations Document.

The means of access will cause no significant highway safety concerns and measures to improve the access are proposed and other measures to encourage sustainable means of travel are included. The proposals have demonstrated how the access can accommodate routes into the site that link with existing networks and comply with the NPPF and BCCS policies CSP5, TRAN2, TRAN4, TRAN5 and saved UDP policies GP2 and T10.

This scale of development in terms of this density proposed is considered appropriate at this sustainable site and the scale of the buildings indicated in supporting documents and suggested heights of between 2 to 4 storeys is considered acceptable and allows provision of a mixed development to take account

of the surrounding context. This accords with the principles of the NPPF and BCCS policies CSP4 and HOU2 and saved UDP policies GP2, ENV32 and H3.

This outline application does not consider layout although supporting documents demonstrate how a layout may be accommodated on site. Nevertheless the indicative layout demonstrates that minimum separation distances between dwellings both within and surrounding the site can be achieved to protect residential amenities. Pollution Control officers have recommended conditions to ensure amenities are protected from surrounding industry.

Neighbour concerns regarding the safety of the partially demolished buildings on site and potential for damage to private property by falling debris, water seepage and contamination is a civil matter between the applicant and neighbouring occupiers. Other concerns are matters for consideration of reserved matters.

It is considered that the redevelopment of the site for residential purposes is more in keeping with the character of the surrounding area and will offer an improvement both environmentally and visually to surrounding occupiers. This accords with saved UDP policies GP2, ENV32 and H3.

Potential harmful effects from pollution are addressed through safeguarding measures to be secured through conditions in accordance with BCCS policies ENV7 and ENV8 and saved UDP policies GP2, ENV10 and ENV14 and Air Quality SPD.

The coal mining legacy can similarly be addressed by requirement for appropriate intrusive investigations and mitigation to be secured through conditions in accordance with saved UDP policies GP2 and ENV14. Limestone matters will be addressed prior to commencement of any development. Flood Risk can be appropriately mitigated against in accordance with BCCS policy ENV5 and saved UDP policy ENV40.

Ecology should not pose a constraint to development on site subject to conditions as recommended in the ecological appraisal. This is in accordance with BCCS policy ENV1 and saved UDP policy ENV23 and SPD Conserving Walsall's Natural Environment.

The redevelopment of this derelict site for residential purposes and remediation works to deal with contamination on the site are considered to offer an improvement to the area and will have a positive impact on the adjacent Heritage Assets in accordance with saved UDP policy ENV29.

Provision for affordable housing and urban space will be secured by a S106 Agreement unless the independent valuer confirms the scheme is unable to provide for such given the viability of the scheme.

There is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing. This application proposes up to 252 new homes.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding coal mining issues and highway matters amended plans and supporting information has been submitted which enable full support to be given to the scheme.

Recommendation

Grant permission subject to conditions and a S106 Agreement to secure affordable housing and urban open space unless the independent valuation confirms that the viability of the scheme would not allow for such. Delegate to the Head of Planning, Engineering & Transportation subject to no new representations following publicity of amended plans and subject to any necessary amendments to conditions to address consultee responses and to resolve the viability regarding the potential S106 Agreement.

Conditions and Reasons

1. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. This development shall not be commenced until details of the following, hereafter named the Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) Appearance
- b) Landscaping
- c) Layout

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. This development shall not be carried out other than in conformity with the following approved plans [and documents]: -

- Planning Site Layout (17055-01) received 03/04/18 (*to be updated*)
- Design & Access Statement prepared by Armstrong Burton Architects (26/02/18 version 02) received 03/04/18
- Ecological Appraisal prepared by Ecus Environmental Consultants (Feb 2018 report 7997) received 03/04/18
- Transport Assessment prepared by Mode Transport Planning (27/02/18 Issue 1) received 03/04/18
- Residential Travel Plan prepared by Mode Transport Planning (23/02/18 Issue 1) received 03/04/18
- Flood Risk Assessment & Drainage Strategy prepared by Wardell Armstrong (March 2018 report number 006) received 03/03/18
- Heritage Statement prepared by Wardell Armstrong (February 2018 report number 005) received 03/04/18
- Air Quality Assessment prepared by Wardell Armstrong (February 2018 report number 002) received 03/04/18
- Geoenvironmental Investigation Desk Study & Factual Report prepared by Georisk Management (May 2007 report no. 06097/2) received 03/04/18
- Supplemental Site Investigation prepared by Wardell Armstrong (January 2018 report number 001) received 03/04/18
- Envirocheck Report prepared by Landmark Information Group received 03/04/18
- Non-Residential Mining Report received 03/04/18

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

5a. Prior to commencement of any works on the area next to the former Boatmans Rest and the Toll House, the canalside frontage and land adjacent to Rayboulds Bridge, a scheme for recording and identifying any artefacts or documentation meriting preservation shall be submitted to and approved in writing by the local planning authority.

5b. The recording of artefacts shall be completed in accordance with the agreed scheme of recording.

Reason: To secure an adequate record of the site's archaeology in accordance with saved UDP policy ENV25.

6a. Prior to the commencement of any part of the development hereby approved, with regards to Supplementary Site Investigation Report by Wardell Armstrong, a Remediation Statement, setting out details of measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation, shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

6b. The remedial measures as set out in the 'Remediation Statement' required by part (a) of this condition shall be implemented in accordance with the agreed timetable.

6c. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not previously identified is encountered, development shall cease until the Remediation Statement required by part (a) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

6d. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and agreed in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment and to ensure protection of Controlled Waters at all times, notably any groundwater where present within Secondary A drift or bedrock strata underneath the site.

7a. Prior to the commencement of any part of the development hereby approved the following details shall be submitted to and agreed in writing by the local planning authority:

- i. the submission of a scheme of intrusive investigations for mine entries, high wall and shallow mine workings where necessary
- ii. the undertaking of these intrusive site investigations
- iii. a report of the findings arising from the intrusive site investigations
- iv. the submission of a layout plan which identifies appropriate zones of influence for the mine entries on site, and the definition of no build zones and definition of the location of the high wall and any necessary no build zone
- v. the submission of a scheme of treatment for mine entries on site for approval and any works required in respect of shallow mine-works for approval

7b. The agreed remedial works referred to in part (a) of this condition shall be implemented in accordance with the agreed details.

7c. A Verification Report or similar document shall be provided to the local planning authority to confirm the details of the remedial works have been implemented on site.

Reason: To ensure the satisfactory development of the site and protect against the coal-mining legacy on site.

8a. Prior to the commencement of any part of the development hereby approved an Environmental Management Plan shall be submitted to and agreed in writing with the Local Planning Authority to control noise, vibration, dust, and debris drag-out and shall include provision of wheel washing equipment at the access to the site.

8b. The Environmental Management Plan shall include control measures to address known and unknown deposits of asbestos in the soil.

8c. The Environmental Management Plan shall be implemented upon the commencement of works and remain in place until all demolition/construction and landscaping activities have been completed.

Reason: To protect the local environment, and the amenity of local residents and businesses in accordance with saved UDP policies GP2 and ENV10.

9a. Prior to the commencement of any part of the development hereby approved, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

9b. The agreed Construction Methodology Statement shall be implemented and shall be retained during the life of site clearance/demolition and construction in accordance with the approved details.

Reason: In order to minimise potential disruption to the free flow of traffic along the public highway and in the interests of highway safety in accordance with saved UDP policy T4.

10a. Prior to the commencement of any part of the development hereby approved details of measures to control water run-off from the site during site clearance/demolition and construction (including details of the timing of construction of the proposed measures, and of their removal) shall be submitted to and approved in writing by the Local Planning Authority.

10b. The development shall not be carried out otherwise than in accordance with the approved details throughout the duration of the works.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to safeguard water quality from fuels, oil and other chemicals from the site. To comply with NPPF10, BCCS Policy ENV5 and Saved UDP Policy ENV40.

11a. Prior to the commencement of any building or engineering operations above the damp proof course of the development hereby approved, full details of the acoustic glazing, acoustic ventilation, and acoustic boundary treatment to gardens, to be installed to the properties shall be submitted to and approved in writing with the Local Planning Authority.

11b. Prior to the first occupation of any part of the development hereby approved, the agreed glazing and ventilation shall be installed and a written Validation Statement shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of local residents, future residents, human health and the environment in accordance with saved UDP policies ENV10, GP2 and ENV32.

12a. Prior to the first occupation of any part of the development hereby approved all access ways, parking and vehicle manoeuvring areas associated with that dwelling, shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

12b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with saved UDP policy GP2, T7 and T13.

13a. Prior to the commencement of any building or engineering operations above the damp proof course of the development hereby approved, written details on measures to implement the requirements of the Black Country Air Quality Supplementary Planning Document for the proposed development shall be submitted to and agreed in writing by the local planning authority.

13b. Prior to first occupation no part of the development shall be carried out otherwise than in accordance with the approved details and shall thereafter be retained. A written validation statement shall be submitted to the Local Planning Authority.

Reason: in the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

14a. Prior to the commencement of any building or engineering operations above the damp proof course of the development hereby approved, the following matters shall be submitted to and agreed in writing with the Local Planning Authority:

- i. Existing and proposed levels and sections throughout the site and showing the relationship to the adjacent sites
- ii. Details of boundary treatments throughout the site and around the boundaries of the site
- iii. Details of all facing and external materials
- iv. Details of bin stores and covered cycle storage
- v. A Phasing plan for development

14b. Prior to the first occupation of any part of the development hereby approved, the development shall be implemented in accordance with the details approved under part (a) of this condition and retained thereafter.

Reason: To protect the amenities of the site and surrounding occupiers and ensure the satisfactory development of the site in accordance with saved UDP policies GP and ENV32.

15. Prior to the commencement of any part of the development hereby approved the highway improvement infrastructure works along Old Birchills and a method of vehicle access control measures on Rayboulds Bridge Road to prevent unauthorised access other than to emergency vehicles shall be implemented (see note for applicant).

Reason: To ensure the satisfactory operation of the development and in the interests of highway safety and the free flow of traffic along the public highway in accordance with saved UDP policy T4.

16a. Prior to the commencement of any part of the development hereby approved until details of a scheme of mitigation for ecological impacts shall have been submitted to and approved in writing by the local planning authority as detailed in Section 4 of the submitted Ecological Appraisal prepared by Ecus Environment Consultants (February 2018) to cover the following matters;

- i. Protection measures for the Wyrley & Essington Canal SLINC
- ii. Site clearance to protect amphibians
- iii. Check badger activity up to 3 months before commencement of works
- iv. Precautionary approach to tree felling to protect bats
- v. Lighting scheme to avoid light spill to protect bats
- vi. Vegetation removal outside bird nesting season (Sept to Feb)
- vii. Clearance of scrub in accordance with a Method Statement to be agreed
- viii. Water Vole and White Clawed Crayfish surveys if works affect the Wyrley & Essington Canal
- ix. Removal of Japanese Knotweed

16b. In the event that the Ecological Appraisal prepared by Ecus Environment Consultants (February 2018) has expired then a further full Ecological Survey shall be carried out that also details the points at part (a) of this condition.

16c. Recommendations in the survey for the protection of habitats and protected species shall be incorporated where practicable into the design of the proposals.

Reason: In order to preserve and enhance the natural environment and safeguard any protected species in accordance with saved UDP policy ENV23 and SPD Conserving Walsall's Natural Environment.

17. Upon first occupation of any dwelling on the development, the commitments, measures and targets to encourage sustainable travel modes to reduce car based trips to the site contained with the Mode Residential Travel Plan shall be developed into a Travel Plan and implemented, monitored and reviewed by the Developer's Travel Plan Co-Ordinator in consultation with the Council for the lifetime of the development, in accordance with the approved Plan.

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and saved UDP Policy T10.

18. The 2.4m x 48m in a south-westerly direction and 2.4m x 46m in a north-easterly direction visibility splays at the main site access on Old Birchills, and shown on Mode drawing no. J32-3200-PS-001, shall at all times be kept free of any structures or planting exceeding 600mm in height above carriageway levels.

Reason: In the interests of highway safety in accordance with saved UDP policies GP2 and T4.

19. The development shall be constructed so that all vehicular access points to new properties shall, at all times, provide 2.4m x 3.4m pedestrian visibility splays,

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measured from the centre of each access at the back of the reconstructed footway, within which no planting or structures exceeding 600mm in height above footway level shall be permitted.

Reason: To provide adequate inter-visibility at the proposed remodelled access points in the interests of highway safety and saved UDP Policy GP2.

20. All hand-held pneumatic machinery used in respect of demolition or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), including breakers and chisels, shall be of an integrally silenced design; breakers and chisels shall only be used with muted steels.

Reason: To protect the amenity of local residents, future residents, human health and the environment.

21. All plant and machinery in use shall be maintained and silenced in accordance with the manufacturers and/or supplier's instructions or recommendations. Mobile and portable air compressors, pumps and electricity generating sets shall be of a recognised proprietary low-noise design, and wherever practicable, mains electricity shall be utilised in preference to electricity generating sets.

Reason: To protect the amenity of local residents, future residents, human health and the environment.

22. No operations or activities incorporating explosive blasting, drop-balling or thermic/thermal lances shall be undertaken.

Reason: To protect the amenity of local residents, future residents, human health and the environment.

23. Levels of structure-borne vibration transmitted to occupied buildings from any demolition/stabilisation/piling/engineering works shall not exceed specified criteria for *low probability of adverse comment*, as prescribed within British Standard BS6472-1:2008 Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting.

Reason: To protect the amenity of local residents, future residents, human health and the environment.

24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house;
-Class A (enlargement, improvement or other alterations),
-Class D (porches),
-Class E (building incidental to the enjoyment of a dwelling house),
-Class F (hard surfaces incidental to the enjoyment of a dwelling house),
shall be installed in any part of this hereby approved development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved Walsall's Unitary Development Plan policy GP2 and ENV32.

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Notes for Applicant

Fire Service

Suitable water supplies for firefighting should be provided. This shall be subject to consultation with West Midlands Fire Service once a Water Scheme plan has been produced and approved by the relevant Water Company. Water supplies for firefighting should be in accordance with "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK. For further information please contact the Water Office at the address given above or on telephone number 0121 380 6403.

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to enter into agreements under S38/S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway and adoptable highway works. For further advice please contact Highway Development Control Team on 01922 655927.
3. Prior to the commencement of the development full engineering details of all adoptable highway works including layouts, alignments, widths and levels, together with all necessary drainage arrangements, shall be submitted to and receive technical approval in writing by the Local Planning Authority in consultation with the Highway Authority.
4. All adoptable street lighting shall be with the agreement in writing with Walsall Council's street lighting partner Amey.
5. The adoptable highway works above shall be implemented in accordance with a timetable to be agreed in writing by the Local Planning Authority and in accordance with the approved details and to the satisfaction of the Local Highway Authority.
6. Engineering details of the required highway improvement infrastructure works along Old Birchills, shown on Mode Transport Planning Proposed Ghost Right Island Arrangement preliminary drawing no. J32-3200-PS-001, including layout, alignments, widths and levels, together with all necessary drainage arrangements, shall be submitted to and be approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall include: improvements to the site access junction radii by realigning the kerb line along Old Birchills on the development side, the provision of a Ghost Right Turn Lane into the site by realigning the kerb line opposite the development side, the incorporation of uncontrolled pedestrian crossing facility(s) in the form of central refuge(s).
7. Full engineering details of the required vehicle access control measures required on Rayboulds Bridge Road, to prevent unauthorised vehicular access other than to emergency vehicles, shall be submitted to and be approved in writing by the Local Planning Authority in consultation with the Highway Authority, subject to the confirmation of an appropriate Traffic Regulation Order.

Contaminated Land

CL1: Ground investigation surveys should have regard to current Best Practice and the advice and guidance contained in the National Planning Policy Framework 2012;

British Standard BS10175: 2011 +A2:2017 Investigation of potentially contaminated sites – Code of Practice; British Standard BS5930: 1999 Code of practice for site investigations; Construction Industry Research and Information Association Assessing risks posed by hazardous ground gasses to buildings (Revised) (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2: When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 Model Procedures for the Management of Land Contamination, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 Updated technical background to the CLEA model and Science Report – SC050021/SR2 Human health toxicological assessment of contaminants in soil or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3: Validation reports will need to contain details of the as installed remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported clean cover materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Air Quality SPD

Pollution Control is of the opinion that the Application falls under the Type 1 category, therefore the Applicant needs to install at least one electric vehicle charging point per Plot and/or one charging point per 10 parking spaces for shared parking, and low NOx boilers.

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points.

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Environmental Legislation Hours of Construction

No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and otherwise such works shall not take place other than between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (* *Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday, Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday*)

Noise Mitigation

Mitigation measures need to make due consideration of Noise Assessment Report by Wardell Armstrong and the potential for the former Metafin Group Holdings Ltd site to become operational.

End of Officers Report



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 5.

Reason for bringing to committee: Significant community interest

Location: 66, BESCOT ROAD, WALSALL, WS2 9AE

Proposal: CHANGE OF USE OF BUILDING FROM A HOSTEL TO 6 X SELF CONTAINED FLATS TO BE USED AS SHORT STAY AIR BNB USE

Application Number: 18/0545

Applicant: Mr T Malone and Mr K Thomas

Agent: McLoughlin Planning

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

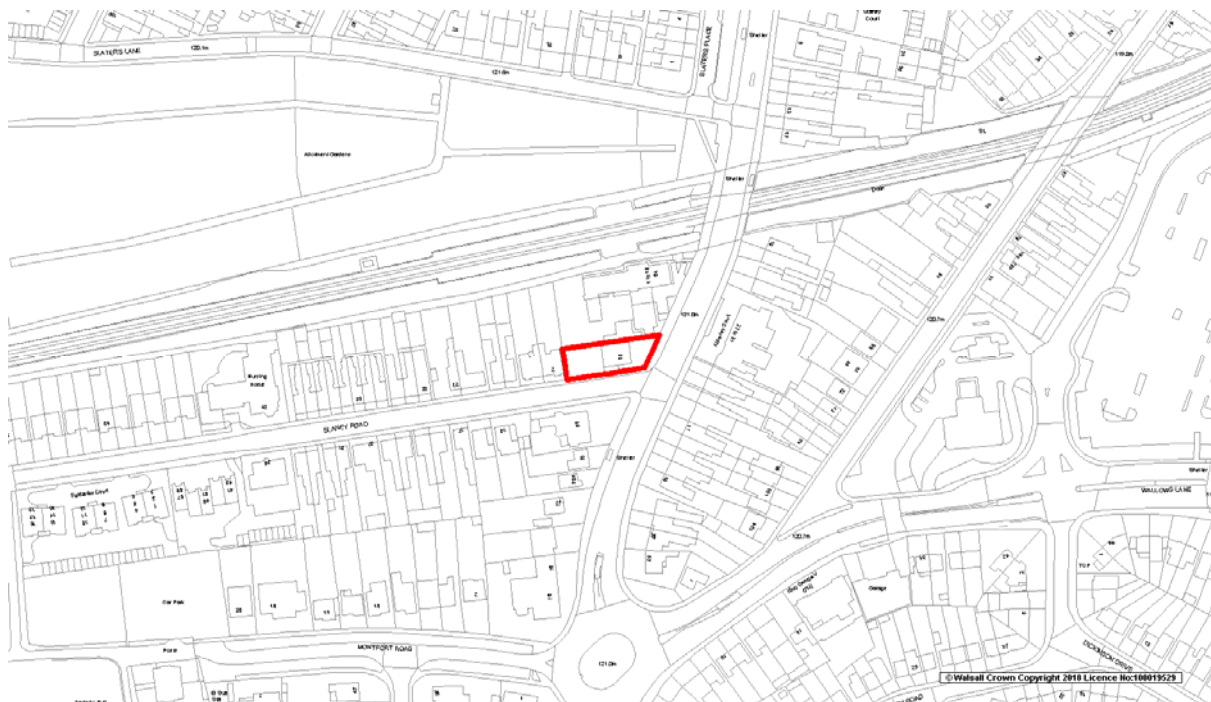
Case Officer: Karon Hulse

Ward: Pleck

Expired Date: 23-Aug-2018

Time Extension Expiry: 12-Oct-2018

Recommendation Summary: Grant subjective to conditions



Proposal

This application seeks consent for a change of use of no 66 Bescot Road, Walsall from a hostel for 12 male occupants to 6 x self-contained flats to be used as short stay Air BnB use.

Ownership of the application site changed in 2107 when internal alterations were made to create 6 self-contained flats over the existing three floors.

The deposited plans indicate:

- Two x 2 bedroom apartments on the ground floor each consisting of an open plan kitchen/lounge, shower room and two bedrooms.
- Two x 1 bedroom apartments each consisting of an open plan kitchen/lounge, shower room and one bedroom and one studio flat on the first floor consisting of an open / plan lounge/kitchen area and shower room
- One x 2 bedroom apartment within the roof space (2nd floor) consisting of a separate lounge, kitchen/dining room

The application is supported by plans showing the current configuration of the existing car park area for 7 vehicles.

The applicant confirms; 'the concept of an Air BnB is an online community marketplace that connects people looking to rent their homes with people who are looking for accommodation. Airbnb users include hosts and travellers: hosts list and rent out their unused spaces, and travellers search for and book accommodation in 192 countries worldwide.

Airbnb *hosts* list their properties - which can be single rooms, a suite of rooms, apartments, moored yachts, houseboats, entire houses or even a castle - on the Airbnb website.

The apartments are currently listed on the Air BnB website and outlines room type, price, and size: number of bedrooms, bathrooms and/or beds, amenities: wireless internet, TV, kitchen, pool, pets, etc. and property type.

Each listing allows hosts to promote their properties through titles, descriptions, photographs where potential guests also can get to know the host'.

Site and Surroundings

The application site is a two (three with the use of the roof space) storey modern detached property with pitched roof located at the back of footpath at the corner of Bescot Road and Slaney Road, Walsall.

A secure parking area exists at the rear accessed off Slaney Road. The car park is surrounded by an existing 1.5mt high brick boundary wall along the back of the footpath along Slaney Road, existing brick wall along the side boundary to no 2 Slaney Road and a brick wall along the side boundary with the flats constructed on the former no. 64 Bescot Road.

The car park area is accessed via a security wrought iron railing gate.

The frontage is currently landscaped having a dwarf brick wall along Bescot Road.

No. 2 Slaney road is 17.5 mts from the rear of the application site building which has an access door on the side and a first floor window (landing). On the opposite corner of Slaney road and Bescot road is Kingscote Residential Home and on the opposite side of Bescot road is the former Abberley Hotel.

There is on street car parking along Slaney Road, Bescot Road is a red route where there is no parking on street allowed.

The area is predominantly residential of varying styles and ages. However, there are a number of houses that have been converted to residential care homes or houses in multiple occupancy.

Relevant Planning History

BC11380 – Conversion of Multi – Occupied Dwellinghouse to Hostel Accommodation. GSC 01/03/1979.

BC14245P – Removal of Condition No 6 on BC00889P for use as a Hostel for 12 men. GSC 06/08/1985.

BC00889P – Erection of Hostel. GSC 25/09/1981.

17/0584 - Lawful development certificate for 6 self-contained flats. Refused for insufficient evidence to confirm the lawful C3 use of 6 x self-contained units.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a *"presumption in favour of sustainable development"*.

Key provisions of the NPPF relevant in this case:

- NPPF 5 – Delivering a sufficient supply of homes
- NPPF 6 – Building a strong, competitive economy
- NPPF 9 – Promoting sustainable transport
- NPPF 11 – Making effective use of land
- NPPF 12 – Achieving well-designed places

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field

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with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Local Policy

Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H7: Hostels and Houses in Multiple Occupation
- T4 - The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- DW6 Legibility
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Building

Consultation Replies

Transportation – no objections subject to revised parking scheme to include one disabled parking space and removal of tandem parking spaces.

Pollution Control – support

Police Architectural Liaison Officer – no objections but advises of secure by design measures

Community Safety Team – support

Severn Trent – no objections

Fire Service – no objections

Housing standards officer – objects on grounds of hygiene (*Issues of hygiene are outside the scope of the planning legislation*)

Representations

The adjacent objector has stated; he has submitted a petition from local residents objecting to the application. (*The only correspondence received by the LPA is an email giving names and addresses of 2 properties in Slaney Road*). The objector states; he has verbal objections from 6 property occupiers 6 in Slaney Road and 1 property occupier in Bescot Road

Five representations have been received from residents of Slaney Road. The grounds of objection are as follows:

- increased number of heavy commercial vehicles (*no evidence has been provided to substantiate that occupiers of the application property are the root of this*)
- no management oversight,
- unruly drunken behaviours from residents
- issue that these large vans present a hazard when they turn in and out of the car park,
- cause disruption in the street
- issue around bins left unattended and overflowing with rubbish
- pest infestation with flies, rats, mice. (*this is not a material planning consideration as there is third party environmental legislation that can be used to deal with this issue*)
- parking is a major problem on Slaney Road (*no evidence has been provided to substantiate that occupiers of the application property are the root of this*)
- car park next to building can hold max 6 - 7 cars.
- B&B staff will have to park their cars well. (*this application is not for a B&B*)
- Guests will be smoking outside.
- Guests will be drinking alcohol in their rooms, could cause trouble on the street or even vandalise people's properties or vehicles. (*no evidence has been provided to substantiate that occupiers of the application property are the root of this*)
- Air BnB detracts from our quality of life (*no evidence has been provided to substantiate this claim*)
- some rental properties attract disruptive tenants (*no evidence has been provided to substantiate that occupiers of the application property are the root of this*)
- increase in noise generated by additional vehicle traffic
- comings & goings and extreme noise from recreational activities of Air BnB "Tenants" (*no evidence has been provided to substantiate that occupiers of the application property are the root of this*)
- Air BnB tenants & long term residents are not a good social mix.
- applicants motives are selfish (*not a material planning matter*)

Determining Issues

- **Principle of development**
- **Neighbouring occupier's amenity**

- **Future occupier's amenity and security**
- **Parking and access**
- **Local Finance Considerations**

Assessment of the Proposal

Principle of development

Black Country Core Strategy Policies HOU2 supports a mixture of housing types and saved unitary development plan policy H3 supports windfall sites. The proposal is to convert the existing block from a former hostel to 6 self-contained flats that can be available as Air BnB short term lets.

The principle of conversions of properties into short term let establishments (C3) may be appropriate in some locations if the proposal does not impact upon neighbouring amenity and if adequate parking is available. In this case, the principle of change of use from a hostel to the above accommodation in this location is considered appropriate and is unlikely to have any detrimental impact on neighbouring occupiers above that which could have been created by hostel occupants.

The change of use from hostel to residential C3 which can be used for AirBnB is acceptable in principle and in accordance with BCCS policy HOU2 and UDP saved policy H3 subject to the other matters being discussed in the rest of the report.

Neighbouring occupier's amenity

Whilst some neighbours have raised issues regarding; noise, drunken behaviour, smoking, parking, rubbish and other potential anti-social behaviour, the applicant has confirmed that the site will be run in accordance with Air BnB 'house rules'. This provides standard AirBnB rules and regulations that occupiers have to comply with including; ID verification, restrictions of smoking, alcohol, drugs, noise and parties, parking within the curtilage of the application site unless none available, no pets plus waste and recycling arrangements. A declaration outlining the above is required to be signed by each guest.

It is considered that the above level of control and occupancy agreement will ensure that the use of the premises does not have any negative impact on surrounding residential occupiers.

Residents have stated that the proposals have already commenced without planning permission. Any use undertaken is done at the applicant's risk as there are no guarantees of planning approval.

Occupancy would be for longer periods than a hotel or a B&B, more akin to a residential unit. As such the proposed use of the premises as an Air BnB in a predominately residential area would be more appropriate than a hotel or bed and breakfast and is considered unlikely to result in a greater loss of amenity for neighbouring residential occupiers than the previous hostel use that operated at the site.

Similarly the use of the rear car park by potential customers is unlikely to result in a loss of neighbour's amenity, by way of noise and general disturbance from vehicles

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coming and going. The level of disturbance expected from the car park is no different to a similar number of flats within a converted house.

Whilst neighbours have concerns regarding existing noise problems from residents in the flats, this can be dealt with through Environmental Legislation as potential noise nuisance. Residents will need to direct these concerns to the Council's Community Protection Team to investigate.

Whilst neighbours' concerns over the background of the existing and future occupiers and potential anti-social behaviour and crime, the planning legislation does not discriminate against people's backgrounds. No evidence has been presented to suggest that the proposal for an Air BnB would generate an increase in anti-social behaviour or crime related incidents. Matters regarding drugs, alcohol and anti-social behaviour, neighbours should report these directly to the Police to investigate.

As such the proposed development would be in accordance with the aims and objectives of the National Planning Policy Framework, the Black Country Core Strategy policies HOU2, CSP4, ENV2 and ENV3, Walsall Unitary Development Plan saved policies GP2, 3.6, 3.7, 3.113, 3.114, 3.115, 3.116, ENV32, and H3, plus the following chapters DW3, DW6, DW9 and DW10 of Designing Walsall SPD.

Future occupier's amenity and security

The hygiene and food safety issue raised by the housing standards officer is outside the scope of the planning legislation and a matter for other regulating bodies. The proposed layout of each unit will accord with building regulations standards, as such it is considered that the facilities to be provided will be to an acceptable standard for future occupiers.

The communal entry to the apartments should be fitted with an access control system. This may be a proximity access control system, a door entry phone system and electronic lock release or a combination of these to discourage casual intrusion by non-residents; this should involve CCTV coverage to the flats. Entrance and exit doors and frames to the residential block should be of a robust vandal resistant material, with vandal resistant viewing panels. Entrances should be well lit both internally and externally.

It has been confirmed by the applicant that the existing communal entry arrangements will be in accordance with the recommendations set out above and which includes the use of internal and external entrance lighting and a key code system for entry.

If there are communal areas for letterboxes it is recommended the DAD UK Ltd DAD009 1.5mm steel letterboxes should be mounted in rows and are secure and anti-identity theft proof. A safeguarding condition that would meet the Governments 6 tests to ensure that this advice is implemented will secure this.

A Secured by Design cycle stand should be installed. The security anchor for the bike must be certified to Gold Secure Silver standard or LPS 1175 issue 7:2010 SR1 and be securely fixed to the concrete foundation in accordance with manufacturers specifications. A safeguarding condition that would meet the Governments 6 tests to ensure that this advice is implemented will secure this.

The use of a safeguarding condition to ensure the above measures are implemented will provide a level of safety and security for the development and its occupiers and as such will be in accordance with NPPF8 and NPPF12.

Parking and access

Slaney Road has terraced housing on both sides of the street. Local residents are concerned that there is insufficient parking available along Slaney Road to accommodate existing residents as well as future occupiers of the Air BnB use.

Whilst there is a shortfall in on-site parking, the existing layout provides 100% (1 space for each unit) plus one additional one. Based on the submitted parking plan,

the Highway Authority has requested, the two tandem parking spaces which are placed alongside the wall on Slaney Road are removed as the parking layout in its submitted form does not appear to work. They have also asked that one of the spaces is marked for disabled purposes only. This has been confirmed as acceptable by the applicant and a revised plan has been submitted. The existing access has a lockable gate which results in vehicles parking on the highway whilst it is either opened or closed. The applicant has agreed to the removal of this gate thereby allowing vehicular access / egress without causing any unnecessary highway safety issues. Whilst this may raise future potential security issues. It is considered to be outweighed by the protection of highway safety. A safeguarding condition that would meet the Governments 6 tests will ensure that this is secured.

The Highway Authority consider the development will not have severe transport related implications and is acceptable in accordance with NPPF Paragraph 32.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 6 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

On balance and weighing the benefits of the use of this building against any issues and impacts raised by neighbouring residents, it is considered that the proposals are in this instance acceptable and its use in a residential area outweigh any potential harm caused to local residents. Furthermore, its use would support the economy in

this location whilst enhancing the character and appearance of this part of the borough and on an important route in to and out of the borough.

The key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, Black Country Core Strategy policies CSP4, HOU2, ENV2 and ENV3, Saved Unitary Development Plan policies GP2, GP5, ENV10, ENV14, ENV17, ENV32, H3, H7, T4, T7 and T13, Supplementary Planning Document Designing Walsall (DW3, DW6, DW9 and DW10) and on balance is considered to be acceptable.

The use of safeguarding conditions in respect of the deposited plans, cycle shelter, waste management, removal of vehicular gate and secure by design matters will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

The economic, social and environmental benefits have been considered and the proposed development will help to support and contribute to the economy and community whilst making effective use of the land.

Taking into account the above factors, there are no objections from significant consultees or the community which are considered to be contrary it is considered the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Officers have confirmed to the applicant's agent that the submitted amended details are acceptable and no further changes have been requested. The applicant has confirmed agreement to any pre-commencement conditions necessary.

Conditions and Reasons

1. This development must be begun not later than 3 years after the date of this decision.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. This development shall not be carried out other than in conformity with the following approved plans: -

- Survey floor plans (existing and proposed) (ARC.1362/01/PL1) received 30/4/18
- Location & Site plans (ARC.1362/02/PL0) received 30/4/18
- Location Plan received 30/4/18

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3a. Notwithstanding the details as submitted and within 3 calendar months of the approval hereby given, full details of cycle storage for the use of residents, shall be submitted to and approved by the Local Planning Authority. The storage shall be secure, covered and illuminated.

3b. The approved cycle shelter details shall be fully implemented within one month of the agreed details.

Reason: To encourage sustainable modes of travel in accordance with UDP Policy T13 and Black Country Core Strategy TRAN4.

4a. Notwithstanding the details as submitted and within 3 calendar months of the approval hereby given, a detailed waste management plan including refuse and waste recycling facilities shall be submitted for written approval of the Local Planning Authority.

4b. within one calendar month the approved details shall be fully implemented and retained thereafter.

Reason: To ensure the satisfactory functioning of the development and visual amenity of the area, in the interests of highway safety and in accordance with saved unitary development plan policies GP2 and ENV10

5a. Notwithstanding the details as submitted and within 3 calendar months of the approval hereby given, the vehicular gate at the entrance to the car park off Slaney Road shall be removed.

5b. At no time shall any other form of physical barrier be erected across the entrance to the car park.

Reason: To ensure the satisfactory functioning of the development and visual amenity of the area, in the interests of highway safety and in accordance with saved unitary development plan policies GP2.

6. The development shall be constructed to meet the following minimum security measures and thereafter retained as such;

- Communal entry to be fitted with an access control system. (ie a proximity access control system, a door entry phone system and electronic lock release or a combination of these)
- Installation of CCTV coverage to the flats.
- Entrance and exit doors and frames to be of a robust vandal resistant material, with vandal resistant viewing panels.
- Entrances should be well lit both internally and externally.
- Letterboxes to be DAD UK Ltd DAD009 1.5mm steel letterboxes mounted in rows, secured and anti-identity theft proof.

- Secured by Design cycle stand to be installed with security anchors to be certified to Gold Secure Silver standard or LPS 1175 issue 7:2010 SR1 and securely fixed to a concrete foundation

Reason: To ensure the safety and security of the development and its occupiers and to accord with Revised NPPF8 and NPPF12.

End of Officers Report

Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 6.

Reason for bringing to committee: Significant Community Interest

Location: LAND TO THE REAR OF, 57, LICHFIELD ROAD, BLOXWICH, WALSALL, WS3 3LT

Proposal: OUTLINE APPLICATION FOR ERECTION OF A 3 BED BUNGALOW AND ASSOCIATED WORKS WITH ACCESS AND LAYOUT ONLY FOR CONSIDERATION.

Application Number: 18/0016

Applicant: M Webb

Agent: CT Planning Limited

Application Type: Outline Permission: Minor Application

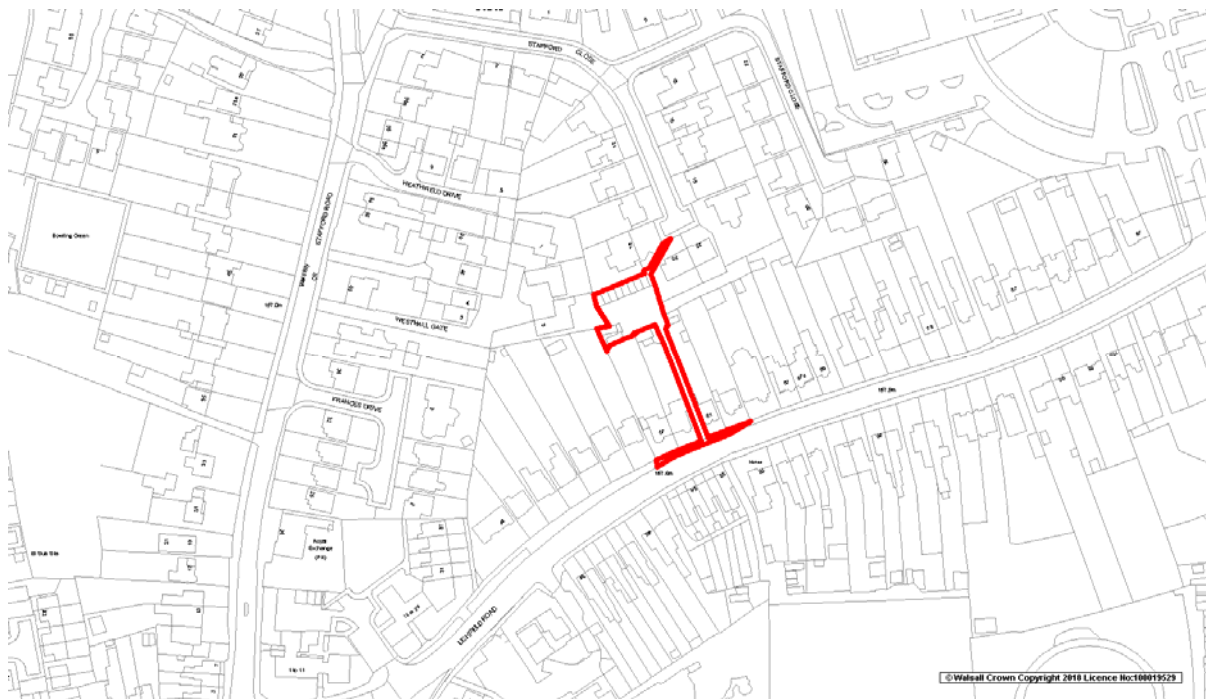
Case Officer: Devinder Matharu

Ward: Bloxwich East

Expired Date: 22-Apr-2018

Time Extension Expiry:

Recommendation Summary: Grant subject to conditions



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Proposal

Outline application for erection of a 3 bed bungalow and associated works with access and layout only for consideration.

An indicative drawing has been submitted which shows the positioning of a dwelling at the sides of numbers 18 and 20 Stafford Close and rear of number 3 The Poplars and rear of 59 and 57 Lichfield Road. The plan also shows two off road parking spaces.

The following documents have been submitted with the application:

Bat and Bird Survey which states:

- There was no evidence of bats using the site as a place of shelter, however measures are put into place to ensure the potential for disturbing bats is minimised and avoided. Bat boxes are also to be considered as part of the scheme.
- There is no evidence of nesting birds on the site.

Transport Statement which states the proposed development will have no material adverse impact upon the safety or operation of the adjacent highway network.

Planning Statement which states:

- The application is submitted in outline with scale, appearance and landscaping for consideration at the reserved matters stage.
- The site comprises of 8 garages and two outbuildings to the rear of 57 Lichfield Road.
- The garages are available to rent by all persons not just residents of Stafford Close. The statement identifies all those who rent a garage.
- Residential density in the vicinity of the area is 10-20 dwellings per hectare.
- It is proposed that the dwelling will be a bungalow, 3m to the eaves and 6m to the overall ridge height.
- The design is a reserved matter.
- Principle of residential development is consistent with policy H3.
- The proposed development will contribute towards building a strong, responsive and competitive economy by providing housing in a built up area of Bloxwich.
- The application site comprises of previously developed land.
- The proposed development would be hidden from view from the public highway
- The existing dwellings along Stafford Close and Lichfield Road would provide sufficient screening to ensure that the proposed development would not have a noticeable effect on the character of development in the area.
- The proposed development would not appear isolated and as such would not cause any significant harm to the character and appearance of the area.
- The proposed bungalow to be 14m from the flank elevation of 20 Stafford Close
- The bungalow would be 11.5m in width
- Degree of separation between the existing and proposed properties is considered adequate.
- There will be no overlooking.

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- The development is unlikely to increase noise or disturbance to the occupiers of 59 and 61 Lichfield Road.

The planning agent has confirmed in writing:

- The footpath to Stafford Close can be used for deliveries and collection of bins and whilst the garages were built at the same time as the bungalows in Stafford Close, they have always been available to rent by all persons – not just residents of Stafford Close.
- The proposed dwelling would be a bungalow with no accommodation in the roof space.

Site and Surroundings

The application site is located towards the rear of numbers 59 and 57 Lichfield Road and towards the rear of 3 The Poplars and the sides of number 18 and 20 Stafford Close.

Number 18 Stafford Close has a side facing kitchen window, a conservatory which is utilised as a utility area and a secondary habitable room windows facing towards the application site. The rear of the bungalow has a principal habitable room window and a conservatory.

Number 3 The Poplars is a three bedroom bungalow approximately 6m to the ridge. There is a window in the roof space of the bungalow facing towards the application site, which is a secondary window to the master bedroom. The ground floor has habitable room windows. There is a 1.8m high boundary fence and landscaping in the form of trees within the rear garden of this property.

Number 20 Stafford Close has a side conservatory and a 1.8m close board fence that provides the boundary around this property.

The application site is an area of hardstanding with a row of garages, 8 in total on the northern boundary. The wall of the garages form the boundary treatment with number 18 Stafford Close.

Vehicular access to the site is via a driveway adjacent numbers 59 and 61 Lichfield Road. Pedestrian access to the site is available via a path in between numbers 18 and 20 Stafford Close, which is gated and locked.

The existing vehicular access provides rear access to numbers 57 to 67a Lichfield Road.

Towards the rear of number 57 Lichfield Road are two garages.

The application site sits at a lower level than the two storey properties fronting Lichfield Road and the application site itself slopes downwards from south to north towards number 18 Stafford Close.

The area is residential in nature. The houses fronting Lichfield Road vary in style and design from two storey traditional semidetached, detached and terrace Victorian properties to modern flatted development opposite the junction with Park Road.

The application site is located some 160m from the edge of Bloxwich District Centre.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- 3.6, 3.7, 3.113, 3.114, 3.115, 3.116, ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T1: Helping people to get around
- T4 - The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability

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- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Severn Trent Water – No objection

Police– No objection subject to secure by design

Pollution Control – No objection subject to conditions to mitigate the effects of ground contamination, identify any potentially hazardous materials associated with the building structures, their previous use or demolition and if necessary prevent contamination of the ground from such materials. Conditions are also recommended to require the incorporation of an electric vehicle charging point in the development and to prevent or minimise environmental impact during the course of building works.

Fire - No objection subject to water supplies for firefighting should be in accordance with National Guidance Document on the Provision for Fire Fighting.

Highways- No objection subject to planning conditions

Representations

Seven letters from four residents have been received objecting to the proposal on the following grounds:

- Need to check deeds as third party land is being used.
- Access lane in third party ownership and numbers 61, 63, 65, 67 and 67a have a right of way.
- Planning statement is incorrect regarding principal windows.
- Concerns over proposed boundary treatment and materials.
- Concerns over distance from number 18 Stafford Close
- No windows on the elevations of 18 and 20 are mentioned
- Existing height of garages obscures first floor windows of properties fronting Lichfield Road.
- No details of windows and doors facing number 3 Westhall Gate
- Concerns over height of roof above current fence height
- Loss of privacy
- Overlooking
- Loss of light due to height of bungalow
- Garden of proposed bungalow is small
- What fencing and landscaping offered to 3 Westhall Gate
- Where extraction for WC and kitchen be placed

- Noise and nuisance: neighbours are shift workers, noise vibrations, current usage of garages low result in increased noise from constant comings and goings
- Party Wall Act
- Where are bins and recycling to be stored
- Access problems including: problems parking at the rear of the premises, boundary treatments should not impact upon manoeuvrability of vehicles to access rear of properties, access walk way to be re-opened not ideal for security or safety

Determining Issues

- Principle of development
- Layout
- Access
- Impact upon neighbouring occupiers
- Local Finance Considerations

Assessment of the Proposal

Principle of development

The revised NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. The application is mostly on garden land, which is not defined as brownfield land, in this context the proposal is considered not to be an effective use of land. The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development.

There are three elements to sustainable development, economic, social and environmental. For economic: the need to ensure that sufficient land of the right type is available in the right places and at the right time; for social: providing the supply of housing required to meet the needs of present and future generations and environmental: contributing to protecting and enhancing our natural, built and historic environment. In Walsall, the five year requirement of housing supply is currently being met through the allocation of housing land and granting of planning permission (which is significantly brownfield land). However, even though this housing need is being met some housing development on windfall sites is supported provided it meets the requirements in respect of sustainable development.

In this case, the redevelopment of the garage site with a residential dwelling would secure the site towards the rear of surrounding residential properties, whilst still allowing rear access to numbers 57 to 67a Lichfield Road. The supporting statement identifies the proposal would not result in the displacement of parking provision from the demolition and redevelopment of the site.

The proposal is in a sustainable location being within walking distance of Bloxwich District Centre, however, the development is not a sustainable form of development if it fails to consider the environmental role - protecting and enhancing our natural, built and historic environment. The report considers this further.

Neighbouring occupiers have raised concerns that the application site includes third party land and that the access lane is in third party ownership. The planning agent has completed certificate A and also confirmed in writing that his clients own the pedestrian link. An amended plan with the red line has been submitted which includes the pedestrian path to the site from in between 18 and 20 Stafford Close. Neighbours also raise concerns over the Party Wall Act. This is a civil matter between neighbours and not a material planning consideration.

Layout

The application is an outline application seeking approval of the layout and access. The detailed matters of the design, appearance and scale of the proposed bungalow which would include the internal layout, position of doors and windows and landscape would be considered at reserved matters stage. When such an application is submitted neighbouring occupiers would be consulted and given the opportunity of making further comments.

Neighbouring occupiers have raised concerns that the planning statement is incorrect regarding windows on neighbouring properties. For clarity Number 18 Stafford Close has a side facing kitchen window, a conservatory which is utilised as a utility area and a secondary habitable room windows facing towards the application site. The rear of the bungalow has a principal habitable room window and a conservatory. Number 3 The Poplars has ground floor habitable room windows and a secondary window in the roof space facing towards the application site. Number 20 Stafford Close has a side conservatory.

A plan has been submitted showing the position of the proposed bungalow to be set 9m from the rear conservatory at 18 Stafford Close and 6.5m from the side elevation of 18 Stafford Close, 14m from the side elevation of 20 Stafford Close, 15m from the rear conservatory and 19m from the rear elevation of number 3 The Poplars and 40m from the rear elevation of 59 Lichfield Road. The plan also shows what is an outline of a dormer is facing towards number 20 Stafford Close.

The submitted planning statement states the proposed bungalow would be 3m to the eaves and 6m to the ridge height. The planning agent has also confirmed that the bungalow has been designed with no accommodation in the roof space.

Whilst there are no details within the application as to where habitable room windows would be placed a planning condition should be attached to ensure the proposed bungalow has no side facing windows and no windows or living accommodation in the roof space, to protect the amenities of neighbouring occupiers. It would appear that habitable room windows would face towards the front and back of the site, and whilst the proposal would fail to meet the Council's habitable room to habitable room separation distance between the rear of the proposed bungalow and the rear elevation of 3 The Poplars, it is considered the existing boundary treatments would protect the amenities of neighbouring occupiers. The planning agent has confirmed a 1.8m high close board fence would erected between the proposed bungalow and number 18 Stafford Close. This would address the issues of potential overlooking and loss of privacy between the proposed development and neighbouring occupiers.

A planning condition is attached to ensure there are no windows in the roof space of the proposed bungalow. This will protect the amenities of these neighbouring occupiers in respect of potential loss of privacy and overlooking.

On the side elevation of number 18 Stafford Close is a kitchen window, the proposed position of the bungalow is set back from this window, so as not to impact upon the amenities of these existing occupiers by way of loss of light, loss of outlook and loss of privacy. The rear of number 18 Stafford Close has a principal habitable room window and a conservatory, the layout of the proposed bungalow would comply with the Council's 45 degree code on light from the main habitable room window on the rear elevation.

The proposed bungalow would be set 40m away from the rear elevation of number 59 Lichfield Road meeting the Council's habitable room separation distances.

With regards to the height of the roof, it is considered that a 6m high roof to the pitch would be excessive and a 5m high roof in keeping with neighbouring bungalows would be sufficient to protect neighbouring amenities in respect of loss of outlook and loss of light and shading to the occupiers of 18 Stafford Close and loss of outlook to the occupiers of both 20 Stafford Close and 3 The Poplars.

Neighbouring occupiers have raised concerns over the proposed boundary treatments and materials. The agent has already specified the boundary treatment between the application site and number 18 Stafford Close. The proposal seeks to erect a boundary to provide a private amenity area for the proposed bungalow, the boundary treatment has not been specified and can be secured by condition.

The proposed bungalow would a total amenity area of 112.5 square metres, which exceeds the Council's recommended residential standards (68m²) by 44.5 square metres.

Neighbouring occupiers have raised concerns over noise and disturbance from construction work and increased comings and goings. A planning condition can be attached to ensure the proposed works are undertaken during the daytime to protect neighbouring amenities. With regards to vehicle movements, there is no evidence to suggest a bungalow would exacerbated vehicle movements over and above the current use of the site for garages which are currently rented by multiple people.

To further protect the amenities of proposed residential occupiers, Pollution Control have suggested conditions regarding land contamination and air quality.

The Police have no objection to the proposal subject to secure by design which can be sought by notes for applicant.

On balance the proposed application would not unduly harm the environmental role of the historic and built environment and as such the proposal should be supported.

Access

Vehicular access to the site is via a long, single track garage access drive.

Pedestrian access is also available from Stafford Close. This will be important for bin

collection and deliveries etc which are unable to easily access the site via the narrow access road.

Taking into account the site presently serves as garages, the number of vehicle movements to a single dwelling is likely to be less intensive.

The position of the bungalow on the submitted plan shows it would be set away from the access road and track still allowing vehicular access to the rear of numbers 57 to 67a Lichfield Road.

On balance, the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with the NPPF in this respect.

The Fire Officer has no objection subject to water supplies for firefighting should be in accordance with National Guidance Document on the Provision for Fire Fighting.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes a single new home.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

The redevelopment of the garage site with a residential dwelling would secure the site towards the rear of surrounding residential properties, whilst still allowing rear access to numbers 57 to 67a Lichfield Road. The supporting statement states that the proposal would not result in the displacement of parking provision from the demolition and redevelopment of the site.

The proposal is in a sustainable location being within walking distance of Bloxwich District Centre.

The application is an outline application seeking approval of the layout and access. The detailed matters of the design, appearance and scale of the proposed bungalow which would include the internal layout, position of doors and windows and landscape would be considered at reserved matters stage.

Whilst there are no details within the application as to where habitable room windows would be placed, it can be said that the a planning condition should be attached to ensure the proposed bungalow has no side facing windows and no windows or living

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accommodation in the roof space, to protect the amenities of neighbouring occupiers. Boundary treatments would address the issues of overlooking and loss of privacy between the proposed development and neighbouring occupiers.

A 5m high roof in keeping with neighbouring bungalows would be sufficient to protect neighbouring amenities in respect of loss of outlook and loss of light and shading to the occupiers of 18 Stafford Close and loss of outlook to the occupiers of both 20 Stafford Close and 3 The Poplars.

Taking into account the site presently serves as garages, the number of vehicle movements to a single dwelling is likely to be less intensive.

The position of the bungalow on the submitted plan shows it would be set away from the access road and track still allowing vehicular access to the rear of numbers 57 to 67a Lichfield Road.

On balance the proposed application would not unduly harm the environmental role of the historic and built environment and as such the proposal should be supported.

The proposal complies with the NPPF, Policies CSP4, DEL1, HOU1, HOU2, HOU3, ENV2, ENV3 and ENV8 of the BCCS, Saved policies GP2, ENV10, ENV11, ENV14, ENV17, ENV32, ENV33, T4, T7 and T13 of the UPD and policies DW1 to DW10 of Designing Walsall SPD and the Air Quality SPD.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant subject to conditions

Conditions and Reasons

1. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

3. This development shall not be commenced until details of the following, hereafter named “the Reserved Matters”, have been submitted to and approved by the Local Planning Authority:-

- a) Appearance
- b) Scale
- d) Landscaping

Reason: Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995.

3. The development shall not be carried out otherwise than in accordance with the following approved plans:

- location plan 4791/99/C submitted 25-04-18
- block plan 4791/02/C submitted 25-04-18
- property details and level survey MJS/A1 submitted 04-01-18

Reason: To ensure the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted (except in so far as other conditions require).

4a. Prior to the commencement of any built development, a desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases to present a likely risk to proposed structures or future occupants of the development. Results of the desk study and site reconnaissance shall be submitted to and agreed in writing by the local planning authority. (see Note for Applicant CL 4)

4b. In the event that the desk study and site reconnaissance indicates a potential presence of contamination and/or ground gases on site. Prior to the commencement of any built development a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

4c. Prior to the commencement of any built development a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

4d. Prior to the commencement of any built development a ‘Remediation Statement’ setting out details of remedial measures to deal with identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

4e. The remedial measures as set out in the ‘Remediation Statement’ required by part c) of this condition shall be implemented in accordance with the agreed timetable.

4f. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part b) of this condition is encountered, development shall

cease until the 'Remediation Statement' required by part c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

4g. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved UDP policies GP2 and ENV10.

5a. Prior to demolition and removal of any buildings and/or structures a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement detailing actions and time scale to be taken to prevent localised contamination shall be submitted to and approved in writing by the local planning authority.

5b. Following demolition and removal of any buildings and/or structures a validation report shall be submitted to the Local Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials therein.

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved UDP policies GP2 and ENV10.

6a. Prior to first occupation of the dwelling hereby approved details of an electric vehicle charging point, to be provided for the new dwelling shall have first been submitted to and agreed in writing of the Local Planning Authority.

6b. Prior to first occupation of the development the approved electric vehicle charging point shall be installed in accordance with the approved details and shall be retained and maintained for the life of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy

7a. Prior to the commencement of the development, the applicant shall submit measures for controlling noise, dust, flying debris, and drag-out from engineering and construction activities at the site in writing with the Local Planning Authority.

7b. All agreed measures shall be implemented and maintained throughout the duration of demolition operations and construction activities.

Reason: to prevent or minimise environmental impact during the course of building works in accordance with policy GP2 and ENV32 of the UDP.

8a. Prior to the commencement of the development, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority detailing where the parking and turning facilities for site operatives will be located and the construction delivery arrangements, including full details of the wheel

cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

8b. This provision shall be retained during construction in accordance with the approved details.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway due to the access constraints to the site, in the interests of highway safety in accordance with Policy GP2, T4, T7 and T13 of the UDP.

9a. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved, full details of the buildings facing materials, including [bricks, render, roof tiles, windows, door, rainwater products and soffits], illustrating the colour, size, texture and specification to be used within the development hereby approved shall be submitted to and approved by the local planning authority.

9b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

10a. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved a scheme setting out full details, including heights, extent of the boundary treatment, materials and finishes of the proposed boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of any internal site divisions.

10b. The development shall not be carried out otherwise than in accordance with the approved scheme and shall thereafter be retained.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

11a. Prior to the commencement of development above damp proof level a detailed landscaping scheme illustrating planting within the proposed housing site including:

- detailing planting densities
- planting numbers
- size of plants to be planted
- soil depth and specification

shall be submitted to and approved in writing by the Local Planning Authority.

11b. The approved scheme shall be implemented within 12 months of any part of the development being brought into use.

11c. Any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed within the first 5 years shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

Reason: Necessary in the visual amenities of the area and the proposed site in accordance with Policies ENV17 and ENV33.

12. Prior to the commencement of development above damp proof level details of any external lighting to be installed around or within the development shall be submitted to and approved in writing by the Local Planning Authority.

12b. The development shall be completed with the approved details and retained and maintained at all times.

Reason: Necessary to prevent light pollution and to protect the amenity of surrounding residential occupiers in accordance with Policies ENV11 and ENV32 of the UDP.

13. Prior to the commencement of development above damp proof level details of bat and bird boxes to be incorporated into the design of the proposed bungalow shall be submitted to and approved in writing by the Local Planning Authority.

13b. The development shall be completed with the approved details and retained and maintained at all times.

Reason: To provide a habitat for foraging and roosting bats and nesting birds.

14a. Prior to the first occupation of the new dwelling, the parking and vehicle manoeuvring areas together with the access road off Lichfield Road and the pedestrian access off Stafford Close shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

14b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, T7 and T13.

15. Notwithstanding the height of the proposed bungalow specified in the planning statement submitted on 04-01-18 and the written confirmation of no living accommodation in the roof space on 15-08-18, the proposed bungalow hereby approved shall not exceed 5m in height overall.

Reason: To protect the amenities of the occupiers of the neighbouring properties from overlooking, loss of privacy and loss of outlook.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house;

- Class A (enlargement, improvement or other alterations),
- Class B (additions to the roof),
- Class C (other alterations to the roof),
- Class D (porches),
- Class E (building incidental to the enjoyment of a dwelling house),
- Class F (hard surfaces incidental to the enjoyment of a dwelling house),
- Class G (chimneys, flues),

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-Class H (microwave antenna)],
shall be installed in any part of this hereby approved development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

Notes for applicant – Severn Trent Water

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note if you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851.

Notes for applicant –Police

All ground floor windows and any accessible windows should be fitted with BS EN 356 grade P1A glass this includes French doors and patio doors and should improve the standard of security to the more vulnerable ground floor windows. The frontages and accessible windows of the houses and apartments need to have defensible planting under them. This can be created by dense low level shrubbery which should be around 1m in depth. This will assist in stopping unauthorised persons gaining access to vulnerable windows and make it more difficult for persons to peer in through window or have access to the locking mechanisms. The defensible space should overlap the whole length of the window at least. Low level dense shrubbery is the preferred method to create this barrier with a mature height of no more than 1m and should be suitable for the light and soil environment at its location.

The developer to be made aware of and fit the PAS 24:2012 doors. Where euro profile cylinder locks are proposed in doors, shutters etc. consideration should be given to the ever Increasing trend in lock snapping as a means of forcing entry to a building. To reduce such risk a minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond Standard certification should be used instead of the standard 1 Star cylinder. Also where thumb turn locks are to be installed considerations should be given to the use of the 'BY Pass' method of entry by offenders. There are thumb locks on the market that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

Secured by Design states the safest place to park a vehicle is in a locked driveway in front of the vehicle owner's property. To deter car crime it is important to ensure that all parking places have good natural surveillance and are overlooked by windows from the buildings they serve. The driveway of this development is not overlooked by

buildings however they are surrounded by gardens and are within view of the bungalow.

Most properties are attacked from the rear therefore perimeter security needs to be effective in order to protect the most vulnerable area. I would recommend 2.1m on all rear perimeter fences and should be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. This can include 300mm anti-climb (Criss Cross) trellis topping. The trellis should not be of a robust construction as this will create a climbing aid, rather than create a topping that will break, crack, and create noise if climbed, as intended. Where concrete post and panels are to be used the fence panels need to be tied using galvanised metal straps, so that the panels cannot be lifted by offenders as a means of entry. The fencing needs to be treated wood with guarantee life span of 25yrs. the side entry gate that leads to Stafford Close should be the same height (2.1m) and be key lockable from both sides, they should be positioned flush with the garage building front and entry gates of the two houses in Stafford Close so as to not make their gardens insecure by making climbing aides with a lower gate. Their design and construction should not provide climbing aides to offenders. The fencing needs to be located as near to the front of the building as possible but should not butt up next to a fence or wall of differing height forming a step ladder.

No Lead or metal should be used on the ground floor, this includes outside taps to the front of properties as the West Midlands is suffering high levels of metal theft where possible lead substitute products should be used.

All properties should have a suitable intruder alarm, with a siren box front and back, and should have dual or quad technology sensors and auto dialler function.

Where sheds are to be supplied consideration should be given to the new Secured by Design Shed The shed is made of TPR, an award-winning alternative to concrete that is manufactured using waste diverted from landfill, having a low carbon footprint. It has been Successfully tested to **LPS1175 Issue 7: 2010 SR1** Specification for testing and classifying the burglary resistance of building components, strong points and security enclosures. It can be manufactured to any size and is ideal for scooters and cycles not just as a shed. This has a guaranteed maintenance free 80 year life span therefore would not be added cost replacing or repairing this for residents.

Notes for applicant – Highways

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining

End of Officers Report

Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 7.

Reason for bringing to committee: Significant community interest.

Location: 54, NORMAN ROAD, WALSALL, WS5 3QN

Proposal: REPLACEMENT 5 BEDROOM HOUSE.

Application Number: 18/0773

Applicant: Ranjit Singh

Agent: West Midlands Design Ltd

Application Type: Full Application: Minor
Use Class C3 (Dwellinghouses)

Case Officer: Paul Hinton

Ward: Paddock

Expired Date: 04-Sep-2018

Time Extension Expiry: 08-Nov-2018

Recommendation Summary: Grant permission subject to conditions.



Proposal

This application seeks planning permission for the erection of a five bedroom detached house in place of an existing three bedroom detached house. The application proposes:

- Increase in width from 10.8m to 11.5m (plot width 13.8m).
- Increase the maximum depth from 10.1m to 18.3m.
- Retain the 7.8m ridge and 5.1m eaves height.
- Project 1.4m further forward than the existing.
- Side facing windows and doors to the utility, shower room, ensuite bathroom and main bathroom.
- The design retains a central ridgeline spanning the width of the property with front projecting gable and single storey projection to the side.
- A part single storey projection is proposed to the rear.
- Roof lights are proposed to the side and rear roof planes.

A garage would be provided with the existing drive extended with permeable block paving to accommodate a total of four vehicles. The house would be finished with facing brick and tiled roof.

The following has been submitted in support of the application:

Design and Access Statement

- Materials will be contemporary and reflect the changing nature of the estate.
- Proposals are considered to be a good use of under developed land in a sustainable location.

Bat Survey

- No evidence of bats using the building as a place of shelter.
- No roosting opportunities for bats in the building.
- A brick bat box can be install in the gable apex of the southern elevation of the building.

The application has been amended following advice from officers.

Site and Surroundings

This is a residential area with rows of either two storey detached houses or bungalows. Properties are set behind generous front driveways with a highway verge to this side of the road. The Rushall canal is to the rear of the application site.

The neighbour at no. 56 has a single storey rear extension.

Relevant Planning History

None relevant.

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a *"presumption in favour of sustainable development"*.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth

- HOU2: Housing Density, Type and Accessibility
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity

- DW6 Legibility
- DW7 Diversity

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Highways – no objection subject to use of recommended condition in regard to extending the front drive.

Canal and Rivers Trust – no objection subject to conditions requiring reinstating the hedge to the rear, removing permitted development rights for further extensions and outbuildings, construction method statement and drainage.

Pollution Control – no objection subject to use of recommended conditions in regard to a construction management working plan and measures to comply with the Air Quality SPD.

Police Crime Prevention Design Advisor – no objection subject to use of recommended security measures in regard to window and door standards, lock standards, boundary treatment details and intruder alarm.

Fire Services – Water supplies for firefighting should be in accordance with “National Guidance Document on the Provision for Fire Fighting

Severn Trent Water – no objections. Has limited impact on the public sewerage system, does not require a drainage condition.

Representations

Surrounding occupiers notified by letter and site notice displayed (*Officer comments in italics*).

Four letters have been received objecting on the following grounds:

- Application refers to two storey house but is a three storey house, important error (*the application description was ‘Replacement 5 bedroom house’, the details of the proposal are clearly shown on the submitted drawings available on the Council’s website*).
- Destruction of perfectly serviceable home.

- Overdevelopment of what was beautiful garden
- Overbearing and out of character
- Footprint area in excess of the two surrounding properties
- Roof height would be 1.1m above the adjacent property.
- Frontage designed in disregard to appearance of adjacent properties.
- Have physically measured the height to be 7.4m.
- Windows to side elevations overlook, loss of privacy and prevent future development of neighbours.

Following re-consultation on the amended plans one objector has written in raising the following concerns:

- Still 400mm higher than the adjacent property.

Determining Issues

- Principle of development
- Impact on the character and appearance of the area
- Impact upon residential amenity
- Ecology and canal
- Access and Parking
- Local Finance Considerations

Assessment of the Proposal

Principle of the development

This is an existing residential area where there is an existing dwelling. The continuation of the use would not conflict with the development plan.

Concern has been raised about the loss of a perfectly serviceable home. As the building is not listed or in a conservation area, its retention is not protected by planning policies.

Impact on the character and appearance of the surrounding area

The NPPF says that developments should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements.

The application house and properties either side are typical of 1960s utilitarian design, with side gable ends and flat roof garage to the side. The proposed house would retain the roof design with eaves and roof height matching that of the existing building. From the street the main changes would be the front projecting gable and

single storey projection. This is an emerging characteristic of other houses along Norman Road that have been extended. The proposal while a new build would have the effect of a first floor over the garage, another characteristic of properties in the area. The design includes similar window proportions to the neighbours and includes a chimney.

There would be a gap of 1.7m to the boundary with no. 52 and 0.6m to the boundary with no. 56. This would respect the existing relationship between properties in the area and would cause limited visual harm.

There is a bend along this part of the road. The building would be 1.4m closer to the road than the existing house due to the two storey front gable. The rest of the frontage would be stepped back. The bend and step would ensure the house does not disrupt the rhythm of the street.

The depth of the building is larger than the existing house with a two storey element and shallow dual pitched roof and single storey rear projection with mix of mono and dual pitched roof. This would be 16m from the boundary with the canal's tow path. The rear elevation has sufficient variety to cause limited harm to the visual amenities for users of the canal. The Canal and River Trust note that a previous boundary hedge with the canal has been removed and should be re-instated. While a hedge would have a positive relationship such a condition would not be required to make the development acceptable in planning terms. This request would be unreasonable.

The design positively responds to the local character and use of brick reflects local materials. The NPPF seeks that decisions should aim to secure these factors, but should not prevent innovation. In addition it advises that decisions should not attempt to impose architectural styles. The proposal is visually attractive and takes the opportunity to add to the overall quality of the area and reinforcing local distinctiveness.

Neighbours object to the overdevelopment of a beautiful garden and the footprint of the proposal. As discussed above the size of the development is considered to be acceptable. One neighbour has measured the height to be 7.4m whereas the plans show both the existing and proposed house to be 7.8m. The agent has re-checked the details using three survey techniques that each confirm an existing height of 7.8m. For the avoidance of doubt a condition confirming the height is not to exceed the height of the existing house is considered reasonable and agreed by the applicant's agent.

No details of boundary treatment have been provided but can be through the use of a condition that meets the six tests.

On balance the proposal would not have an adverse impact upon the character or appearance of the area.

Impact upon residential amenity

No. 52 has a first floor side facing bathroom window. Currently there is a 2m gap to the boundary at ground floor and 4.7m at first floor, with existing landing and secondary bedroom window to the side. This would be reduced to a 1m gap with proposed non-habitable utility door and window and shower window at ground floor

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and ensuite window at first floor. Subject to the first window being obscure glazed and top opening, this would not result in a loss of privacy.

No. 56 has two windows to the side elevation facing the blank side elevation of the current house. The proposal would be 0.4m closer to these windows than the existing house and would not result in a material loss of outlook. A first floor side facing bathroom window proposed, subject to this window being obscure glazed and top opening, this would not result in a loss of privacy.

No. 52 is to the south of the application site with a single storey utility to the side. The edge of the kitchen and bedroom window would be 6m from the side of the proposed house. While the double element projects 6m further to the rear and the single a further 1.5m, this complies with the 45 degree code and would not result in a material loss of outlook. With the development to the north there would be no loss of light.

The two storey element would be 5.6m from the edge of the first floor bathroom window to no. 56 and therefore would not result in a material loss of outlook. No. 56 has an existing 6m deep single storey kitchen extension to the rear with the proposed single storey element of the proposal project 3.6m further to the rear than the extension at no. 56. Due to the position of the rear window the proposed single storey element would comply with the 45 degree code and would not result in a material loss of outlook to the kitchen window. As the proposed is to the south it has the potential to result in a loss of light which would be most noticeable within the patio of the property. This impact is reduced due to the existing 6m rear extension and the proposed shallow pitched roof. The generous sized rear garden of no. 56 offers alternative locations within the rear garden that would not be affected. On balance refusing the application on this ground alone would not be sustained.

The rear facing windows would have the same relationship to the neighbouring gardens that currently exists, resulting in no further harm.

It is necessary to remove permitted development rights for any extensions to the property to protect amenity of neighbouring occupiers because an extension of 4m would result in a loss of outlook to the neighbours.

The proposal includes a generous rear garden 16m in length, which would meet residential needs.

The recently adopted Black Country Air Quality SPD sets out guidance on minimising air quality impacts. The proposed new house could assist with reducing potential air quality impacts by providing electric vehicle charging points so that future occupiers are encouraged to use electric vehicles and low emission boiler. This would be relevant and necessary and can be secured by condition. Pollution Control recommend a condition requiring a construction management plan and a control of construction working hours; given the location and the availability of other legislation these conditions would not be reasonable for this application.

The Police raise no objection to the application subject to the use of recommended door, window and garage door standards no lead or metal on the ground floor and alarm systems. The NPPF says decision should aim to achieve safe places, BBCS

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policy ENV3 require development to consider security and referencing Secured by Design principles. These policies would be addressed by use of a condition that requires the above security measures.

On balance it is considered that the development would not have a significant impact upon the amenity of surrounding occupiers and there is sufficient amenity provision for potential occupiers.

Ecology

The bat survey has confirmed there are no bats or roosting opportunities currently, but there is the opportunity to install a bat box within the building. This would be an enhancement in ecological terms and a necessary condition is recommended.

Relationship with the canal

The site is located to the west of the Rushall Canal and the site gently slopes away from the canal. Whilst the proposed works are offset from the canal boundary due to the extent and nature of the works proposed the Canal and Rivers Trust (CRT) consider there is potential for adverse impacts to the canal infrastructure in this location. In addition they explain that drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. Due to these concerns safeguarding conditions in regard to construction methods and drainage are required to ensure the integrity of the waterway is retained.

The CRT also seek to remove permitted development right for extensions and outbuildings. For an extension this has been discussed above on amenity grounds. Given that permitted development rights for outbuilding currently exist for all the properties along the road including the existing house, removing them for one property would not be reasonable or meet the six tests.

Access and parking

UDP policy T13, a five bedroom property is required to provide three off-street parking spaces. The proposal seeks to achieve these requirements by providing a garage and drive that can provide more than three spaces. Accordingly the proposal would not impact upon highway safety.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes one new home.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the principle of development is consistent with the provisions of the development plan. The design of the house would cause no further harm to the character or appearance of the area. The proposal would not result in a material loss of amenity to neighbouring occupiers. The proposal would also provide sufficient amenity for potential occupiers. Sufficient off-street parking is provided to meet the needs of the development.

Safeguarding conditions in regard to materials, boundary treatment, electric charging points, no further openings, removal of permitted development rights for extensions, security and parking provision are necessary and meet the six tests. Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, HOU2, TRAN2, ENV2, and ENV3 of the Black Country Core Strategy and saved policies GP2, 3.6, ENV10, ENV32, H3, and T13 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Positive and Proactive Working with the Applicant

Officers have worked with the applicant securing amended plans and clarification over the details of the scheme to recommend approval.

Recommendation

Grant permission subject to conditions.

Conditions and Reasons

1. This development must be begun not later than 3 years after the date of this decision.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This development shall not be carried out other than in conformity with the application form and following plans and documents: -

- Location plan received 10/7/18
- Proposed block plan received 9/10/18

- Survey of existing received 28/6/18
- Proposed floor plans received 14/9/18
- Proposed elevations received 14/9/18

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3a. Prior to the commencement of development a Method Statement detailing all proposed earthmoving, and construction works (including foundation details and any construction compounds/material storage) shall have first been submitted to and agreed in writing by the Local Planning Authority.

3b. The development shall thereafter only be carried out in accordance with the agreed Method Statement and the mitigation measures identified therein.

Reason: In the interests of minimising the risk of any adverse impacts upon the structural integrity of the adjacent Rushall Canal, this needs to be required prior to commencement of development, and to comply with the guidance contained in Paragraphs 120-121 of the National Planning Policy Framework March 2012.

4a. Prior to the commencement of development details of surface water drainage shall have first been submitted to and agreed in writing by the Local Planning Authority

4b. The development shall thereafter only be carried out in accordance with the agreed details.

Reason: To ensure that surface water from the site is disposed of in a safe and appropriate manner in order to protect the integrity of the waterway structure and water quality.

5a. No development above damp proof course shall commence until details of boundary treatment shall have first been submitted to and approved in writing by the Local Planning Authority.

5b. The approved details shall be fully implemented prior to first occupation of the premises and shall be retained thereafter.

Reason: In the interests of visual amenity, highway safety and securing the development.

6a. Prior to the commencement of development above damp proof course a schedule of facing materials to be used in the external walls (including the size/texture and colour), roofs, windows, doors, rainwater goods and surfacing shall have first been submitted to and agreed in writing of the Local Planning Authority.

6b. The scheme shall be carried out in accordance with the approved details prior to first occupation.

Reason: To ensure the satisfactory appearance of the development in accordance with saved UDP policy ENV32.

7a. Prior to the commencement of development above damp proof course details for an electric vehicle charging point, to be provided for the dwelling shall have first been submitted to and approved in writing by the Local Planning Authority.

7b. Prior to first occupation of the development the electric vehicle charging point shall be fully installed in accordance with the approved details and shall be retained and maintained for the life of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

8. For the avoidance of doubt the height of the dwelling hereby approved shall not exceed the height of the existing dwelling.

Reason: To define the permission in the interests of visual amenity.

9a. Prior to the first occupation of the dwelling hereby approved the driveway and parking areas shown on the approved plan shall be fully consolidated, hard surfaced and suitably drained to ensure surface water from the parking area does not discharge onto the public highway.

9b. Three parking spaces shall be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13.

10. Prior to the development first being brought into use, a brick built bat box shall be installed within the apex of the southern gable elevation of the dwelling. The bat box shall be retained thereafter.

Reason: As per the recommendations of the Bat and Bird survey and to conserve local bat populations.

11. The first floor side facing windows as shown on the approve plans shall be top opening only and shall have obscure glazing to Pilkington level 4 privacy glass standard or equivalent and shall be retained.

Reason: To safeguard the amenity of adjoining occupiers.

12. The development shall be constructed to meet the following minimum security measures and thereafter retained as such;

- All ground floor windows and any accessible windows should be fitted with BS EN 356 grade P1A glass this includes French doors and patio doors
- PAS 24:2016 doors should be on all entrance and exit doors.

- A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks
- Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.
- No Lead or metal should be used on the ground floor, this includes outside taps to the front of properties as the West Midlands is suffering high levels of metal theft where possible lead substitute products should be used.
- Garage doors must be certificated to one of the following standards - Loss Prevention Certification Board standard LPS1175 security rating 1 or WCL 2 BR 1

All properties should have a suitable intruder alarm, with a siren box front and back, and should have dual or quad technology sensors and auto dialler function.

- Rear boundary treatment shall include 1.8m high close boarded fencing with 0.3m trellis on top.
- All gates should have access control measures, be self-closing with hinges mounted to the rear of the public side and located as close as possible to the front building line.

Reason: To ensure the safety and security of the development and its occupiers in accordance with BCCS policy ENV3.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors other than those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A and D of Part 1 of Schedule 2 of the Order, shall be constructed.

Reason: To retain sufficient amenity space and in the interests of the amenity of occupiers of adjacent dwellings.

14. No boilers shall be installed and used in any of the units hereby approved, save for boilers which have maximum NOx emissions no greater than 56 mg/kWh for gas and liquefied petroleum gas (LPG) boilers and a maximum of 120 mg/kWh for oil-fired boilers.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

Notes for Applicant

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

2. If it is the applicant's intention to pursue the proposed extension to the existing dropped kerb footway crossing, the works shall be installed in accordance with the Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority. The extended crossing shall not exceed five 900mm flat kerbs and two 900mm taper kerbs in total including the existing crossing. The applicant will be required to obtain the necessary Road Opening Permit from the

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Highway Authority for the dropped kerb footway crossing works within the public highway. For further information please contact the Traffic Management Team on 01922 654675.

Canal and Rivers Trust

1. The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

2. The applicant /developer is advised to contact Keith Johnston, Canal & River Trust Estates Surveyor (keith.johnston@canalrivertrust.org.uk) to discuss the legal site boundary and ensure that any necessary agreements / licences are obtained.

West Midlands Fire Services

Water supplies for firefighting should be in accordance with "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK: <https://www.dropbox.com/s/5s5i45fxr3m3hrt/national-guidance-document-on-water-for-ffg-final.pdf?dl=0>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

Severn Trent Water

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building

Note to Applicant Air Quality SPD

Pollution Control is of the opinion that the Application falls under the Type 1 category. Therefore the Applicant needs to install at least one electric vehicle charging point per Plot and/or one charging point per 10 parking spaces for shared parking, and low NOx boilers –have maximum NOx emissions of 56 mg/kWh for gas and liquefied petroleum gas (LPG) boilers and a maximum of 120 mg/kWh for oil-fired boilers.

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

End of Officers Report

Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 8.

Reason for bringing to committee: Call in by Cllr Kudhail on grounds of loss of privacy to neighbour.

Location: HOUSE IN THE WOOD, STREETLY WOOD, STREETLY, SUTTON COLDFIELD, B74 3DQ

Proposal: SECTION 73 APPLICATION: VARIATION OF CONDITION 2 OF 15/1635. ADDITION OF SIDE DOOR AND WINDOW, MODIFICATION OF WINDOWS AND CHIMNEY AND EXTEND SOUTH ELEVATION BY 0.45M

Application Number: 18/1051

Applicant: Mr Peter Light

Agent: Andrew Gifford Architects

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

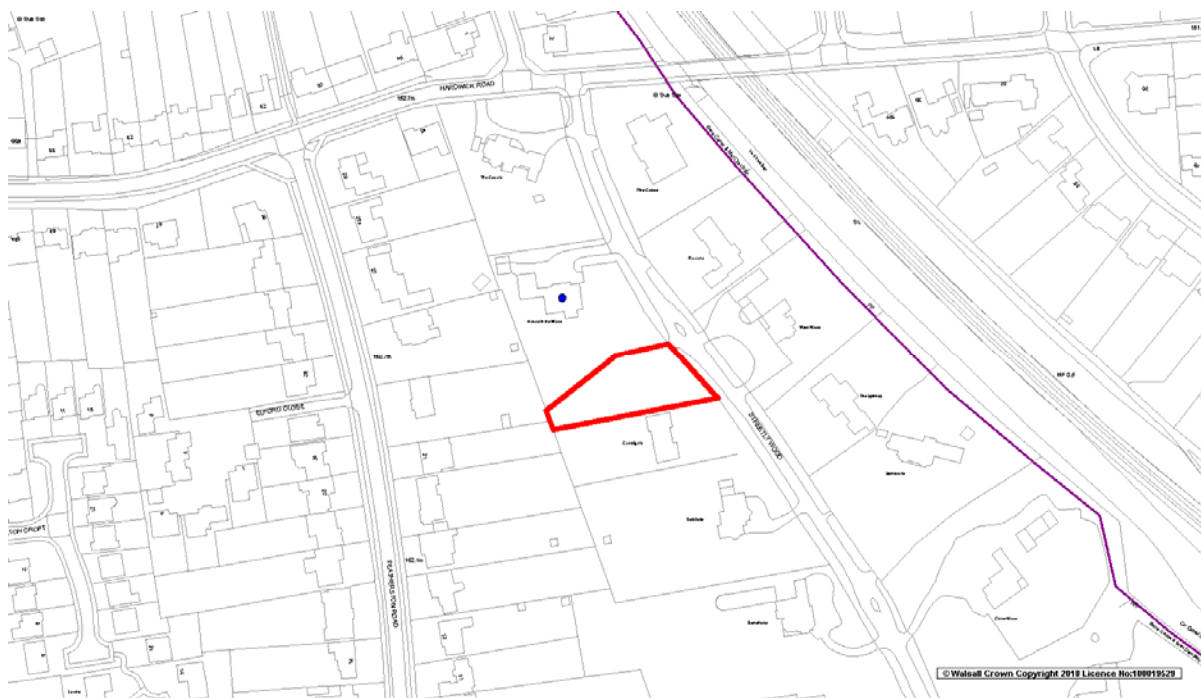
Case Officer: Paul Hinton

Ward: Streetly

Expired Date: 09-Oct-2018

Time Extension Expiry:

Recommendation Summary: Grant permission subject to conditions



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Proposal

This is a minor material amendment application that follows the grant of planning permission in May 2017 for a detached dwelling house. The application proposes the following changes:

- Add side door the north elevation of the garage (facing the neighbour at Castlegard)
- Replace secondary door to the front (east) elevation with a window
- Change the approved diamond shape, landing window on front (east elevation) to rectangular window.
- Add ground floor window to side (south) elevation serving the living room.
- Modify the chimney detail to the south elevation.
- Extend the two storey part of the west elevation by 450mm.
- Amend the orientation of the building.

Site and Surroundings

Streetly Wood is a gated private drive which serves 16 houses and is accessed from Hardwick Road to the north and Foley Road East to the south. The houses along Streetly Wood are set within large plots and separate driveways. This area has a spacious character with individually designed houses within areas of dense woodland. Existing houses along Streetly Wood are separated by distances ranging from 5 metres between Rowans and Westwood and the remaining houses by at least 11 metres.

Relevant Planning History

BC12885P – extension to lounge and conservatory – granted permission subject to conditions 11/12/84

14/0804/FL - Erection of 1 no. dwellinghouse with associated works. Refused 12/02/2015 for the following reasons:

1. It is considered that the proposed new dwelling

- would be of poor design and siting, to the detriment on the spacious character of the local area and amenity of future occupiers, by reason of incongruous utilitarian design,

- lacks positive design cues from the existing house and local area

- would have an unacceptably close proximity to Castlegard resulting in increased disturbance where a greater level of privacy between properties and quietness is characteristic in this area

- have a poor relationship to Streetly Wood due to being built side-on to the street

- result in a poor living environment for future occupiers because of shading from the dense tree canopy and leaf litter

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- have a lack of useable amenity space because of the densely wooded nature of the site

2. The felling of six Class B trees (classified in accordance with BS5837:2012) with high amenity value, and included in a Tree Preservation Order, would cause significant detriment to the landscape character of the site and the visual amenity of the wider area,

3. The siting of the proposed dwelling would lead to an unsustainable relationship with retained trees and it is considered likely to result in pressure on the Council from future occupier's for permission to heavily prune or remove additional trees to improve available amenity space and reduce overshadowing, leaf litter and potential risk of swaying/falling trees in close proximity to a dwelling. The removal of trees would cause significant detriment to the landscape character of the site and the visual amenity of the wider area,

4. The application fails to demonstrate that the proposals would not have a detrimental impact on foraging habits for bats within the site. The danger of the incremental loss of mature trees is considered likely to have an adverse impact on bat foraging. In the absence of information demonstrating that habits for bat foraging would be suitably protected,

15/1635 - Erection of 1 no. dwellinghouse with associated works (Resubmission of 14/0804/FL). GSC 2/5/17.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "presumption in favour of sustainable development".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may

be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

None required.

Representations

Surrounding occupiers notified by letter and site notice displayed.

One letter has been received objecting to the application on the following grounds:

- New window will seriously impinge on privacy as will be viewed when gain egress to and from property and garden.
- Light from the window will be clearly visible on accessing rear utility, kitchen, dining room and living area.
- Original planning permission stated no additional side facing windows or doors shall be installed.
- Applicant attempting to overcome objection to the 2014 planning refusal.
- Increasing the height and thickening out the gable end of the building causes an overbearing effect.
- Character already affected by removal of a number of trees subject to a Tree Preservation Order.

- Already little space between the buildings which will be exaggerated by the proposals.

Determining Issues

- Minor material amendment
- Principle of Development
- Character of the area
- Amenities of the surrounding residential properties
- Access and parking
- Local Finance Considerations

Assessment of the Proposal

Minor material amendment

There is no statutory definition of a 'minor material amendment' with the NPPG stating; 'it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved'. It is considered, the proposed changes to this building are not substantially different from those approved under the terms of planning permission 15/1635 and therefore can be treated as a minor material amendment.

Principle of Development

The principle of development was considered as part of the 15/1635 permission. It is considered there is no further impact.

Character of the area

The character of the area was considered as part of the 15/1635 permission. The road is characterised by detached houses of individual designs, shapes and sizes.

The approved side elevation of the house is between 7m and 7.2m from the side of the neighbour at Castlegard. The amended proposal seek to re-orientate the house in a clockwise direction that would result in a separation distance of between 7m and 7.8m. This would cause no further harm to the character and appearance of the area.

The small increase to the two storey rear element by 450mm would cause no harm to the character of the area.

Amenities of the surrounding residential properties

It is considered, the garage side door would cause no harm to residential amenity.

It is considered, the replacement of the front elevation secondary door with a window would not harm residential amenity.

It is considered, changing the approved front elevation diamond shape landing window to a rectangular window would not harm residential amenity.

The application seeks to re-orientate the house in a clockwise direction. The approved side elevation of the house is between 7m and 7.2m from the side of the neighbour at Castlegard. The amended proposal would result in a separation distance of between 7m and 7.8m. Whilst one neighbour objects to the amendment explaining, there is already little space between the buildings which will be exaggerated by the proposals, it is considered, this increase would not cause further harm to residential amenity.

The proposed ground floor side facing window would face the neighbour, Castlegard. The approved planning permission, at the point of the proposed side facing window was 7m from the side of Castlegard with a blank elevation. The proposed secondary living room window would also be 7m from the side elevation. The side elevation of Castlegard includes a secondary access door with the main front door facing Streetly Wood. Castlegard benefits from two side facing obscurely glazed windows, one to the WC and the other to the garage. There is an existing 2.09m high boundary fence from where the ground levels drop on the application side. The approved house would be 0.5m lower than the ground level of Castlegard. The top of the proposed window in the proposed house, would be 2.4m above the ground level. Taking into account the ground level differences between the two properties, it is considered the proposed window would not exceed the top of the existing boundary fence. In addition there is an existing laurel hedge that is above this boundary fence.

Therefore, the existing boundary fence would screen the proposed secondary side-facing living room window. In the event that the fence was removed (this appears to be in the control of Castlegard) the proposed window would face Castlegard where there is a door leading to a corridor of the house and towards two non-habitable room windows. Whilst the neighbour objects on privacy grounds and light from the window would be visible, it is considered the proposed side-facing window would not cause a loss of privacy to the neighbour.

The neighbour also explains that the original planning permission stated no additional side facing windows or doors shall be installed. This is a necessary condition to ensure if any additions are proposed they can be fairly assessed against the relevant planning policies at the time. In assessing this non material amendment, this particular side facing window does not cause harm.

The approved side (southern) elevation, facing Castlegard has an external chimney breast. The proposal seeks to move this 0.5m further to the rear of the house and also increase the spread of the base/fire place by 1m. This elevation faces the non habitable windows to the side of Castlegard and would be viewed against the backdrop of the two storey house with a boundary fence between. It is considered, these changes would not cause further harm to the residential amenity of the neighbour.

The application also seeks to extend part of the rear elevation by a further 450mm depth across the 5.2m width of the house. This would increase the size of the living room and the enclosed Juliet balcony at first floor. The approved house would project a further 1m to the rear than the rear of Castlegard. Due to the re-orientation of the house and including the proposed 450mm depth of the rear elevation, the proposed house would project 0.6m beyond the of Castlegard. It is considered, the proposed rear addition would not cause further harm upon the outlook of the neighbouring property.

The re-orientation and additional depth of the house would not cause further harm to the House in the Wood on the other side.

Objection has been received on the grounds that these changes are an attempt to overcome the 2014 planning refusal. The 2014 proposal was for a house far closer to the boundary with Castlegard and positioned further from the highway. The proposed changes, are different to the previously refused house and considered to not cause any further loss of amenity.

The objector also explains that the character is already affected by removal of a number of trees subject to a Tree Preservation Order. The previous planning permission approved the removal of a number of trees subject to compensatory planting. A scheme of replacement planning has been agreed through the conditional requirement of the previous approval and the same condition would be required as part of an approval of this application.

Access and parking

The principle of access and parking was considered as part of the 15/1635 permission and the proposed non-material changes have no further impact.

Consideration of application through s73 of the Town and Country Planning Act (as amended)

Section 73 is often used where circumstances affecting the development have changed, meaning that the conditions which were originally imposed need to be amended. When considering an application under section 73 the LPA can decide that planning permission for the development should be granted without particular conditions or subject to different conditions to those which were attached to the original permission. In this case any conditions that have already been discharged are amended. The plans lists condition is amended to include the amended and additional drawings submitted as part of this application.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes one new home.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

The application has weighed all of the competing material considerations, including comments from the neighbour against the development plan policies, guidance and national guidance. This application seeks minor amendments to a previously approved new house. The proposal continues to be an acceptable use of the site. The changes are minor changes to the design of the development that would cause no visual harm and would not result in a material loss of amenity. Planning conditions that continue to be necessary and meet the six tests have been recommended.

For these reasons the proposal accords with the National Planning Policy Framework, Black Country Core Strategy policies CPS4, ENV2 and ENV3, Walsall Unitary Development Plan saved policies GP2, and ENV32.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Amended plans have been submitted that provide clarification to the details of the application to enable support to be given.

Recommendation

Grant permission subject to conditions

Conditions and Reasons

1. This development must be begun before 2nd May 2020.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990 and in accordance of the terms of planning permission 15/1635

2. This development shall not be carried out other than in conformity with the application form and following plans and documents:

- Application Form. Deposited 06/11/2015
- Site Layout (03d). Received 18/9/18
- Location Plan. Amended Deposited 11/05/2016
- Block Plan (04c). Amended Deposited 11/05/2016
- Site Section (05a). Amended Deposited 11/05/2016
- Elevations (02b). Received 9/8/18
- Floor Plans (01b). Received 9/8/18
- Tree Shading Extent Plans (5831-A-06). Amended Deposited 25/10/2016
- Arboricultural Assessment May 2016. Amended Deposited 11/05/2016 –
- Appendix A – Tree Schedule. Deposited 11/05/2016
- Assessment of Trees for Bat Potential 31/07/2014. Deposited 06/11/2015
- Property Detail and Level Survey (13/091/01). Deposited 06/11/2015
- Planning Statement. Deposited 06/11/2015
- Addendum Planning Statement. Deposited 06/11/2015
- Design and Access Statement. Deposited 06/11/2015

- Bat Mitigation Strategy 03/11/2016 (5831/Bat Mitigation). Deposited 04/11/2016
- Bat Mitigation Plan (Figure 1). Deposited 04/11/2016
- Proposed front elevation with finished floor levels received 18/9/18

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3. The development shall be implemented in accordance with the material details approved under the terms of condition discharge application 15/1635.

Reason: To ensure the satisfactory appearance and functioning of the development

4a. Prior to commencement of development, the replacement trees approved under the terms of condition discharge application 15/1635 shall be planted.

4b. The replacement tree planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period, any trees which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree of the same size and same species as that originally required to be planted, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To provide appropriate compensatory planting to ensure satisfactory visual amenity of the area and in accordance with UDP Policy GP2 and NE9 of the Natural Environment SPD.

5a. Prior to commencement of development, the bat boxes as approved under the terms of condition discharge application 15/1635 shall be fixed to trees as shown on the submitted bat mitigation plan.

5b. The bat boxes shall be positioned at least 3m from the ground (to help avoid predation and disturbance) and located so as not to interfere with any existing potential roosting features on the trees and positioned to avoid northerly aspects.

5c. In the event that a bat roost is discovered during construction, all works shall cease and shall not re-commence until a qualified ecologist has investigated and allowed works to proceed.

5d. External lighting shall be fully installed in accordance with the details approved under the terms of condition discharge application 15/1635 and thereafter maintained and retained as such.

Reason: To conserve local bat populations and in accordance with the NPPF and NE2 and NE3 of the Natural Environment SPD.

6a. Any tree works shall be carried out in accordance with the details approved under the terms of condition discharge application 15/1635 and to comply with British Standard 3998:2010.

6b. All retained trees shall be subjected to sound arboricultural management as recommended within section 8.8.3 of BS5837 Post Development Management of Existing Trees.

6c. All vegetation and, particularly, woody vegetation proposed for clearance shall be removed outside of the bird-breeding season (March - September inclusive). Where this is not possible, vegetation shall be checked for the presence of nesting birds prior to removal by an experienced ecologist.

6d. The use of no-dig construction methods shall be used wherever possible and in particular in the case of footways, driveways and other light use access roads.

6e. Any new utility services shall be positioned so not to encroach within the root protection areas of any retained trees as recommended by the guidance given in section 7.7 of BS5837 and shall wherever possible be ducted for ease of access and maintenance and grouped together near existing and new planting to minimise any future disturbance.

Reason: To safeguard trees and preserve and enhance the visual amenities of the locality in accordance with Policies GP2 and ENV18 of the Walsall UDP 2005.

7a. Retained trees shall be adequately protected during works in accordance details approved under the terms of condition discharge application 15/1635 and ensuring that the calculated root protection areas (RPA) for all retained trees are appropriately protected through the erection of the requisite tree protection barriers.

7b. Tree protection fencing shall be fit for the purpose of excluding any type of construction activity and suitable for the degree and proximity of works to retained trees comprised of a scaffold framework with a vertical and horizontal framework, well braced to resist impacts and barriers must be maintained to ensure that they remain rigid and complete for the duration of construction activities on site.

7c. The temporary ground protection measures approved under the terms of condition discharge application 15/1635 shall be fully implemented and retained during construction works in accordance with the approved details.

7d. Wide or tall loads shall not come into contact with retained trees and shall be supervised by Banksman where in close proximity to retained trees.

7e. Oil, bitumen, cement or other material that is potentially injurious to trees shall not be stacked or discharged within 10m of a tree bole and no concrete mixing shall be done within 10m of a tree. Allowance should be made for the slope of ground to prevent materials running towards the tree.

7f. Notice boards, telephone cables or other services shall not be attached to any part of a retained tree.

7g. Any trees which need to be felled adjacent to or are present within a continuous canopy of retained trees, shall be removed with due care and if necessary removal shall be in sections.

7h. No ground fires shall be permitted on the application site.

Reason: To safeguard trees and preserve and enhance the visual amenities of the locality in accordance with Policies GP2 and ENV18 of the Walsall UDP 2005.

8. The agreed dust and drag-out protection measures approved under the terms of condition discharge application 15/1635 shall be fully implemented and maintained throughout the duration of engineering and construction activities.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

9. The drainage scheme approved under the terms of condition discharge application 15/1635 shall be fully implemented in accordance with the approved details prior to the development first coming into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or prevent creating or exacerbating a flooding problem and to minimise the risk of pollution.

10. Prior to the first occupation of the house, the following security measures shall be fully installed and thereafter retained:

- i. New windows/ roof lights / patio / French doors/ windows should conform to PAS 24 2012 PS1A Standard with at least one pane of 6.4mm laminated glass in all ground floor windows.
- ii. All external doors should be to PAS 24 2012 standards. If a europrofile cylinder lock is to be utilised this door testing and certification should incorporate a TS-007 3star cylinder lock.
- iii. Due to the increase in metal theft consideration should be used to minimising the use of lead in the design, by using lead substitute or alternative products.
- iv. The property should be fitted with a suitable intruder alarm utilising dual technology sensor or alarm sirens front and back of building.
- v. Garage doors should be certificated to one of the following standards - Loss Prevention Certification Board standard LPS1175 security rating 1 or WCL 2 BR 1.

Reason: To ensure a safe and secure development and to comply with the NPPF and policy ENV32 of Walsall's Unitary Development Plan.

11. Prior to the first occupation of the house, a minimum of two parking spaces measuring 2.4m by 4.8m each shall be installed and thereafter retained on the front drive within the curtilage of the application house and fully consolidated, surfaced and drained to prevent surface water run off on to the highway at all times.

Reason: To meet the requirements of UDP policy T13 and in the interest of highway safety.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

End of Officers Report

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 9.

Reason for bringing to committee: Significant Community Interest

Location: 8, RUSHALL CLOSE, WALSALL, WS4 2HQ

Proposal: TWO STOREY SIDE AND REAR EXTENSION PLUS GROUND FLOOR FRONT EXTENSION (AMENDMENT TO PREVIOUS PLANNING APPLICATION REFERENCE 17/1020)

Application Number: 18/0609

Applicant: Russell Sheldon

Agent: James Bridgwater

Application Type: Full Application:
Householder

Case Officer: Helen Smith

Ward: St Matthews

Expired Date: 13-Aug-2018

Time Extension Expiry:

Recommendation Summary: Grant permission subject to conditions



Application Details

This application is a re-submission of a revised scheme following the refusal of a planning application in February 2018 (reference no. 17/1020). This proposal is for the following additions and alterations;

Two Storey Side and Rear Extension

- 4.1 metres wide at first floor (1.3 metres less than previous refused application)
- First floor extension to be set in 1.1 metres from the side boundary with 6 Rushall Close
- Set back 0.3 metres at first floor from the existing adjacent front elevation of the host dwelling
- 5.4 metres wide at ground floor
- Gable roof design with a matching ridgeline to the host dwelling
- Eaves height first floor feature gable to be added to the front elevation
- Extend 2.5 metres beyond the two storey rear elevation of the host dwelling
- Provide a garage, porch, hall, W.C. and garden room at ground floor
- Provide two additional bedrooms, en-suite and bathroom at first floor (*total number of bedrooms would increase from 3 to 5*)
- Side facing window at ground floor opposite the rear garden boundary with 10 Rushall Close

Ground Floor Front Extension

- 1.5 metres deep
- 5.5 metres wide
- 2.8 metres high flat roof
- To be built next to the side boundary with 6 Rushall Close
- To be positioned 6.7 metres from the side boundary with 10 Rushall Close

Amended plans for the current application were received during the assessment process reducing the scale of the proposed development.

Site and Surroundings

The application house is a 1970's detached house with a single storey extension to the side next to the shared side boundary with 6 Rushall Close. This property is located along a cul de sac and has a front to rear ridge line and gable roof.

This area has a residential character consisting of detached houses and bungalows of varying design and of similar age. There are first floor gaps between the side elevations of neighbouring houses of varying width. No's 1 and 6 Rushall Close have existing first floor side extensions.

The front elevations of no's 6, 8 and 10 are stepped back by 0.6 metres from each house and face north.

There is off-street parking available on the frontage of the application and the garage parking space would be retained. The length of the remaining rear garden would be 19.2 metres.

The neighbouring houses include;

6 Rushall Close

No. 6 sits to the south west and 0.8 metres further forward than the application house and has a first floor side facing non-habitable room window opposite the side elevation of the application house. The rear elevation of no. 6 extends 2.8 metres further back than the existing single storey garage extension to no. 8.

This neighbouring house has front and rear facing habitable room windows near to the shared side boundary with application house. No. 6 has been extended to the side at first floor reducing the side gap between no. 6 and 4.

There is a 0.9 metres wide gap between the side elevation of no. 6 and the shared side boundary with no. 8, wholly within the boundary of no. 6.

10 Rushall Close

No. 10 sits to the north east and 1 metre further back than the application house and has a blank side elevation facing the application house with an obscurely glazed side facing garage window. This neighbouring house has front and rear facing habitable room windows near to the application house.

7 & 9 Stencills Road

These two houses sit to the rear and south of the application house across a separation distance of 48 metres.

5 Rushall Close

No. 5 faces across Rushall Close to the front elevation of the application house. There would be a habitable room window to window separation distance of 29.4 metres.

Relevant Policies

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728643/Revised_NPPF_2018.pdf

The 2018 NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

Key provisions of the NPPF relevant in this case:

- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Local Policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Conserving Walsall's Natural Environment and Designing Walsall SPDs are consistent with the NPPF.

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Relevant Planning History

17/1020 – Two storey front and side extension and single storey rear extension with balcony area – refused 27/2/18 on the following grounds;

- 1. The proposed two storey front and side extension is disproportionately wide and overly complex in relation to the host dwelling and would introduce a competing new gable roof which would extend forwards of the host dwelling. The proposal is considered would create an over-dominant and incongruous addition to the property which fails to integrate with the design, form and proportion of the existing house and street scene. This proposal is considered would have a detrimental impact upon the appearance of the host dwelling, neighbouring houses and character of the area.*

Consultation Replies

Transportation - No objections

Representations

Officers' comments in italics

Objections have been received from 6 households (*3 households live outside of Walsall Borough*) in respect of both the initial and amended plans on the following grounds;

Initial Plans

- Size, height and massing of proposed extension would be disproportionate, out of character and unattractive with an adverse effect on the visual amenity of the street
- Overlooking of adjacent properties
- Overbearing and intrusive element to Stencills Road properties
- Less privacy and less light
- Likely to be extra people and extra cars ruining the look and character of this quiet residential street
- Negative impact on both Rushall Close and Stencills Drive
- Detrimental impact on house prices (*not a material planning consideration in this instance*)
- Residents of Rushall Close are elderly and many are scared to object as they do not wish to appear to be causing trouble and fear causing tension which is unfair. Objections made to date are sadly but a small proportion of those unhappy with the potential changes to be made (*if residents have any concerns about potential repercussions in the future, they have the opportunity to make representation via their ward members*)

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- Impact on off-road parking as currently off road parking is minimal because emergency services would otherwise find it difficult to get around the street quickly
- Can we be confident a house with increase bedrooms would not bring multiple extra cars, increased street parking causing an inconvenience to other road users?
- Disruption caused by building works
- Work men's' vans blocking the road and making access difficult in a narrow street
- Difficult for a bin lorry or delivery vehicle to get through if a vehicle is parked on the road and will only make this situation
- Extra lorries and building vehicles during construction would cause health and safety problems for all road users and pedestrians (*health and safety concerns are dealt with via the health and safety executive*)
- Not many properties on Rushall Close have been extensively modified and this proposal would be out of place

Amended Plans

- Proposal still out of context with other properties in Rushall Close
- Too big with porch and garage extending forward by 8-10 feet (guesstimate) (*metric equivalent of 2.4 to 3 metres*) which would be out of keeping
- Tiny change does not address any of their previous reasons for objecting
- Detrimental impact on house prices (*not a material planning consideration in this instance*)
- Not in keeping and will spoil the look of the street
- Residents of Rushall Close are elderly and many are scared to object as they do not wish to appear to be causing trouble and fear causing tension which is unfair. Objections made to date are sadly but a small proportion of those unhappy with the potential changes to be made (*if residents have any concerns about potential repercussions in the future, they have the opportunity to make representation via their ward members*)
- Impact on off-road parking as currently off road parking is minimal because emergency services would otherwise find it difficult to get around the street quickly (*the applicant is required to meet the off-road parking provisions of UDP saved policy T13 Parking which forms part of the Council's assessment of the planning application*)
- Can we be confident a house with increase bedrooms would not bring multiple extra cars, increased street parking causing an inconvenience to other road users? (*the applicant is required to meet the parking provisions of UDP saved policy T13 Parking which forms part of the Council's assessment of the planning application*)
- Houses next door and behind will be overlooked and may become much darker due to a reduction in the amount of light entering their windows
- Parking concerns with extra occupiers and cars and lorries of tradesmen and builders (*the applicant is required to meet the off-road parking provisions of UDP saved policy T13 Parking which forms part of the Council's assessment of the planning application*)

- Residents have been here for over 40 years and like the peace and quiet that living in the close provides
- Quiet and picturesque street and to build this extension will ruin the look of the street
- Size, height and massing of proposed extension would be disproportionate, out of character and unattractive with an adverse effect on the visual amenity of the street
- Extra lorries and building vehicles during construction would cause health and safety problems for all road users and pedestrians *(no evidence has been provided to demonstrate that this is likely to be the case and residents can report any highway obstructions to local police. Health and safety concerns are dealt with via the health and safety executive)*
- Extra bedrooms imply more people at the property and consequently more cars
- Parked cars would overhang the adopted highway

Determining Issues

- Whether the application has addressed the reasons for refusal of the previous application or raises any new issues
- Parking
- Neighbour comments

Observations

Whether the application has addressed the reasons for refusal of the previous application or raises any new issues

Refusal Reason 1

The proposed two storey front and side extension is disproportionately wide and overly complex in relation to the host dwelling and would introduce a competing new gable roof which would extend forwards of the host dwelling. The proposal is considered would create an over-dominant and incongruous addition to the property which fails to integrate with the design, form and proportion of the existing house and street scene. This proposal is considered would have a detrimental impact upon the appearance of the host dwelling, neighbouring houses and character of the area.

The width of the proposed first floor side extension has been reduced by 1.3 metres.

The width of the existing first floor front elevation, of the host dwelling, is 6.1 metres and the proposed first floor extension would be 4.1 metres wide which is considered would be more proportionate to the host dwelling. Furthermore the first floor gap increased width of 1.9 metres between numbers 6 and 8, would reduce the potential for a terracing appearance in accordance with Appendix D of Designing Walsall SPD.

The overly complex design of the first planning application has been simplified and the proposed two storey side extension is considered would appear subservient to the host dwelling.

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The previously proposed competing new front to rear ridgeline gable roof above the two storey side extension has been removed by the current scheme. The proposed revised gable roof would have a left to right ridgeline which is considered to be a more coherent and integrated design in relation to the host dwelling. A front gable feature is proposed at eaves height which is considered would appear subordinate to the existing house.

The amended design is considered would no longer be over-dominant or an incongruous addition to the host dwelling and would integrate the existing design, form and proportions of the existing house and street scene.

The amended proposal is considered would no longer have a detrimental impact upon the appearance of the host dwelling, neighbouring houses and character of the area. The amended proposal is considered to have been satisfactorily overcome.

Parking

UDP saved policy T13 Parking requires the provision of three off-street parking spaces, each measuring 4.8 metres X 2.4 metres to serve a dwelling with four or more bedrooms. There is space to accommodate two off-street parking spaces and a third garage parking space to meet the Council's policy requirements.

The Highway Authority has no objections to the proposal on highway grounds. The existing driveway has sufficient space to accommodate two of the required parking spaces without overhanging the footpath. It is considered the roadway width is sufficient to allow vehicles to park and for emergency vehicles and bin lorries to pass without causing a severe highway safety concern. Traffic Management are not aware of any issues regarding bin lorry access in the street.

Additional traffic, if any, as a result of this development is considered would not have a significant impact on the operation of the highway and not cause congestion. The Highways Authority considers that traffic would have to be demonstrably severe and have significant road safety implications to attract an objection from the Highway Authority that could be sustained at Appeal. Whilst there may be additional traffic during the construction period, this would be temporary and it would be unreasonable and disproportionate to objection for these reasons.

Neighbour Comments

The front elevations of no's 6 and 10 Rushall Close face north-west and existing light available to front windows in these neighbouring houses is limited by this orientation being in shadow from their existing houses. It is considered that the orientation of these houses would not significantly worsen existing shadowing for neighbouring houses from the proposed extensions of 8 Rushall Close.

Based on the submitted scale drawings, the proposed porch would be 1.5 metres deep, rather than 8 to 10 feet (*metric equivalent of 2.4 to 3 metres*) as guessed by a resident. The porch depth is considered not to be excessive and not dissimilar to other single storey front extensions in the surrounding area. The additional impacts from this development are considered would be limited.

The side facing window in 6 Rushall Close serves a non-habitable room window and planning guidance affords no protection in the planning process for non-habitable room windows.

The rear elevations of 6, 8 and 10 Rushall Close face south-east. It is considered that this orientation would limit the impact of this development in relation to neighbours existing light available to rear facing habitable room windows.

The extensions would lie on the opposite side of the application house to 10 Rushall Close. It is considered that the impacts of this development on neighbours' amenity would be limited. The proposed ground floor side facing window opposite the rear garden boundary with 10 Rushall Close would be screened by existing fencing which could be conditioned to be retained to maintain resident's privacy.

New front and rear facing habitable room windows are considered would not significantly worsen overlooking of neighbours' properties as there are already front and rear facing habitable room windows in the host dwelling.

The proposal would meet the aims of the Council's 45 degree guidance, as referred to in Designing Walsall SPD Appendix D, in respect of habitable room windows in 6 and 10 Rushall Close. This advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook.

The habitable room window to window separation distance of 45 metres between the proposed rear extensions and 7 Stencills Road would exceed the Council's minimum recommended separation distance of 24 metres, as referred to in Designing Walsall SPD Appendix D, by 21 metres. This distance is designed to protect residents' privacy.

Whilst the construction of extensions will often result in some noise and disturbance to neighbours'. It is considered this proposed house extension, is unlikely to have a significant impact, due to the small scale nature of the development. Should neighbours have concerns during the construction, they can raise issues with the Council's Pollution/Environmental teams to investigate whether it's constitutes a statutory noise nuisance.

The character of an area evolves over time and is never static as individual householders wish to make improvements and changes to their homes to meet their current needs. Whilst witnessing these changes may be difficult for some residents it is unrealistic to expect that areas will not change over time.

Conclusions

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed extensions would integrate with the existing dwelling and other properties around the area. The previous refusal reason is considered to have been satisfactorily overcome.

The proposal is considered would not have any detrimental impact on the character of the wider area and have a limited impact on neighbours' existing amenity. The use of safeguarding conditions in respect of the privacy and materials will further ensure

that the neighbours amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Taking into account the above factors the application is recommended for approval. The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

The planning agent has made positive changes to the proposal and no further amendments have been requested.

Recommendation

Grant permission subject to conditions

Conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2: This development shall not be carried out other than in conformity with the following approved plans: -

- Location and Block Plan, drawing 1 of 6, deposited 17/09/18
- Existing Elevations, drawing 2 of 6, deposited 17/09/18
- Proposed Elevations, drawing 3 of 6, deposited 17/09/18
- Existing Plan, drawing 4 of 6, deposited 17/09/18
- Proposed Plan, drawing 5 of 6, deposited 17/09/18
- Section and Roof Plan, drawing 6 of 6, deposited 17/09/18
- Parking Layout, deposited 22/10/18

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3: The walls and roof of the extensions shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at

the time of this application, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policy ENV32 of Walsall's Unitary Development Plan.

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policy GP2 of Walsall's Unitary Development Plan.

5: A solid fence at least 1.8 metres high shall be retained at all times along the boundary between the application property and 10 Rushall Close for the length of the proposed rear two storey extension.

Reason: To safeguard the amenities of the occupiers of adjoining premises, and the privacy of occupiers of the application property and to comply with saved policy GP2 of Walsall's Unitary Development Plan.

6: Notwithstanding the details as submitted, at least three parking spaces, each hard-surfaced, measuring at least 2.4 x 4.8 metres and with access from the public highway, shall be retained at the property at all times. The garage may be considered as one of these spaces, which shall be retained and accessible to allow the parking of a motor vehicle during the life of the development hereby approved.

Reason: To ensure the satisfactory provision of off-street parking and in accordance with UDP saved policies T7 and T13 of Walsall's Unitary Development Plan.

End of Officers Report

Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 10.

Reason for bringing to committee: Significant Community Interest

Location: 5 , CLOCKMILL PLACE, PELSALL, WS3 4AL

Proposal: INSTALLATION OF BUILDING TO ACCOMMODATE ANCILLARY RESIDENTIAL ACCOMMODATION.

Application Number: 18/0988

Applicant: Mrs Christine Hughes

Agent:

Application Type: Full Application:
Householder

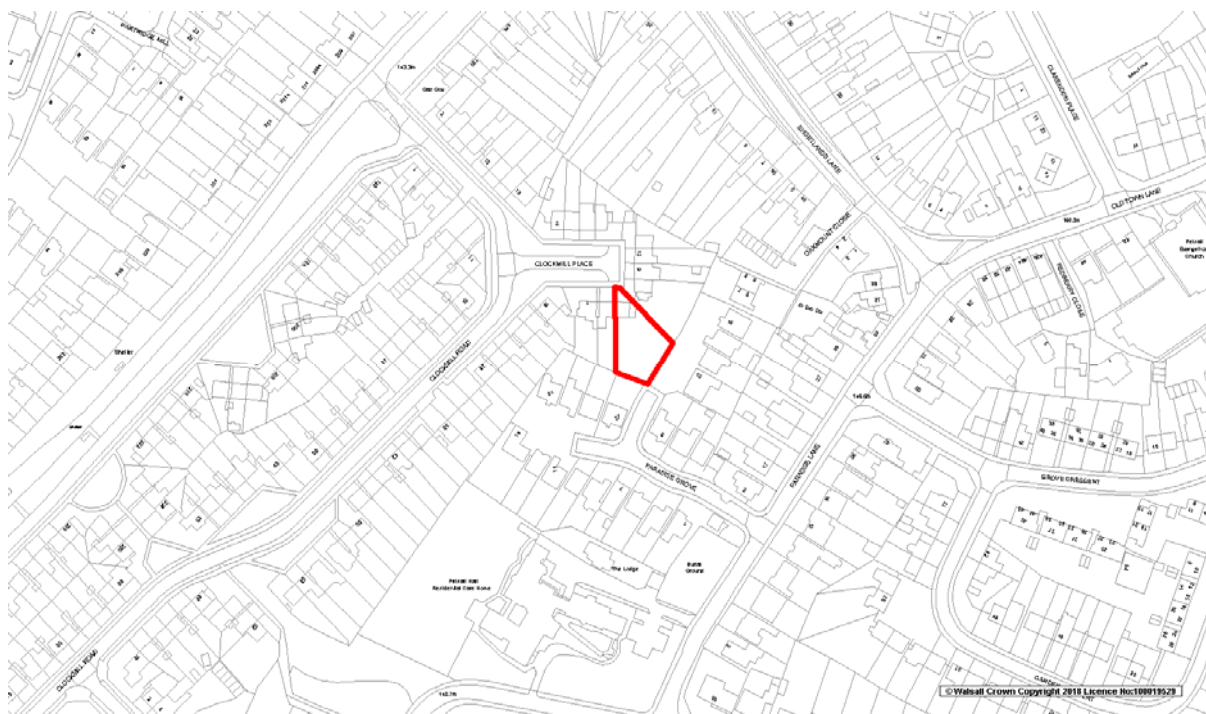
Case Officer: Sally Wagstaff

Ward: Pelsall

Expired Date: 30-Oct-2018

Time Extension Expiry:

Recommendation Summary: Grant Subject to Conditions and Delegate to the Head of Planning, Engineering & Transportation subject to no new material considerations following further consultations.



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Proposal

The application relates to the erection of a wooden outbuilding within the rear garden of 5 Clockmill Place to be used for ancillary accommodation for a family member. The building will provide a kitchen, living area, bathroom and two bedrooms. The proposal will be positioned 1 metre from the eastern boundary between the application site and no. 7 Clock Mill Place and approximately 3 metres from the rear elevation of the application house. The proposal incorporates a covered deck area to the front elevation facing the host property and shutters for the windows to the habitable rooms.

The proposal measures:

- 10.424 metres in total length including the decking area
- 5.494 metres in width including the overhang of the roof
- 2.2 metres to the eaves
- 2.8 metres to the top of the pitched roof

An amended block plan has been received which accurately reflects the proposals in terms of size. The applicant has also provided further elevations and floor plans with detailed dimensions. The consultation period for the amendments expires on 1st November. Any further representations will be reported at committee.

Site and Surroundings

The application site is situated in the corner of Clockmill Place within a residential area. The application site hosts a two-storey end-terraced property in a row of three dwellings. The dwelling is set within a plot with an angular frontage and low level boundary fence and gate. The property has a large rear garden approximately 453 m² which widens to the rear of the site. The property has three wooden sheds at the bottom of the garden within close proximity to the south eastern boundary with Paradise Grove.

The neighbouring property no. 3 Clockmill is similar in design to the application house. The property has a single storey rear extension approximately 3.5 metres in depth to the boundary with no. 1 Clockmill Place. The extension has a window within the side elevation facing application site.

The neighbouring property no. 7 is positioned at an angle to the host property, it too has a large rear garden which also widens towards the rear. The property has a glazed lean to, on the southern elevation and a shed in front of it. The rear elevation of the property faces away from the application site.

To the rear of the site is Paradise Grove, a residential development of 21 no. detached properties built on the former Ambulance Training centre site. There is a private drive serving no's 10-16 Paradise Grove which runs across the back of the application site. There is a 1.8 metre boundary fence between the private driveway and the application site which has significant shrub and vegetation growth behind it. There are also a number of trees within the rear garden in close proximity to the

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boundary fence. Properties 10 and 12 Paradise Grove face onto the application site, the front elevations are approximately 13 metres from the rear boundary of the site. Properties no. 14-16 face onto the boundary of no. 7 Clockmill Place.

Properties no. 25 and 27 Clockmill Place are to the south west of the site. The rear garden of these properties adjoin the rear garden of the site separated by a 1.8 metre fence. There are trees within the application site to the boundary with these properties providing screening between the two sites.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a *"presumption in favour of sustainable development"*.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to

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respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character

Consultation Replies

Seven Trent – No objections, drainage conditions are not necessary.

Crime Prevention Advisor – No objections, the developer is recommended to ensure windows should be fitted to standard BS EN 356 grade P1A and the doors are PAS 24:2016 standard for security reasons.

Transportation –No objections, condition recommended to ensure that the building is ancillary to the main residence at all times.

Archaeology and Historic Environment Officer - no archaeological implications for the site.

Representations

Six letters of objection have been received from 6 neighbouring properties. The comments relate to:

- Who the accommodation will be used for and the future use of the building
- The size of the outbuilding in relation to the existing property

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- Property has existing sheds within the garden.
- Loss of privacy
- Materials and design not in keeping with the character of the area and 'Old Pelsall' Conservation Area
- Potential access into the rear of the site created from the Private Drive serving 10-16 Paradise Grove
- Accommodation being a fire risk
- Access for emergency service vehicles
- Felling/pruning of trees on site
- Potential noise and disturbance
- Devaluation of properties on Paradise Grove
- Delivery of materials to the site
- Utilities being provided for the accommodation, would it be liable for council tax?
- The need for additional parking within Clockmill Place due to additional accommodation on site.
- The plan doesn't show the entrance to the building or distance from the boundaries

Determining Issues

- Design of the outbuilding and Character of Area
- Amenity of Nearby Residents
- Parking
- Other matters
- Conclusions

Assessment of the Proposal

Design of the outbuilding and Character of Area

The proposed building is wooden with a pitched roof. It is acknowledged that the proposal is not of similar materials to the existing brick built house, nevertheless the wooden building would reflect materials used for outbuildings within rear gardens.

It is recognised that the outbuilding is large in size in comparison to the size of the dwelling house, nevertheless the scale and massing of the building are proportional to the large garden within which it is set. The site does already have three sheds within it however it is considered the cumulative impact would not result in over development of the site. It is considered unnecessary to remove permitted development rights for future outbuildings on the site due to the size of the rear garden which can accommodate more structures. However creation of further living accommodation should be assessed by way of a planning application and conditions are recommended to ensure the accommodation remains ancillary to the main dwelling to protect the character of the area.

The proposal would not be prominent when viewed from Paradise Grove due to the existing tree and shrub screening within both the application site and to front and the rear of properties on Paradise Grove. The proposal would not be visible from within

Clockmill Place. For these reasons it is considered it would not have a detrimental impact upon the character of both Paradise Grove and Clockmill Place.

With reference to comments made in relation to the proximity of the property to the 'Old Pelsall' Conservation Area, the boundary of the rear garden is approximately 64 metres from the nearest point of the Conservation Area and the proposal is not visible from the Conservation Area. It is considered that whilst the outbuilding does not reflect the design of the existing property it would not be harmful to the character and setting of the 'Old Pelsall' Conservation Area due to the significant separation distance.

On balance, it is considered the application site has the capacity to accommodate the scale of the proposed development without being unduly harmful to the character of the area.

Amenity of Nearby Residents

There have been a number of concerns raised by nearby residents with respect to the end user of the building. The applicant has confirmed in writing that the proposal would be used to accommodate a family member. The proposal would be accessed from the host property on Clockmill Place. A condition is recommended to preclude occupation independently and any pedestrian/ vehicle access on Paradise Grove.

The proposal would be sited 1 metre from the boundary with no.7 Clockmill Place. The habitable room windows within the rear of this property face away from the proposal with glazed lean approximately 9 metres from the side of the building. It is considered that the proposal would not result in any loss of light nor outlook to habitable room windows within this property. It is acknowledged that the proposal is within close proximity to the rear garden however the rear garden of this property is similar in size to the application site and it is considered the proposals would not be overbearing on the amenity of this neighbouring property.

There are two habitable room windows within the side of the building facing no. 7, it is considered that the proximity of the window to the boundary ensures that the proposal would not result in overlooking.

The proposal would be sited approximately 9 metres at the closest point to no. 3 Clockmill Place. Whilst there are two windows proposed within the side elevation of the building, it would not result in any conflict between habitable room windows. It is considered the proposal would not result to any loss of light nor outlook from habitable room windows.

The proposal would be situated between 17.5 and 24 metres from no's. 10-16 Paradise Grove. The separation distance between the proposal and these properties would exceed the distance required by Council policy. Comments have been received by residents with concerns regarding a loss of privacy due to additional activity within the rear garden. The proposal is sited away from the boundary of these properties, it is considered any additional movement within the rear garden would have no greater significance upon the privacy of Paradise Grove than current activities permissible within the garden.

It is considered that the proposal would not result in a loss of privacy as it is sited at a distance which would exceed the distance required by Council policy.

The boundary fence, shrubs and vegetation provide screening between the ground floor habitable windows and the application site, nevertheless if the applicant decided to remove the trees from within the site the Local Planning Authority would not be able to restrict this as they are not subject to a Tree Preservation Order nor could it be requested that they be pruned due to overhanging branches. There are no windows proposed within the rear of the proposed development, it is considered that the proposal would not result in significant overlooking leading to a loss of privacy to habitable room windows within no's. 10-16 Paradise Grove.

It is acknowledged that from the rear of no's. 25 and 27 Paradise Grove the proposal would be visible. There is approximately 30 and 31 metres respectively between these two properties and the proposal which far exceeds the separation distances required by Council policy. It is acknowledged that the addition of two windows within the side elevation of the could lead to perceived overlooking of neighbouring habitable room windows however it is considered that the separation distance coupled with acute angle of the windows and the rear of these properties would mean that overlooking is limited.

On balance, the proposal would have a limited impact upon the light, outlook and privacy enjoyed by neighbouring residents.

Other matters

A comment has been submitted with concerns that the plan does not show the entrance to the building or the proximity to the boundaries. The officer report indicated that the doors will be positioned towards the application house. The plan is drawn to scale, distance to boundaries have been detailed in the report. The applicant would be required to position the outbuilding as indicated on the block plan and to the measurements provided on the plans if the application is supported.

Concerns have been raised by a number of residents with regards to a new access being created to the rear of the site on Paradise Grove. This does not form part of the description of development so it is not a material consideration. A condition is recommended to ensure that no separate independent access is created to serve the accommodation including any new access into the site from Paradise Grove.

The proposal indicates it will have a kitchen and bathroom however it is not necessary for the applicant to provide details of how the utilities are to be connected. Severn Trent have been consulted and do not consider that a condition relating to drainage details is necessary.

A number of objections received question whether the building would be liable for council tax, this is not a planning matter and the Local Planning Authority are unable to give advice on this.

With reference to comments made about fire risk and access for emergency vehicles, standards regarding fire retardant materials are a matter covered by building regulations, emergency services have access to the property from Clockmill Place.

The Local Planning Authority do not require any details of delivery and construction methods for the scale of development proposed. The applicant would be required to gain the consent of the landowner to use land outside of their ownership to transport materials onto the site, nevertheless this is a civil matter and is not a material planning consideration in the determination of the application.

In response to concerns raised regarding the proposed resulting in property devaluation, the Local Planning Authority are unable to take into account matters relating to property value in the determination of a planning application.

Comments have been made with regards to the potential noise and disturbance caused by the building being used as living accommodation. It is considered that the potential for the noise and disturbance would be no worse than that of any outbuilding that could be used for hobby purposes or general use of the garden. To add, if noise was ever to be an issue on the site, there is separate legislation covering this matter which would protect the amenity of local residents.

With regards to comments received about the potential need for external lighting within the garden, it is considered the installation of lighting within the garden is not likely to be any more significant than what permitted development for the existing dwelling would allow for.

Parking

The property has no off street car parking provision, parking provision is on street on Clockmill Place. The proposal includes two additional bedrooms which are ancillary to the main dwelling house. The Highway Authority considers that there will be no greater demand for off street parking as to constitute a severe impact on the operation of the highway. The Highway officer has recommended for the outbuilding to remain ancillary to ensure is available accordance with UDP Policy GP2, T7 and T13.

Conclusions and Reasons for Decision

The proposal is considered to be acceptable in terms of size, height and materials and on balance would not harm the character of the area. The proposal complies with UDP Policy ENV32 and Designing Walsall SPD DW3 Character.

The development would not have an unduly detrimental upon the amenity of neighbouring properties in terms of light, outlook and privacy. The proposal complies with Designing Walsall SPD Appendix D.

On the basis that the outbuilding remains ancillary to the main dwelling the proposal would comply with UDP parking policy GP2, T7 and T13.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Subject to Conditions and Delegate to the Head of Planning, Engineering & Transportation subject to no new material considerations following further consultations.

Conditions and Reasons

1: This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2: This development shall not be carried out other than in conformity with the following approved plans: -

Block Plan, deposited 05/10/18
Elevations and Floor Plan deposited 05/10/10

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: The residential unit hereby approved shall be occupied solely in conjunction with and ancillary to the main dwelling at 5 Clockmill Place.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

5: Notwithstanding the submitted plans no additional pedestrian or vehicle access shall be constructed on Paradise Grove.

Reason: To ensure that the accommodation remains ancillary to 5 Clock mill Place in order to safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

End of Officers Report

Planning Committee

Report of Head of Planning, Engineering and Transportation on 01-Nov-2018

Plans List Item Number: 11.

Reason for bringing to committee: Call in by Councillor Rasab

Location: 145, WALHOUSE ROAD, WALSALL, WS1 2BE

Proposal: FIRST FLOOR SIDE EXTENSION, FRONT GROUND FLOOR EXTENSION AND FRONT LEAN TO CANOPY ACROSS THE FRONT ELEVATION.

Application Number: 18/0699

Applicant: Mr Imran Anwar

Agent: Mr Stan Ceney

Application Type: Full Application:
Householder

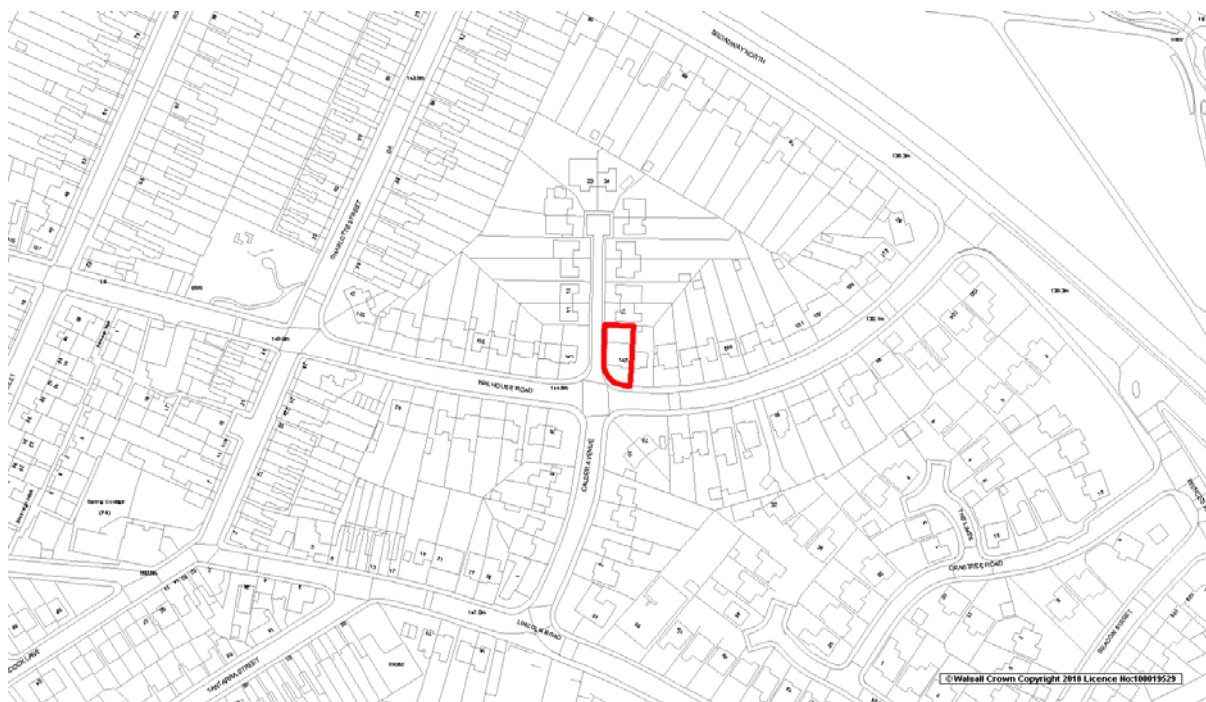
Case Officer: Helen Smith

Ward: Paddock

Expired Date: 13-Aug-2018

Time Extension Expiry: 08-Oct-2018

Recommendation Summary: Grant permission subject to conditions



Status

This planning application was deferred at the Planning committee meeting on 4/10/18 for officers to negotiate a reduced scheme. Amended plans have been received which have reduced the scale of this proposal and has set the proposal in 2 metres from Calder Avenue as requested in the committee report of 4/10/18. The proposal is considered to have addressed earlier concerns.

Councillor Rasab initially called this application before Planning Committee as he considered it required delicate judgment in respect of the proposed initial design of this proposal.

The committee report has been amended to change the recommendation and include safeguarding planning conditions.

Application Details

The application house is a semi-detached property located in a prominent corner position at the junction with Calder Avenue. The area has a residential character consisting of a mix of detached and semi-detached properties of varying design.

The front elevations of houses on Calder Avenue, to the rear of the application house, are in line with the first floor side elevation of no. 145.

This proposal includes the following additions;

First Floor Side Extension

- 3.3 metres wide
- Set back 0.7 metres from the existing first floor front elevation of the host dwelling
- In line with the existing first floor rear elevation
- Hipped roof with a 0.3 metres lower ridge line than the host dwelling
- Two additional bedrooms (total number of bedrooms would be five)
- Would extend forwards of the first floor front building line on Calder Avenue by 3.3 metres
- Set in 1 metres from the highway on Calder Avenue

Front Ground Floor Extension

- Front entrance porch
- 1 metre deep
- 2.5 metres wide

Front Lean to Canopy

- Canopy roof across
- Between 2 and 2.4 metres high

The neighbouring houses include;

147 Walhouse Road

This is the adjoining semi to the application house and sits to the east of no. 145. 147 Walhouse Road which has ground and first floor habitable room windows near to the shared rear boundary with the application house. The front elevations of no's 145 and 147 face south.

12 Calder Avenue

No. 12 Calder Avenue sits to the rear and is perpendicular to shared rear boundary with the application house. This neighbouring house has a blank side elevation with a door at ground floor and front facing habitable room windows.

143 Walhouse Road

No. 143 Walhouse Road is located to the west and on the opposite corner to the application house. This property ground and first floor side facing habitable room windows which are separated by a distance of 13.2 metres to the two storey rear extension.

Relevant Policies

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728643/Revised_NPPF_2018.pdf

The 2018 NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

Key provisions of the NPPF relevant in this case:

- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Local Policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Conserving Walsall's Natural Environment and Designing Walsall SPDs are consistent with the NPPF.

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Relevant Planning History

145 Walhouse Road

15/1514 – Part Retrospective - Two Storey rear extension and single storey side extension (amendment to 15/0416/FL) – granted subject to conditions 21/12/15

15/0416/FL - Rear two storey extension and pitched roof over existing side extension - granted permission subject to conditions 21/08/15

14/0036/FL - Ground floor extension to rear and side - granted permission subject to conditions - 27/2/14

08/1349/FL - Two storey side and single storey rear extension refused permission on the grounds that the design was over prominent and out of keeping with the street scene on 1/10/08

08/0144/FL - Two storey side and single storey rear extension - refused permission on the grounds that the design was over prominent and out of keeping with the street scene on 18/3/08

76 Walhouse Road

15/1874 – Two storey front and side extension – granted subject to conditions 4/3/16. This proposal differs from the application house as this extension is set in 3.6 metres from the highway.

Consultation Replies

Transportation – No highway objections

Pollution Control – No objections

Representations

None

Determining Issues

- Character of Area
- Design of Extension
- Amenity of Nearby Residents
- Parking
- Conclusions

Observations

Character of the Area

The existing first floor sidewall of the application house follows the 'building line' of the Calder Avenue houses which provides an open aspect to this junction and views into and out of Calder Avenue, notwithstanding the existing single storey side extension. The proposed first floor extension would encroach upon this open aspect, substantially blocking the views into and out of Calder Avenue to the detrimental impact of neighbour's amenity, local users of the streets, local amenity and the street scene.

It is considered, the large expanse of blank wall facing Calder Avenue and only 1 metre from the back of the footway, creating a pinch point that is considered would become oppressive and overbearing to users of Calder Avenue exacerbating the detrimental impact on the locality, the street scene, plus neighbours and local users

of the street. This would not accord with the local character of the area and is considered would harm the amenity and character of the area.

Whilst removing the first floor side extension would overcome the LPA's concerns of the impact on Calder Avenue, it is considered, that setting the proposed first floor wall nearest to Calder Avenue in from its current position by a minimum of 2 metres would go some-way to mitigating against the harm. Should everything else be acceptable, it is considered a condition requiring this set in could be imposed that meets the 6 tests of making the development acceptable in planning terms.

The 2015 planning approval for a similar extension to 76 Walhouse Road, however the side elevation of the approved first floor extension was set in 3.6 metres from the highway which is a wider (2.6 metres) distance than this proposal being considered.

Planning permission was refused twice in 2008 for similar two storey side extensions at the property, on the same grounds to the present concerns. These refusal reasons have not been overcome by the current planning application.

Amended plans have been received on 22/10/18 which has reduced the scale of the proposed first floor side extension by setting this proposal in 2 metres from the side boundary with Calder Avenue. The revised extension is considered would appear subservient to the host dwelling and would mitigate the impacts on Calder Avenue to an acceptable level.

Design of Extension

The proposed hipped roof design and rendered exterior finish are considered would reflect the design of the host dwelling. The proposed lower ridge height and first floor front elevation set back of 0.7 metres would create an extension that appears subservient to the host dwelling. It is considered that the proposed extension would relate to the original dwelling and the proposed design is acceptable if all other matters are satisfactory.

The Councillor Rasab has not clarified if the call-in is in support of nor have concerns with the proposed design of this proposal so officers are unable to comment further on this aspect. Should planning committee wish to approve the extension, planning is concerned with land use in the public interest, so that the protection of purely private interests cannot be a material consideration. Consequently, applicants personal circumstances would not outweigh the harm to the environment, as the harm will outlast any personal circumstance.

Amenity of Nearby Residents

The proposed extension would sit on the opposite side of the application house to the adjoining semi, 147 Walhouse Road. As this proposal would not extend any further forwards or rearwards than the existing house it is considered this proposal would have a limited impact on neighbours' existing light and amenity at no. 147.

The 13.2 metres separation distance between side facing habitable room windows in 143 Walhouse Road, across Calder Avenue, to the blank side elevation of the proposal is considered would have a limited additional impact on neighbours' amenity as the extension would be viewed within the outline of the existing dwelling.

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The blank side elevation of 12 Calder Avenue faces the rear elevation of the application house across a separation distance of 12 metres. The proposed angled relationship between the front elevation of no. 12 and the proposed extension along with the separation distance are considered would result in the proposal having little additional impact on neighbours' outlook, light and privacy.

Parking

There is space on the frontage of the property for two parking spaces and a third space, to meet the requirements of UDP saved policy T13. Parking can be provided in the rear garden. There is an existing dropped kerb to provide vehicle access onto the rear garden and a planning condition can be included to require the provision of a hard-surfaced parking area in the rear garden with sustainable drainage if approved.

Conclusions

The reduced scale of this proposal is considered to be acceptable in this location, and the development meets the Council's guidance in relation to neighbours' amenity. It is considered that the impact of this proposal on the existing street scene would have a limited impact upon the character of the area.

It is considered this amended proposal would accord with the local character of the area and would have a limited impact upon the appearance of the street scene, in accordance with BCCS policies CSP4, ENV2 and ENV3, UDP saved policies GP2 and ENV32 and DW3 of Designing Walsall SPD.

Recommendation

Grant permission subject to conditions

Conditions and Reasons

1. This development must be begun not later than 3 years after the date of this decision.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2: This development shall not be carried out other than in conformity with the following approved plans: -

- Drawing no. 17518P, Revision C, deposited 22/10/18
- Location Plan, deposited 01/06/18

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3: The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policy ENV32 of Walsall's Unitary Development Plan.

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policy GP2 of Walsall's Unitary Development Plan.

5: a) Prior to the first occupation of the extension hereby approved, the proposed parking space in the rear garden shall include a 2.4 x 3.4 pedestrian visibility splay and shall be hard-surfaced and fully drained so that surface water run-off from the parking area does not discharge onto the highway or into any highway drain.

b) The parking space shall thereafter be retained and used for no other purpose.

Reason: To provide an additional parking space to take account of the loss of the garage space and the addition of a fourth bedroom, in accordance with UDP policy GP2, T7 and T13.

End of Officers Report