



## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 2<sup>nd</sup> April 2015

### Contents Sheet

Item No	Page No	Application Number	Site Address	Proposal	Recommendation
1	1	14/0619/CM	Ibstock Brick Ltd, Atlas Quarry, Stubbers Green Road, Walsall, WS9 8BL	Extension of existing quarry workings. Amendment of approved restoration scheme to enable restoration to water. Exportation of clay to supply other brickworks. Ecological mitigation works	Grant Permission Subject to Conditions and a Planning Obligation
2	33	14/0822/FL	SITE OF FORMER ST MARGARET'S HOSPITAL, QUESLETT ROAD, GREAT BARR, WALSALL, B43 7EZ	Variation of condition 33d of permission 02/2417/OL/E2 (Former St Margaret's Hospital development) to amend the approved ground levels, topography and landscaping on the Former Male Homes part of the site.	Grant Permission Subject to Conditions
3	47	14/1734/FL	JOSEPH LECKIE ACADEMY,WALSTE AD ROAD WEST,WALSALL,W	Construction of three storey new building teaching block on existing school site at Joseph Leckie	Grant Permission Subject to Conditions

			S5 4PG	Academy together with associated landscape works	
4	65	14/1869/FL	CROFT APARTMENTS, CROFT STREET, WILLENHALL, WV13 2NU	Redevelopment of existing block of flats to convert from 6 x 1 bed and 3 x 2 bed units to 9 x 1 bed units and 6 x studio apartments.	Grant Permission Subject to Conditions
5	73	14/1616/FL	23 BLACKWOOD ROAD, WALSALL, B74 3PH	Erection of 2 no. dwellings and 2 storey rear extension to no. 23 Blackwood Road	Grant Permission Subject to Conditions
6	93	15/0240/FL	6 ASHTREE ROAD, WALSALL, WS3 4LR	Conversion of 4 bed house to a 2 bed house and 1 bed flat (resubmission following refusal of 14/1308/FL)	Grant Permission Subject to Conditions
7	107	14/1315/FL	LAND ADJACENT 44B, PINSON ROAD, WALSALL, WV13 2PR	Erection of a two storey detached building to be utilised as a hot food takeaway (A5).	Refuse
8	123	14/1777/FL	LAND BETWEEN LITTLE WOOD STREET AND MALT HOUSE LANE, WILLENHALL	Proposed car park	Grant Permission Subject to Conditions
9	135	14/1903/FL	2A OAKEN DRIVE, WILLENHALL, WV12	Proposed front extension and	Grant Permission Subject to

			5NU	alterations to front garden/driveway layout.	Conditions
10	143	14/1699/FL	SUITES 1 AND 2, BRIDGE HOUSE, BRIDGE STREET, WALSALL, WS1 1JQ	Change of use from B1 offices to facilities providing substance misuse treatment and support services.	Grant Permission Subject to Conditions
11	151	14/1577/FL	THE ALMA P.H, BENTLEY LANE, WALSALL, WS2 8SP	Single storey side and rear extension and new flue extraction system	Grant Permission Subject to Conditions
12	161	14/1896/FL	107 COPPICE FARM WAY, WILLENHALL, WV12 5YQ	Part two, part first floor side extension and replacement sloping roof at ground floor to existing garages (which are to be converted to habitable rooms).	Grant Permission Subject to Conditions
13	169	15/0005/FL	3 STAFFORD CLOSE, WALSALL, WS3 3NW	Alteration from bungalow to two storey dwelling including first floor and porch extensions, new pitched roof to main house and external alterations.	Grant Permission Subject to Conditions
14	181	14/1895/FL	1-3 West Bromwich Road, Walsall, WS1 3HS	Proposed loft conversion to form 1no. 1 person 1 bed flat.	Refuse



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 1.**

**Reason for bringing to committee: EIA development**

**Application Number:** 14/0619/CM

**Application Type:** County Matters Application

**Applicant:** Ibstock Brick Ltd

**Proposal:** Extension of existing quarry workings. Amendment of approved restoration scheme to enable restoration to water. Exportation of clay to supply other brickworks. Ecological mitigation works

**Location:** Ibstock Brick Ltd, Atlas Quarry, Stubbers Green Road, Walsall, WS9 8BL

**Ward:** Rushall-Shelfield

**Case Officer:** Alison Ives

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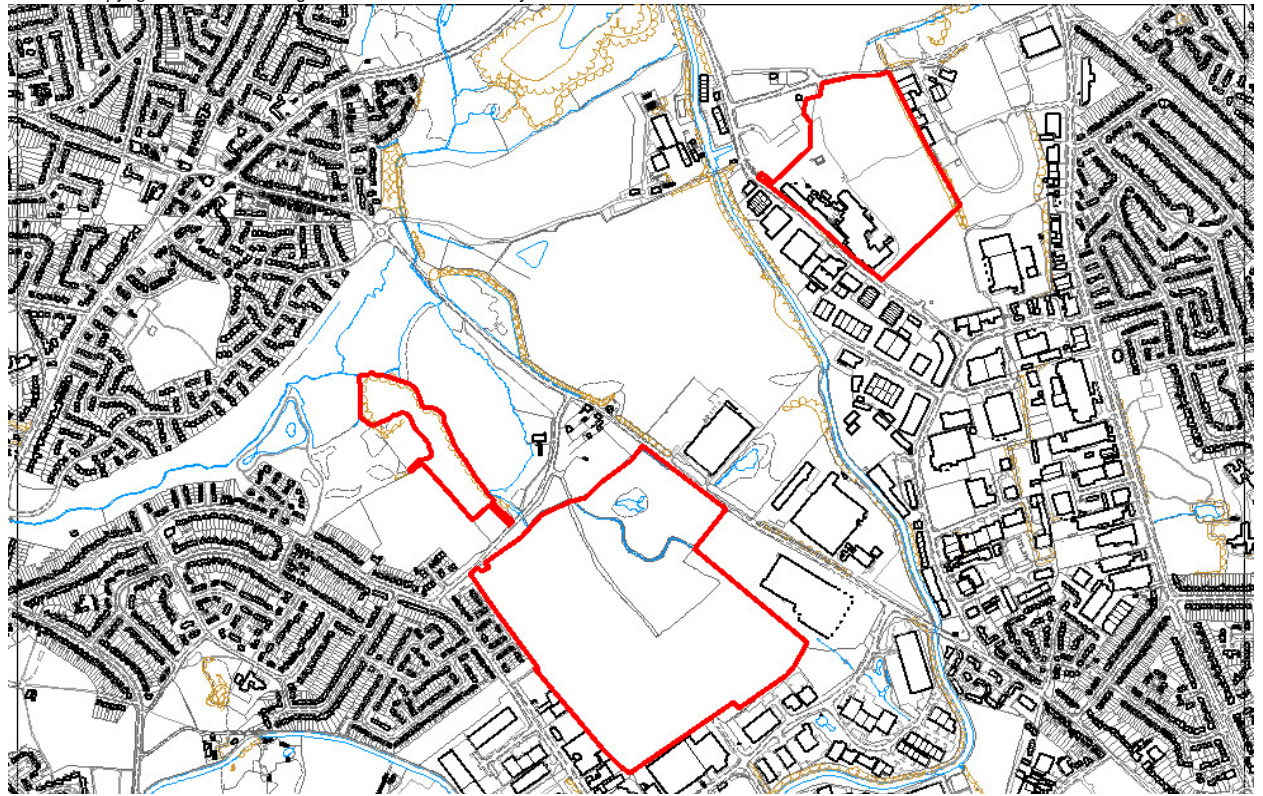
**Agent:** Geoplan Ltd

**Expired Date:** 07/05/2014

**Extension of Time Target Date:**  
24/04/2015

**Recommendation Summary:** Grant Permission Subject to Conditions and a Planning Obligation

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### **Application and Site Details**

The proposal is for an extension of the existing quarry workings at Ibstock Brick Limited, Atlas Quarry, Stubbers Green Road. The proposal also includes amendments to the approved restoration scheme to enable restoration to water instead of filling the excavated site with waste, exportation of clay to supply other brickworks and ecological mitigation works off site. The application is accompanied by an Environmental Statement.

The quarry and brick works factory and offices are on the south side of Stubbers Green Road. The quarry is bounded to the north east by the brickworks factory and offices and open land with Stubbers Green Road and industrial premises beyond in Westgate and Wharf Approach. There are residential properties to the north in Stubbers Green Road and to the west in Sherwood Walk, Rufford Way, Barns Lane and Pool View. The whole site is within the Green Belt and the northern part of the site incorporates Stubbers Green Site of Importance for Nature Conservation (SINC). There is a Tree Preservation Order (14/1991) covering part of the site near the SINC. Wienerberger quarry and brickworks are on the opposite side of Stubbers Green Road.

The proposal is for extension of the quarrying operations onto the SINC known as the "Recordon" land in order to maintain production and export brick making clays to Aldridge brickworks and other potential sites. The proposal is also to change the restoration from landfill to a lake to provide for flood water storage offering recreational amenity and ecological benefits. New public rights of way and public access are proposed and creation of areas of habitat off-site is proposed to compensate for the loss of the SINC for the quarry extension.

The extension site is currently grazed by horses and is dissected by Anchor Brook. To the north of Anchor Brook the land is largely wet. There are hedgerows along the northern boundaries with Stubbers Green Road and a tree belt between the Recordon land and the brickworks. Compensatory planting for any loss of trees or hedgerows is proposed.

The current quarry is "L" shaped which restricts the depth of the workings so incorporation of the Recordon land enlarges the site and enables additional reserves to be released sufficient to supply Atlas and Aldridge quarries for 26.4 years at projected outputs. The proposal is to continue quarrying on a campaign basis 2 or 3 times a year. This means the extraction process is not a continuous process throughout the year and normally there are 2 or 3 campaigns per year. Each campaign can last up to 6 weeks where clay is extracted to create a clay stockpile. Top soil and overburden will be stored on site. There are four phases proposed as follows;

- Phase 1a is works within the existing permission and anticipated to last for 3.8 years
- Phase 1b extends slightly into the Recordon land and is anticipated to last for 5.3 years,
- Phase 2 includes extending the quarry workings, removal of hedgerows on Dumblederry Lane and construction of a flood water lagoon plus diversion of Anchor Brook and is anticipated to last for 8.4 years
- Phase 3 is the final phase and expected to last for 8.9 years.

The proposed quarry opening is 08.00 – 18.00 hours Mondays to Fridays and 08.00 - 13.00 hours on Saturdays. There are 115 employees at this site presently.

The approved restoration is for filling the quarry void with 4 million tonnes of waste materials. The proposal is to amend this to fill the void with water and restore to an amenity after use.

Part of the proposals is to divert permanently a 540 metre length of Anchor Brook. A flood water lagoon is proposed with pump chamber programmed to pump up to 30,000 m3 of water to the quarry floor in a flood event during quarrying phases. Upon restoration of the site the proposed lake will provide a flood water storage facility of 195,000 m3 to compensate for the 30,000 m3 capacity lost through the development.

The proposals result in loss of the SINC on the Recordon land. Compensatory measures include the creation of a lake with ecological planting and creation of new footpaths. A 5 year aftercare plan is proposed.

The applicant proposes to dedicate an area of land at the Aldridge works site known as the "Mitco" land as a compensatory ecological area managed for nature conservation. This land is 3.5 hectares. The applicant has offered to enter into a S106 Agreement to secure this. They have also offered a commuted sum to secure ecological enhancement works on land in the vicinity of the Atlas site. This includes works to the area around a lake on Barns Lane known as "The Swag". Groundwater monitoring is also proposed to be secured by a S106 Agreement.

The site of the existing quarry and proposed extension on to the Recordon land is 28.80 hectares.

#### The Supporting Statement

Explains the business of the applicant and history of the company and states that there are 1279 personnel employed over 19 factories. Over 40 million bricks are produced at the factory per year with 97% of the brick making materials excavated from the quarry. The statement identifies that Aldridge brickworks is entirely reliant on imported materials and it is anticipated that this will be met from the reserves at Atlas quarry including the reserves on the Recordon land. It states that the soils on site are poor but will be stripped and stored for eventual restoration of the site, there are no public rights of way within the proposed extension area and that provision will be made for protecting the combined sewer which crosses the Recordon site. The statement describes the geology and mineral resources and describes the proposals in detail including phasing, amendments to the approved restoration, exportation of clay to Aldridge Works, creation of ecological habitat, water management, hours of working, traffic, soil resources and handling, aftercare, employment and planning policy and permissions.

#### The Environmental Statement

Sets out the findings of the Environmental Impact Assessment (EIA), gives a description of the development, details of existing environmental conditions and an assessment of the likely environmental effects of the scheme. The scoping opinion 13/1380/SCOP identified the key issues that needed to be addressed which include ecology, landscape and visual impact, noise, dust, hydrology, flood risk, traffic and transport and archaeology. Each chapter of the ES is set out with an introduction, methodology, baseline/existing situation, predicted impacts, proposed mitigation measures and the significance of the residual impacts/conclusions.

#### *The Noise Assessment*

Identifies the nearest residential properties as those within Pool View, Sherwood Walk, Rufford Way and Stubbers Green Road. It states and main sources of noise are from road traffic on Barns Lane. In the absence of road traffic, engine noise and single frequency reversing alarms on the Atlas site were at times audible. The assessment details noise survey methods used and that noise levels were measured from four noise sensitive

locations around the proposed development; namely 200 Stubbers Green Road, Pool View, 10 Sherwood Walk and Broadheath Drive.

It concludes that predicted noise levels are worst case scenarios, when operations are undertaken at their closest distances to sensitive properties. This may only last for a few weeks or even days throughout the working life of the proposed extension area. Without exception the worst case scenarios do not exceed the existing measured noise levels at any time or noise levels accepted in the NPPF in respect of mineral extractions, background noise, temporary operations at surface mineral extraction sites.

It recommends that during permitted working hours the noise level due to mineral extraction and processing, exceeding topsoil and subsoil stripping and other works in connection with landscaping, shall not exceed the existing background level by more than 10 dB(A) where possible but in any case no greater than 55 dB(A). It recommends limits of 50 dB(A) the same as existing at the surveyed residential properties.

#### *The Air Quality Assessment*

This acknowledges that plant required to work Atlas Brickworks Quarry including associated vehicle movements have the potential to generate dust and other air borne pollutants in the immediate vicinity of the operations. Best practice dust control measures are recommended to minimise disturbance at nearby sensitive locations. The current dust climate was measured at the site boundary and climatic conditions close to the site have been assessed and analysed to give an indication of how often the site could be susceptible to fugitive dust events. These events are relatively few. A full Particulate Matter PM10 assessment has been carried out which demonstrated Air Quality Objectives are not expected to be exceeded.

In terms of clay extraction this has limited potential for dust emission and mitigation measures are not a major consideration. The major source of dust emissions is from movement of heavy plant within the site. Mitigation measures proposed include a speed limit of 15 mph in the extraction area, dust suppression (on-site water bowser), maintaining internal haul roads, mobile plant exhausts and cooling fans discharged away from the ground and all mobile plant to be regularly maintained. Soil handling during restoration works will also be managed.

The impact on air quality from site operations with suitable mitigation measures is expected to be negligible, in line with the NPPF. In terms of dust management the assessment specifies all relevant planning conditions will be complied with, site personnel will be trained regarding potential sources and mitigation of dust, visual inspections conducted, a complaints log held on site and in the event of failure of dust mitigation measures such as during extreme weather dust generating activity will be temporarily suspended.

The Assessment concludes that there is unlikely to be a decrease in local air quality due to the extension of the quarry, any dust occurrence will be limited and short in duration and will be minimised by dust control measures. Air Quality Objectives will not be exceeded so air quality will not be significantly affected by the development.

#### *The Assessment of the Impact on Water Resources and Flood Risk*

This gives a description of the baseline data and current situation with respect to water resources and flood risk, describes the proposals with reference to water management, gives an assessment of the changes due to the quarrying and following final restoration including positive and negative impacts, explains proposals to reduce significant negative



impacts (mitigation) and discusses the adequacy of data and methods used to assess the impacts.

The possible impacts of the development proposals have been assessed in terms of derogation (loss of water resource), pollution (deterioration of the quality of the water resource) and flood risk (increase or change in flood risk within or outside the site). Part of the site is within flood zone 3a as identified on the Environment Agency flood plan.

The assessment concludes that the proposed extension to the quarry both in area and depth will not have a significant negative impact on water resources. It will be necessary to divert permanently a 540 metre length of Anchor Brook but this will not derogate downstream flows. The relatively impermeable nature of the minerals (clay) indicates that seepage of groundwater into workings and loss of water in the lake once restored is negligible. There is no impact on local groundwater abstractions. There will be a permanent loss of 30,000 m<sup>3</sup> of flood water storage capacity next to Anchor Brook which will occur progressively during phases 2 and 3. This loss will be compensated for by construction and operation of a flood water storage lagoon with a 30,000 m<sup>3</sup> capacity. This will continue until phase 3B when it will be replaced by a pump chamber programmed during a flood event to pump 30,000 m<sup>3</sup> onto the quarry floor.

Monitoring is recommended during phase 1 in accordance with a scheme to be agreed.

#### *The Ecological Impact Assessment*

This gives an introduction to relevant legislation and policy, explains methods of ecological assessment including for protected species, survey results, evaluation, potential impact and suggested mitigation and compensation. In order to establish a baseline data an extended Phase 1 Habitat Survey and National Vegetation Classification have been carried out followed by more specific surveys for badgers, bat activity, birds, Great Crested Newt, invertebrates, reptiles and White Clawed Crayfish. The survey identifies statutory and non-statutory designated sites within 2km of the site including Park Lime Pits LNR, Daw End Railway Cutting SSSI, Jockey Fields SSSI, Stubbers Green bog SSSI, Swan Pool and the Swag SSSI and Stubbers Green SINC.

The Assessment has highlighted that there is no evidence of badgers on the proposed quarry extension site or compensatory Mitco land. During a bat activity survey six species of bats were recorded feeding, socialising and commuting but no roosts were evident. There were 29 species of birds recorded during the breeding season. No evidence of Great Crested newts was identified and the habitats were considered unsuitable and no evidence of White Clawed Crayfish or reptiles. A significant number of invertebrates were identified.

The proposed extension to the quarry is on land within Stubbers Green SINC which is a non-statutory site comprised of a mosaic of neutral grassland and wet marshy areas currently used for grazing. This has led to deterioration of the site and improved grasslands are becoming more dominant. A summary of compensation and mitigation proposals for each of the aspects of ecological interest is included in the assessment with the majority having a low positive residual impact and others having a temporary low negative impact.

The conclusion states that compensatory and newly created and enhanced habitats at Coppice Lane (Mitco land) and land to the west of The Swag will have targeted management for flora and biodiversity to promote their ecological interest. The diversion of the Anchor Brook is designed to recreate similar habitats providing cover for invertebrates. The restoration scheme will provide 2.5 hectares of woodland and creation of a water body providing habitats for bats and breeding and wintering birds. Overall the proposals will



change the ecological setting but ultimately will deliver adequate and in part enhanced ecological mitigation and compensation.

#### *The Landscape and Visual Assessment*

Provides an assessment of the potential landscape and visual impacts of the proposed development. It describes the methodology used to assess potential impacts, an assessment of baseline conditions and identifies receptors likely to be affected by the proposed development. It also makes recommendations for mitigation if any is required, to minimise the significance of effects identified.

It describes the site as a rural wedge and the surrounding urban landscape which contains clay extraction and landfill operations, industrial units and residential areas. The proposed quarry extension is on a 7.5 hectare field bisected by Anchor Brook designated as a SINCR, the main interests being a mosaic of grassland, marsh and wet ditches as much of the original flora has been destroyed. The agricultural land is poor quality. There are protected trees along the western boundary.

The sensitivity to change is assessed as medium for landscape character and fabric. Sensitivity to change is assessed as high in relation to Green Belt and TPO trees.

The extent of the visibility of the site is influenced by topography and existing screening. Key visual receptor groups are identified as residents, road users and recreational users from where visibility of the site is limited by existing screening. Viewpoints are identified from Stubbers Green Road (medium sensitivity), Wharf Approach (medium sensitivity), Sherwood Walk (high sensitivity), Pool View (high sensitivity), Aldridge Sailing club (high sensitivity) and Stubbers Green Road (high sensitivity).

Mitigation measures are proposed to minimise impacts on the landscape character and visual impacts. This includes working and restoration methodology, bund construction, restoration scheme, tree planting, seeding, aftercare and mitigation land to the west of The Swag and on the Mitco land.

The landscape and visual impacts are assessed during site development, at year "0" with the quarry complete and landscape restoration scheme in place and at year 15 when landscaping has matured. There will be major alteration to key landscape features replacing the existing wet and dry grassland with a lake with surrounding dry and wet grassland and woodland upon restoration of the site. Whilst there are major adverse effects on the character of the site during quarry operations at year 15 it is considered that there will be moderate/major benefits. The visual impact from all identified viewpoints are also assessed as major beneficial. The greatest potential for cumulative visual impact of the site with other quarries is identified at a section of Stubbers Green Road.

The Assessment concludes that the significance of the landscape effects on the quarry extension during extraction/operations are moderate/major adverse but on the broader landscape would be negligible. The significance of the effect at year 15 post restoration is assessed as moderate/major beneficial. It would not impact on the open character of the Green Belt or landscape or other designations. The habitat creation proposed and mitigation works off site will enhance the local green infrastructure network. The significance of the visual effect from identified viewpoints will be moderate/major beneficial at year 15. Ultimately the significance of landscape and visual effects will be highly beneficial to the local green infrastructure network between Aldridge and Shelfield.

### *The Archaeological Desk Based Assessment*

This was carried out in July 2013 to identify areas of archaeological potential within the site, consider the site within its wider archaeological context and describe the likely extent, nature, condition, importance and potential state of preservation of the archaeology.

The methodology is identified as using archaeological databases, historical and cartographic sources, secondary sources and geological/geotechnical information. The geology of the site is dominated by Etruria Formation. Based on this information the archaeological potential for prehistoric remains is very low, for Roman and Anglo-Saxon to Medieval there is low potential, and for post-medieval remains low to medium potential.

The assessment concludes that the site is situated in a landscape that has been associated with industrial exploitation since limestone quarrying in the Roman period, to construction of canals and railways associated with coal mining and brick manufacture in the 19<sup>th</sup> and 20<sup>th</sup> centuries. Known archaeological remains include Dumblederry Farm and Stubber's Green School (both demolished). The quarry extension will eventually descend to c.70m and filled with water so the impact of the proposed extension on archaeological remains, if present, will be uniformly destructive.

Previous ground disturbance has been extensive, primarily as a result of the quarry pit, associated spoil storage and associated working areas. Previous late post-medieval buildings on the site include a school and cottage. The least disturbed part of the site is the south-western edge which contains remnants of Dumblederry Lane, a route with post-medieval origins.

### *The Soil Resources and Agricultural Use and Quality report*

The Recordon land to the north of Atlas Works is mainly poor agricultural quality, liable to flood after heavy rain and only suited to summer grazing. Topsoil and subsoil resources should be stripped and stored for eventual restoration.

### *The Transport Assessment*

Assesses the impact of the proposals on the local highway network by examining the existing conditions on the local highway network, the existing HGV use along the main route to and from the quarry, safety of the route through speed surveys and accident statistics, increase in HGV use at the site and the impact of the proposal on the operation of the local highway network.

The site has dedicated entrance and exit only accesses on Stubbers Green Road which are well laid out priority junctions with good driver visibility. Internally the quarry is accessed via the access road between the brickworks building and storage yard.

Atlas currently imports sand and clay for manufacture of bricks and has deliveries of additives (fireclay, face sands and stains) use in manufacture of bricks and pallets for transporting bricks. In a typical year there are 4101 HGV movements from brick production – 80 per week, 16 per day – the majority taking place during the early morning surge. Generally brick deliveries cease at 16.30 hours. The approved hours of operation are 08.00 – 18.00 Monday to Friday and 08.00-13.00 Saturday. There are currently no restrictions on lorry activity at the site. Details of activities at Aldridge works are also assessed.

The average percentage of HGV traffic on minor rural roads is 2.4%. The average percentage of HGV's at the Atlas site is 3.7%, Aldridge site is 8.0% and Brickyard Road site is 6.1%. Although this is above the national average it is to be expected given the nature of activities occurring at the site and the current HGV traffic is not causing any road safety

issues. There have been nine accidents during a 5 year period up to March 2013 on Stubbers Green Road and Brickyard road within 500m of the main access to Atlas but HGV's did not contribute to any of these. Although traffic speeds generally exceed the local speed limits the HGV movements do not affect the operation of the highway network.

The report demonstrates that the development proposals would have no material impact on the operation of the local highway network which already safely accommodates HGV traffic from surrounding quarry operations.

### **Relevant Planning History**

13/1380/SCOP – Environmental Impact Assessment Scoping Opinion for extension to Atlas Quarry, export brick making clays and creation of compensatory habitat for loss of Stubbers Green SINC – Response Issued 11/02/14.

04/1603/MI/M1 – New conditions for an existing mineral working permission – GSC 09/12/04. There are conditions included to cease extraction of Etruria marl at the site by 15<sup>th</sup> March 2049 and to restore the site no later than 12 months after cessation of extraction and close the offices no later than 2 years after cessation.

BC24328P – Erection of brickworks, ancillary offices and stockyard, extraction of Etruria marl and restoration by infill to open space and/or woodland – GSC 27/07/89.

BC27424P – Reserved matters to BC24328P for siting, design & external appearance for brickworks, offices (in part) stockyard, ancillary works and landscaping – Approved 18/08/89.

BC54933P – Provision of a concrete yard slab for the storage of bricks/materials, including access ramp - GSC 15/12/98.

BC39137P – Construction of a chimney and scrubber units – GSC 21/10/93.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

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".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Build a strong and competitive economy
- Deliver a wide choice of high quality homes
  
- Support sustainable development
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Find ways to enhance and improve places in which people live their lives.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

**Key provisions** of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 109 encourages protection and enhancement of valued landscapes and geological conservation and remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land where appropriate.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Paragraph 142 states minerals are essential to support sustainable economic growth. Since minerals are finite natural resource and can only be worked where they are found it is important to make best use of them and secure their long-term conservation.

Paragraph 144 states when determining applications LPA's should give great weight to benefits of mineral extraction, including the economy.

Paragraph 146 requires mineral planning authorities to plan for an adequate and steady supply of industrial minerals by providing a stock of permitted reserves and at least 25 years for brick clay.

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. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies:

CSP2: Green Belt boundaries will be maintained and protected from inappropriate development. Green Belts promote urban renaissance within the urban area and provide easy access to the countryside for urban residents where the landscape, nature conservation and agricultural land will be protected and enhanced where practical and possible.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CSP4: In place making an integrated multifunctional open space network will not only provide space for sport and recreation and help support a balanced ecological environment but help mitigate flood risk, provide space for wildlife and informal recreation for local people.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

EMP1: Seeks to protect jobs and support economic growth.

EMP5: Seeks to secure initiatives for training and recruitment of local people.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Encourages high quality design that stimulates economic, social and environmental benefits.

ENV5: Seeks to minimise the probability and consequences of flood risk.

ENV6: Seeks to preserve and enhance the diversity of the natural and built environment and provide components of a high quality multi-functional green space network.

ENV8: If an assessment which is acceptable to the local authority indicates that a proposal will result in exposure to pollutant concentrations that exceed national air quality objectives, adequate and satisfactory mitigation measures which are capable of implementation must be secured before planning permission is granted.

MIN1: Refers to sustainable management of mineral resources by identifying locations containing viable resources where mineral extraction can take place during the plan period at levels that will support national and regional objectives, the local economy and regeneration, without compromising key environmental objectives. It also highlights issues which should be addressed in mineral applications to maximise the benefits and minimise the potential negative effects of mineral working and related activities.

MIN3: Stubbers Green is one of three sites in the Black Country where extraction of Etruria Marl is expected to be focused. Resources have been identified within these areas which will allow production to continue at each of the Black Country's brick / tile works until the end of the plan period. The extraction of clay will not be permitted outside the areas of search unless there is clear evidence of a deficiency in supply. All new proposals for extraction of

Etruria Marl and other brick clays will be subject to the general requirements in Policy MIN5. Proposals for extraction should satisfy the following requirements

- They should form part of a phased programme which secures restoration of existing workings by the earliest possible date;
- Proposals within the Flood Zone 3a along the Holbeache Brook in Dudley and to the south of Stubbers Green Road in Walsall should assess the risk of flooding and include details of how this will be addressed in line with ENV4;
- Harmful impacts on designated biodiversity / geodiversity sites should be assessed and full details of proposed mitigation / compensation for potential losses should be provided in line with ENV1;
- Haulage routes passing through the Stubbers Green area of Walsall should avoid the Sheffield junction (junction of A461, Spring Road and Mill Road).

Stockpiling of clays should be located as close as possible to the source, have good accessibility to end-users and the height of stockpiles kept to a minimum and appropriate screening and landscaping should be included.

MIN5: New development for mineral working should demonstrate how the benefits clearly outweigh any potential detrimental impacts. Conditions attached to new mineral permissions will reflect latest standards of good practice in the control of such operations. Consideration of environment and amenity issues and transport issues should be made.

Proposals for mineral working or mineral-related infrastructure will be assessed against the following criteria:

- Whether the proposal supports national and local strategies and objectives for minerals;
- Whether the proposal supports the local economy and regeneration objectives for the Black Country (for example, would it create or retain local jobs, provide raw material and mineral products for local businesses, or help to supply construction projects within the Growth Network?);
- Whether the proposal contributes towards the positive environmental transformation of the Black Country (for example, is it designed to complement/ contribute towards environmental infrastructure, does it identify and adequately address potential harmful effects on the environment, and is it capable of being implemented without creating or exacerbating geotechnical or environmental problems?);
- Whether the proposal would provide opportunities for co-location of related uses and/ or generate other benefits (for example, would it produce aggregates as secondary materials, involve re-use, recovery and recycling of aggregates from waste, or recovery of landfill gas for energy?);
- Whether the proposal is compatible with neighbouring uses (taking into account the nature of the operations, the hours of working, the timing and duration of the operations and cumulative effects), and if so, whether it identifies and adequately addresses potential harmful effects on amenity;
- Whether the proposal would address impacts on the highway/ transport network (for example, has the potential to move minerals and mineral products by rail or inland waterway been fully considered, and does it identify and adequately address impacts on the local/ strategic highway and drainage network?).

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:



GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

ENV1: Identifies the Green Belt boundary.

ENV2: Seeks to control development in the Green Belt. The extraction of minerals or the controlled tipping of waste can be appropriate development in the Green Belt provided that it is in accordance with relevant minerals and waste policies.

ENV3: Advises on detailed evaluation of proposals in the Green Belt including quality of new landscape schemes, impact on significant views, viewpoints and topographical features and implications on infrastructure.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV17: Encourage planting of new trees, woodlands and hedgerows, particularly in specific areas including minerals sites and as part of landscape design.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV24: Seeks to protect wildlife corridors.

ENV32: Proposals should take in to account the surrounding context particularly within or adjacent to the Green Belt including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: The quality of all water resources will be protected.

JP8: Bad neighbour industries will be given careful consideration and should be capable of providing satisfactory screening and landscaping and must be subject to stringent operational control to minimise disturbance.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T6: Considers traffic calming as a priority in areas suffering from excessive through traffic and road safety problems amongst other reasons.

T7: All development should satisfy the car parking standards set out in Policy T13.

T10: Refers to accessibility standards.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

LC1: Seeks to retain and enhance existing urban open spaces and redress any deficiencies in provision or accessibility.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

### **Designing Walsall SPD**

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;  
DW 10 – new development should make a positive contribution to creating a sustainable environment.

### **Conserving Walsall's Natural Environment SPD**

NE1, NE2 & NE3: Refers to development with the potential to affect species, habitats or earth heritage features and states all relevant applications should be supported by an adequate impact assessment.

NE4: Refers to survey standards.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

### **Consultations**

**Transportation** – A Transport Assessment has been provided which considers the impact of the proposals on the highway network. The proposal seeks to extend the existing quarry and transport approximately 80,000 tonnes of clay annually to the Aldridge Works in Brickyard Road. This is likely to take place over 2 or 3 'campaigns' per year. The material will most likely be carried by 20tonne HGV's equating to 4000 lorry loads per year - 80 daily loads on a weekday and 40 loads on a Saturday. Breaking this down this equates to about 9 two-way trips per hour on a weekday – 1 trip every 7 minutes, and 8 two-way trips per hour on a Saturday -due to the shorter working day - equalling 1trip every 8 minutes. The Aldridge Works currently imports about 70,000 to 75,000 tonnes of materials mainly from the nearby Highfields Road quarry which will soon be exhausted and the clay from the extended Atlas Works quarry is intended in part to replace this.

The Transport Assessment concludes that whilst there will be a small increase in HGV movements between Atlas Works and Aldridge Works, this will not have any significant detrimental impact on the operation of the highway network. Also importantly, the proposed final restoration of the quarry to an 'open water' scheme will remove the potential waste importation/landfill HGV trips to the site with obvious benefits to the highway network.

Conditions are recommended to control operations at the quarry in the interests of the free flow of traffic and pedestrian and highway safety.

**Birmingham & Black Country Wildlife Trust** – The site is within the Birmingham and Black Country Nature Improvement Area one of only 12 NIA's in England. A partnership of over 50 organisations has come together to deliver significant improvements to the natural environment. The proposed development will compromise the Anchor Brook wildlife corridor during the operational phase and in the long term. A range of important habitats will be lost and impacted upon on-site and nearby which is contrary to development plan policies. Further information should be provided to demonstrate that damage to the natural environment is minimised and that adequate mitigation and compensation will be provided.

**Canal & River Trust** – Comments that the drainage methods for the quarrying works should not impact upon C&RT ability to manage water along the canal network, structural integrity, water quality or biodiversity of the waterways. The Environmental Statement considers flow rates from the weir to Anchor Brook and the diversion should not restrict C&RT ability to discharge water.

**Environment Agency** – Concerns about the limited groundwater level data and the need for a detailed assessment of the hydraulic relationship between the shallow groundwater table and The Swag and Swan Pool SSSI's and need for an assessment of the impact and significance that removal of this Drift from the extension area could have on The Swag and Swan Pool SSSI's without mitigation. The developer proposes to enter into a S106 Agreement to include a commitment to undertake groundwater monitoring, reporting and assessment and mitigation (if required) designed to protect natural water conditions within Stubber's Green Bog SSSI. If the S106 is expanded to cover the above concerns the Environment Agency would remove any objection to the proposals.

**Landscape** – No objections but recommend a condition to require a full landscaping plan. If the site is being worked over 25/28 years then areas planted at the earliest opportunity will have time to establish and mature whilst operations are taking place. A phased restoration is achievable and should be a requirement of the scheme.

**Local Access Forum (Walsall Ramblers)** – No objections from a rights of way perspective as the proposal should create additional footpaths in the area and generate a pleasant recreational site – even if this will be a good way into the future and only after considerable civil engineering in the area. If possible definitive footpath ALD 17 (Dumblederry Lane to Stubber's Green Lane) should be incorporated into the scheme with access to the lake site possible from Dumblederry Lane. The only other concern is that measures are put in place to keep surrounding highways and footpaths clean.

**Natural England** – No objections subject to securing appropriate groundwater monitoring and reporting as well as a method statement to mitigate potential effects upon the Stubber's Green Bog SSSI. This has been proposed by the applicant and can be secured through a S106 Agreement.

**Natural Environment (Ecology)** – No objections. Although destruction of the SINC is unwelcome BCCS policy ENV1 does make reference to exceptional circumstances where the strategic benefits of the development outweigh the importance for nature conservation. The policy specifies that damage must be minimised, impacts fully mitigated and compensation only accepted in exceptional circumstances.

This application proposes the extension of an existing quarry, the exportation of clay to other brickworks and the provision of compensatory ecological works. Habitat enhancement is proposed on land to the west of the Swag close to the application site and on the Mitco site about  $\frac{3}{4}$  kilometres to the north. The major impact is the loss of the Stubbers Green SINC for brick clays. SINC's are sites of regional wildlife or geological importance but of lesser quality than the statutorily notified and nationally Important Site of Special Scientific Interest.

The replacement of wet grassland habitat which once dominated this valley will be replaced with large deep water bodies. However, the phasing proposals retain a continuous cover of temporary wet grassland habitats throughout the duration of the development. The proposed works to the west shore of the Swag will also contribute to the wet grassland resource within Anchor Brook Valley. The works at the Mitco site are removed from Anchor Brook valley but are close to the restored Vigo Utopia landfill site so will complement this open space.

The compensatory habitat and mitigation proposed will, in time, lead to a habitat which is more extensive than that lost by the proposals. The compensatory habitat and mitigation should be secured by a S106 Agreement.

**Pollution Control (Scientific Team)** – No objections subject to continuation of current conditions to include the quarry extension workings and restoration works.

**Pollution Control (Contaminated Land)** – Both proposed locations are former landfill sites which are known to be producing landfill gas and possibly contain hazardous material. Any remedial works proposed should be agreed with Contaminated Land Team prior to implementation, to ensure that they are suitable for the sites.

**The Coal Authority** – No objections. The site does not fall within the defined Development High Risk Area and no requirement for a Coal Mining Risk Assessment.

### **Public Participation Response**

There are nine letters of objection and 18 letters of support (including UK Trade & Investment). These are summarised as follows:

#### **Objections**

- Aldridge is being overtaken by industrial factories which cause environmental issues such as heavy traffic, fumes and noise
- Enough damage has already been done
- Increased pollution from HGV's
- Increased dust affects asthma sufferers
- Increased odours
- Increased noise of traffic and pollution detrimental to health
- Roads are covered in sand/clay from lorries
- A road cleaning regime should be in place
- Increased HGV's on Barns Lane
- Barns Lane and surrounding streets have a 20mph speed limit for safety purposes which this proposal contradicts
- Reduced pedestrian safety
- Adverse effect/danger to wildlife due to destruction of their habitats
- The applicant should restore the area not use it for landfill
- Development is on Green Belt land
- Loss of outlook for surrounding properties
- Inadequate publicity about the application

#### **Support**

- The proposal secures long term supply of raw materials to Atlas and Aldridge Brickworks
- Ibstock is an important customer/supplier to existing businesses that provide significant employment opportunities
- Ibstock has traded with local companies for between 8 and 40 years
- Securing the long term proposals for clay extraction will assist the viability of the business
- The bricks supplied by Ibstock are high quality and varied choice to meet customer needs
- The proposal supports the construction industry
- The UK brick business is an international activity that contributes to the UK balance of payments through export of bricks
- Products from the quarry have been exported worldwide
- Support any application to prolong brick making in the UK encouraging inward investment in plant and machinery necessary to maintain these businesses
- The proposal extends the life of two brickworks and maintain skilled jobs
- Bricks produced contribute to the built heritage of the West Midlands and beyond

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of extending the quarry
- Green Belt considerations
- Impact on the Ecology of the area and on the Site of Importance for Nature Conservation
- Landscape & Visual Impact
- Archaeology
- Soils
- Highways
- Noise and Air Quality
- Relationship to surrounding properties
- Water Resources and Flood Risk
- Section 106 Agreement

### **Observations**

#### **Principle of extending the quarry**

Mineral extraction can only take place where viable reserved of minerals exist so unlike other forms of development alternative locations are limited. The NPPF recognises that an adequate and steady supply of minerals is essential to support sustainable economic growth and recommends at least 25 years supply for brick clay. The existing permitted reserves at Atlas Quarry are 1.84 million tonnes, equivalent to just 15 years' reserves which is below the NPPF target. The proposals to extend the quarry will enable greater reserves to be worked to achieve the NPPF target.

Policies in the BCCS and UDP support the management and safeguarding of minerals resources and identify locations where mineral extraction can take place. Policies MIN1 and MIN3 of the BCCS identify brick clays are one of the mineral resources to be safeguarded and specifically identifies Stubbers Green as a suitable location for brick clay extraction. Policy MIN3 identifies that extraction should satisfy various requirements including being part of a phased programme which secures early restoration of workings, assessment of flood risk and mitigation for harmful impacts on designated biodiversity/geodiversity sites. For Stubbers Green it also specifies that haulage should avoid the Shelfield junction (junction A461 Spring Road and Mill Road). The ES provided in support of the application addresses all of these issues which are discussed in the following reported observations.

It is recognised by the supporting letters from local and national companies, including UK Trade & Investment, that the extension of the quarry will enable the continuation of a supply of clay and bricks from the Atlas and Aldridge Brickworks which not only supports the continuation of the business in Walsall but has a network of clients and suppliers that stretches worldwide. Many of the businesses supporting the proposals employ hundreds of staff. The proposals also support the construction industry.

Objectors consider that there has been inadequate publicity of the application. All statutory publicity procedures have been followed including a press notice, site notices and direct notifications to the nearest neighbours.

Residents consider the land should be restored as enough damage has been done and the site should not be used for landfill. The proposal is to restore the land to water with landscape and ecological enhancements. No landfill is proposed. With regard to comments

that Aldridge has been overtaken by factories it is noted that the land surrounding three sides of the quarry site is a core employment area where industrial uses are encouraged.

The proposal to extend the quarry to enable extraction of further mineral resources in an area identified in the development plan and supported by the NPPF is considered acceptable in principle.

### **Green Belt Considerations**

The existing quarry and proposed extension fall within the Green Belt. Residents acknowledge this. UDP policy ENV2 acknowledges that mineral extraction can be appropriate in the Green Belt provided it accords with other policies relating to minerals and waste. As referred to in the above section of this report the proposal does accord with minerals policies in the BCCS and UDP. In the circumstances the principle of minerals extraction at this Green Belt site is appropriate.

The character of the Green Belt will inevitably change in the short to medium term whilst the clay extraction takes place. The eventual proposal is to restore the site to water with appropriate landscaping that will allow for outdoor recreation which is an appropriate use of Green Belt land. In the long term the openness and character of the Green Belt will not be permanently harmed.

On this basis the proposals for extension of the quarry and the intended restoration to water are not inappropriate in the Green Belt and will not cause permanent harm to the openness or character of the Green Belt.

### **Impact on the Ecology of the Area and Site of Importance for Nature Conservation**

The proposals extend the quarry onto land that is within Stubbers Green SINC. This is a non-statutory site designated mainly for its botanical interest. The proposal will have a negative effect on this non-statutory site in the short to medium term and there will be eventual changes in habitats. This needs to be balanced against the need for mineral resources and whether appropriate mitigation can be secured.

The Ecological Impact Assessment has highlighted that whilst there is evidence of bat activity no roosts were found, breeding and wintering birds were identified and a significant number of invertebrates but that there was no evidence of badgers, Great Crested Newts, White Clawed Crayfish or reptiles. An assessment of plants and habitats has also been provided. The assessment shows a probable low negative impact on bats, birds and invertebrates as a consequence of the proposals. Impact on human noise and disturbance, dust and hydrological and hydrogeological effects are also identified with only the latter having a low negative impacts.

The mineral resources for brick clay are low and there is strong policy support for allowing an extension to the existing quarry which is considered sufficient reason to outweigh the negative impacts on the ecology of the area and loss of Stubbers Green SINC.

The proposal allows for mitigation for the negative ecological impacts in terms of providing an area of compensatory land, the Mitco land, which will create a larger ecological habitat area including measures for ongoing monitoring, reporting and management of that site for nature conservation purposes. The Mitco land will be removed from industrial use and there will be habitat enhancement works at the site designed to increase habitat and species diversity. This will be secured by condition and within the proposed S106 Agreement. The applicants also propose to undertake works on an area of Council owned land to the west of the Swag likewise including measures for ongoing monitoring and management for nature

conservation purposes. These mitigation proposals are considered appropriate to compensate for the loss of ecological habitats in the short to medium term as long term management of the mitigation areas of land will be secured by a S106 Agreement. It is anticipated that the measures proposed for the Mitco land can be achieved as soon as any permission is granted as the applicant owns this land.

Objectors consider the proposals will have an adverse impact and will endanger wildlife due to destruction of their habitats. The Black Country UWT has also expressed concern about the potential impact on the Black Country Nature Improvement Area. Whilst the proposals will have some medium to low negative impacts on the ecology of the area it is considered that the compensatory land and mitigation measures proposed will address these issues and will secure ongoing management of these areas for nature conservation purposes.

The proposed compensation and mitigation for loss of habitats is considered acceptable to outweigh the negative impact on ecology and Stubbers Green SINC. Any further conditions required to secure ecological benefits will be reported to committee.

### **Landscape & Visual Impact**

The proposal will inevitably have an impact on the current landscape of this Green Belt site as the wet and dry grassland which is also used for grazing and provides an important ecological habitat will be replaced by quarrying operations and then restored to a lake, woodland and grassland. The extent of the visibility of the site is influenced by the topography of the land and existing screening. The key visual impacts are from Stubbers Green Road, Wharf Approach, Sherwood Walk, Pool View and Aldridge Sailing Club where the sensitivity of the visual impact ranges from medium (industrial areas) to high (residential areas).

The proposals will have a moderate/major adverse effect on the immediate landscape during the quarrying extraction and operations but this has a negligible impact on the wider landscape due to existing and proposed screening and working methods.

The proposals include a method of working to minimise visual impacts such as bund construction, and restoration of the landscape with new tree planting, seeding and aftercare. Further off-site mitigation at the Mitco land and works adjacent to the Swag are proposed. Upon restoration of the site it is considered that from the key visual viewpoints there will be a major beneficial visual impact. The openness of the Green Belt will be maintained and green infrastructure network enhanced.

Phased restoration planting is recommended to be secured by condition to ensure that the planting has time to establish and offer visual benefits.

### **Archaeology**

An archaeological desk study has been carried out which identifies that the potential for archaeological remains on the proposed quarry extension land is low to medium due to the previous industrial exploitation of the landscape and previous ground disturbance.

### **Soils**

The soil quality is generally poor agricultural quality liable to heavy flooding and only suited to summer grazing. The soils throughout the Recordon land where the quarry extension is proposed comprise 2.9 hectares of subgrade 3b soils and 4.3 hectares of grade 4 soils. There is loam over clay and sand which are restricted in agricultural use due to perched water and groundwater seepage which limits the ability to cultivate the land. The remaining



quarry site (21.6 hectares) already has consent for quarry operations so the loss of soils from agricultural use on the existing quarry has already been accepted.

The proposal is to restore the land to a lake with woodland and ancillary planting for a recreational use. As the quality of the soil resource is poor its loss for agricultural use is considered to be acceptable and is outweighed by the demonstrated need for extraction of the mineral resource (clays) and beneficial amenity use of the land once restored.

## **Highways**

The proposal utilises the existing priority accesses for the Atlas Works on Stubbers Green Road which are acceptable and have good visibility.

Residents are concerned about increased HGV movements in the surrounding area including Barns Lane and surrounding streets which have a 20mph speed limit. The Transport Assessment demonstrates that although the proposals to extend the quarry will increase HGV movements between Atlas Works and Aldridge Works it will not have a significant detrimental impact on the highway network. This is evidenced in the Transport Assessment where it highlights that the current levels of HGV's have not contributed towards recorded accidents. Traffic speeds in the area exceed local limits but HGV movements do not adversely affect the operation of the highway.

There are 2 or 3 campaigns of quarrying per year and the hours of operation of the quarry are restricted by the current permission which allows operations between 08.00-18.00 Mondays to Fridays and 08.00-13.00 on Saturdays. For the large part the vehicles working within the quarry are below ground level so noise and pollution from these vehicles is limited.

Residents are concerned about reduced pedestrian safety in the area. The Transport Assessment highlights that there have been nine accidents recorded during a 5 year period up to March 2013 on Stubbers Green Road and Brickyard Road within 500m of the main access to Atlas but the evidence demonstrates that HGV movements did not contribute to any of these. In the circumstances the proposals to extend the quarry using the same highway and access arrangements should not reduce pedestrian safety.

The Transportation officer is satisfied with the conclusions of the Transport Assessment and that the proposals will not have a significant detrimental impact on the highway network. It is also important to note that final restoration of the quarry to open water will remove the potential waste importation and landfill HGV trips approved for the earlier restoration scheme. This will offer environmental and highway benefits.

There have been objections that the highways are covered in sand and clay from lorries and that a road cleaning regime should be put in place. Conditions are recommended to ensure wheel washing and road sweeping takes place to keep the highway free from debris and clays from the quarry. The Environment Agency also monitors this as part of the quarry license.

The development proposals would have no material impact on the operation of the local highway network which already safely accommodates HGV traffic from surrounding quarry operations and is acceptable.

The Local Access Forum has requested that if possible the new public right of way that will eventually follow the perimeter of the lake should be linked to footpath ALD17 (Dumblederry Lane to Stubber's Green Lane). This can be determined as part of any rights of way legislation upon restoration of the site.

## **Noise and Air Quality**

Noise and Air Quality assessments have been provided as part of the ES.

The Noise Assessment demonstrates that noise levels are not expected to increase significantly above the current permitted levels or those of background noise in the vicinity of the site. Conditions are recommended to restrict working hours and operations on the site and for provision of noise mitigation measures including an acoustic bund around the north-west perimeter of the quarry extension.

The nearest residential properties identified in the assessment are in Stubbers Green Road, Broadheath Drive, Pool View and Sherwood Walk and the worst case scenario noise levels are still predicted to be within the recommended levels in the NPPF.

The Air Quality Assessment states that the proposed extension to the quarry is unlikely to decrease the local air quality and any dust occurrence will be limited and short term and controlled by recommended dust control measures. The Air Quality Objectives will not be exceeded so air quality will not be significantly affected by the development. Mitigation measures such as staff training, visual inspections, speed controls on vehicles in the quarry, wheel wash facilities, sheeting of lorries, road sweepers and keeping of a complaints log are to be secured by the recommended condition.

Pollution Control officers are satisfied that the proposals should not result in any increased impacts on nearby residential properties in terms of noise and air quality in the surrounding areas subject to securing appropriate noise and dust mitigation by condition. There have been no significant environmental complaints regarding the current quarry over the past 5 years.

In light of the above comments and ability to secure appropriate mitigation it is considered that although residents are concerned that there will be increased noise, dust or odours from the quarry extension that will adversely affect their health or general amenity, these matters will be addressed by the recommended conditions.

## **Relationship to surrounding properties**

The nearest residential properties to the quarry are in Stubbers Green Road, Barns Lane, Rufford Way, Pool View and Sherwood Walk. There are other residential properties further north-west beyond the Swag a greater distance away. The quarry borders the properties in Rufford Way and Sherwood Walk and other industrial premises in Westgate. Residents have objected to loss of outlook to surrounding properties but as there is already a significant landscape buffer along these boundaries which is to remain in place the outlook will not alter significantly.

There are no proposed changes to existing working procedures and safeguarding conditions in respect of hours of operation, and to secure phasing and restoration of the land are recommended as on the earlier permission. This will protect amenities in terms of noise and disturbance. The height of stockpiles is also restricted by condition to control the visual impact of the proposed quarrying operations.

## **Water Resources and Flood Risk**

The assessment within the ES explains that the proposals will not have any significant negative impact on water resources. The Environment Agency remains concerned that there is limited groundwater level data. They specify a need for a detailed assessment of the hydraulic relationship between the shallow groundwater table and The Swag and Swan Pool

SSSI's and for assessment of the impact and significance that removal of this Drift from the extension area could have on The Swag and Swan Pool SSSI's without mitigation. The developer has agreed to enter into a Section 106 Agreement to secure further monitoring of the groundwater levels to assess the impact the proposals may have upon groundwater in order to address the concerns raised by the Environment Agency.

The site is partly within a flood zone. Although the proposals result in the permanent loss of 30,000 m<sup>3</sup> of flood storage capacity on the Recordon Land next to Anchor brook, a flood lagoon with pump will be installed during quarrying to divert up to 30,000 m<sup>3</sup> of flood water onto the quarry floor in a flood event. The eventual restoration to a lake will provide 195,000 m<sup>3</sup> of flood water storage to compensate for the loss of the original flood capacity.

Given the above comments the S106 Agreement will secure the hydrological monitoring to address the Environment Agency concerns and the proposals include adequate provision to mitigate any flood risk.

### **Section 106 Agreement**

In order to secure details of hydrological monitoring, dedication and management of the Mitco land for nature conservation purposes and mitigation works to the west of The Swag the developer has agreed to enter into a S106 Agreement. The hydrological monitoring addresses the Environment Agency concerns and the provision of habitat enhancements on the Mitco land and adjacent to the Swag will secure the implementation, ongoing monitoring and management of the areas to be managed for nature conservation purposes in compensation for the area of Stubbers Green SINC lost to the extended quarry operations.

The developer has provided a draft S106 Agreement for negotiation. Committee are recommended to grant permission subject to a satisfactory Agreement to secure the above measures.

### **Positive and Proactive working with the applicant**

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information and additional revised plans have been submitted. In light of the submitted details officers are able to support the scheme.

**Recommendation:** Grant Permission Subject to Conditions and a Planning Obligation

#### *Terms of Permission.*

1. The planning permission subject to these conditions, which is determined pursuant to the requirements of the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011; is for: the extension of the existing quarry workings at Atlas Quarry, Stubbers Green Road onto the Recordon land for extraction of Etruria Marl, an amendment to the restoration plan approved under application reference 04/1603/MI/M1 to fill the void with water to create a lake with ancillary woodland, grassland and footpaths, exportation of clay to Aldridge Works and creation of compensatory habitats on the Mitco land and land adjacent to the Swag. The ongoing operation of the existing quarry, brickworks, ancillary offices and stockyard shall carry on in accordance with the area that received planning permission pursuant to an application for new conditions to an existing mineral working permission under application reference 04/1603/MI/M1.

Reason: To define the terms of and scope of the permission and preserve the entitlement to continue with the developments.

## *Approved Documents*

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

- Recordon Land Location Plan (A14/51) received 25/04/14
- Site Plan (A14/42) received 25/04/14
- Atlas Quarry & Recordon Land Phase 1A (A14/36) received 25/04/14
- Atlas Quarry & Recordon Land Phase 1B (A14/37B) received 25/04/14
- Atlas Quarry & Recordon Land Phase 2 (A14/38B) received 25/04/14
- Atlas Quarry & Recordon Land Phase 3A (A14/40B) received 25/04/14
- Atlas Quarry & Recordon Land Phase 3B (A14/40BBB) received 25/04/14
- Atlas Quarry & Recordon Land Phase 3C Final Landform (A14/40D) received 25/04/14
- Excavation Design (A14/32B) received 25/04/14
- Habitat Creation Scheme (A14/41) received 25/04/14
- Restoration Scheme (A14/43) received 25/04/14
- Site Green Infrastructure (A14/57) received 14/11/14
- Area Green Infrastructure Existing (A14/58) received 14/11/14
- Area Green Infrastructure Proposed (A14/59) received 14/11/14
- Phase 1A Working & Restoration (A14/60) received 14/11/14
- Phase 1B Working & Restoration (A14/61) received 14/11/14
- Phase 2 Working & Restoration (A14/62) received 14/11/14
- Phase 3A Working & Restoration (A14/63) received 14/11/14
- Phase 3B Working & Restoration (A14/64) received 14/11/14
- Phase 3C Working & Restoration (A14/65) received 14/11/14
- Restoration (A14/66) received 14/11/14
- Habitat Creation Scheme West of The Swag (A14/67) received 14/11/14
- Habitat Creation Scheme Mitco Land (A14/68) received 14/11/14
- Mitco Land Nature Conservation Images (A14/69) received 14/11/14
- Supporting Statement prepared by Geoplan (April 2014) received 25/04/14
- Additional Information in support of application 14/0619/CM prepared by Geoplan (November 2014) received 14/11/14
- Environmental Statement prepared by Geoplan (April 2014) received 25/04/14
- Assessment of Environmental Impact of Noise prepared by Vibrock (R14.7967/1/2/RS) received 25/04/14
- Air Quality Assessment prepared by Vibrock (R14.7968/2/PC) received 25/04/14
- Environmental Assessment of the impact on Water Resources and Flood Risk Assessment prepared by RM Simon (March 2014) received 25/04/14
- Ecological Impact Assessment prepared by Crestwood Environmental Limited (CE-AT0208-RP03 – Final) received 25/04/14
- Landscape & Visual Assessment prepared by Geoplan (January 2014) received 25/04/14
- Archaeological Desk Based Assessment prepared by Archaeological Solutions Limited (4351) received 25/04/14
- Soil Resources and Agricultural Use and Quality prepared by Land Research Associates Limited (9 December 2009) received 25/04/14
- Transport Assessment prepared by Mayer Brown Limited (IBSTOCKATLAS.1 August 2013) received 25/04/14

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. Pursuant to implementation of this permission a copy of this decision notice and any plans and documents approved herewith shall be made available for inspection at Atlas Brickworks at any time during permitted working hours.

Reason: To assist in the ongoing monitoring of the site for compliance with planning conditions.

#### *Time Limits for Mineral Extraction Other Operations and Restoration*

4. No working of Etruria Marl shall take place after 15<sup>th</sup> March 2049 or any earlier date that may be specified in any subsequent statutory review of this permission pursuant to the Environment Act 1995 or any successor Legislation, Statutory Instrument or Orders. Not later than six months from any date of cessation of mineral extraction, all buildings, structures, hardstandings and plant used in connection with the winning and working of Etruria Marl shall be removed in accordance with any approved restoration scheme. Any buildings, structures, plant equipment and machinery required for any ongoing infill, restoration and aftercare of the said site, which shall include retention, monitoring and maintenance of any gas and leachate management plant equipment and machinery shall not be required to be removed until completion of the restoration.

Reason: To define the appropriate time limits for cessation of mineral extraction.

5. No operations shall be carried out so as to delay the completion of the restoration of the site to the approved plans beyond 15<sup>th</sup> March 2054 or three years after the cessation of mineral extraction whichever is the earlier date. Not later than 12 months after the date of cessation of mineral extraction, all buildings, structures, hardstandings plant equipment and machinery not required for any ongoing restoration, aftercare and drainage of the site, shall be removed from the site and the restoration completed in accordance with a restoration scheme approved pursuant to this or any subsequent scheme of conditions at the site.

Reason: To define the appropriate time limits for cessation of extraction and restoration.

6. The operation of the brickworks, the ancillary offices, the stockyard and the stockpiling of Etruria Marl quarried from the site along with any imported clay materials shall not continue after 15<sup>th</sup> March 2051 or two years after the cessation of mineral extraction whichever is earlier. Not later than three years from the date of cessation of mineral extraction all buildings, structures, plant, equipment and machinery used in connection with the operation and occupation of the brickworks, ancillary offices and stockyard along with the stockpiling of any clays not required for the infilling, restoration or aftercare of the said site shall be removed and the land restored in accordance with a restoration scheme that has been previously approved in writing by the Mineral Planning Authority.

Reason: To define the appropriate time limit for cessation of operation of the brickworks.

#### *Temporary Suspension Of Operations*

7. If mineral extraction is for any reason suspended for a period exceeding 12 months the Mineral Planning Authority shall be notified in writing not later than fourteen days from expiry of the 12 month period of suspension. Within twenty eight days of such notification pursuant

to this condition a scheme specifying the steps that have been or are proposed to be taken for the protection of the environment in order to preserve the amenities of the area, to protect the area from damage and to prevent the deterioration of the condition of the land during the suspension period including any necessary revised programme and timetable for completion of the development shall be submitted for the approval of the Mineral Planning Authority and the approved scheme thereafter implemented.

Reason: To ensure that no adverse impact arises from the temporary cessation of operations.

#### *Mineral Extraction Operations*

8. No mineral extraction shall take place under the terms of this permission outside the areas shown to be worked as indicated on the approved phasing plans referred to in condition 2 of this permission.

Reason: To ensure that the permission is only operated in accordance with an approved working programme.

#### *Geotechnical Assessment*

9. Not later than 12 months from the date of approval of these conditions a Geotechnical Assessment demonstrating confirmation of the achievement of permanent stability of the quarry slopes adjacent to the external boundaries of the site and including demonstrating maintenance of stability of ground for the deep mine monitoring borehole adjacent to Footpath No 16, shall be submitted for the approval of the Mineral Planning Authority. This shall be in accordance with the information required to comply with the Quarries Legislation on geotechnical stability monitoring. Thereafter Geotechnical Assessments demonstrating ongoing structural stability shall be submitted for the approval of the Mineral Planning Authority at intervals not exceeding five years after deposit of the first Geotechnical Assessment until mineral extraction permanently ceases.

Reason: To ensure that no quarry form is created that will cause any short or long term instability with a risk to any land and uses adjacent to the site.

10. If the Geotechnical Assessments required by condition 9 identifies an unacceptable risk of structural failure or instability to land outside the permission area, including the public highway and definitive footpath no. 17 (Aldridge), the operator shall notify the Mineral Planning Authority within 48 hours and submit for approval in writing a scheme of prevention and/or remediation of any instability and for implementation of that scheme within an approved timescale with the maintenance of appropriate stand-off distances for the duration of operations.

Reason: To ensure that any potential instability is considered in advance of any such event and to prevent any such event occurring.

#### *Noise*

11. Topsoil and subsoil stripping and other works in connection with landscaping shall not exceed 70 dB LAeq, 1h free field 1 metre from any residential property and shall be limited to a period not exceeding 8 weeks at any one property.

Reason: To ensure there is no detriment to the amenity of any sensitive uses from noise generated by any operations on the site.

12. Other than activities for topsoil and subsoil stripping and other works in connection with landscaping, noise, either measured individually or cumulatively, shall not exceed 50 dB(A) LAeq, 1h (free field) and 10 dB(A) above background levels 1 metre from nearby residential premises.

Reason: To ensure there is no detriment to the amenity of any sensitive uses from noise generated by any operations on the site.

13. In order to provide adequate noise mitigation the following measures shall be implemented:

- (i) Proprietary plant and equipment shall be fitted with appropriate silencers and/or acoustic panels or insulation,
- (ii) All mobile plant shall be fitted with non-intrusive warbler reversing or white noise systems
- (iii) Equipment maintenance and operation shall be in accordance with manufacturer's instructions
- (iv) Audible noise assessments shall be undertaken on a daily basis. All such assessments and instances of remedial and corrective action shall be recorded in writing in the site diary and made available to the local planning authority upon request
- (v) An acoustic bund shall be constructed along the north west perimeter of the proposed extension area

Reason: To ensure there is no detriment to the amenity of any sensitive uses from noise generated by any operations on the site.

14. Any remedial works to be undertaken at the locations identified on Site plan A14/42 dated march 2014 shall be agreed in writing with Local Planning Authority prior to implementation.

Reason: To ensure there is no detriment to the amenity of any sensitive uses from noise generated by any operations on the site.

### *Dust*

15. No operations shall be carried out except in accordance with the approved dust control measures detailed in Appendix 3 of the Air Quality Assessment (R14.7698/2/PC). In addition and at all times for the duration of operations all practicable steps shall be taken to prevent the carriage of airborne dust beyond the site boundary. These shall include:

- a) Training of site personnel as to potential sources and effective mitigation of dust.
- b) Daily visual inspections within the site and on the local highway network regarding the effectiveness of dust management.
- c) Maintaining a complaints log; in the event of receiving a dust complaint noting the name and location of the complainant, the nature of the dust related complaint, the site activity and prevailing weather conditions at the time of the complaint. Site management shall investigate the complaint and take any remedial action which is deemed appropriate.
- d) In the event of failure of the dust mitigation measures, for example in extreme weather conditions, the dust generating activity shall be temporarily suspended until appropriate dust mitigation is implemented or until a change in weather condition occurs.



- e) Speed controls of 15mph on internal site roads.
- f) Sheeting of all lorries.
- g) Use of road sweepers.

Reason: To ensure that there is no adverse impact from dust emissions from the site.

16. All vehicles that are used at the quarry or pass through roads that have clay deposits shall pass through wheel-wash equipment prior to accessing public roads.

Reason: To ensure that there is no adverse impact from deposition of clays on the public roads.

#### *Hours of Operation*

17. No use operation or activity permitted for mineral extraction, transport and processing of minerals and including land restoration, stabilisation, preparation, ecological mitigation and deliveries, shall take place outside the hours of 08.00 - 18.00 Mondays to Fridays, 08.00 - 13.00 Saturdays and not at all on Sundays, Bank and other Public Holidays\* excepting the construction and removal of soil and overburden mounds which may only take place between the hours of 09.00 - 18.00 hours on Mondays to Fridays.

\* Bank and Public Holidays for this purpose shall include: Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Monday, May Day, Spring Bank Holiday Monday and August Bank Holiday Monday.

Reason: To minimise the potential for any adverse impact on the surrounding area from any permitted use operation or activity arising from the hours of operation.

#### *Fencing and Security.*

18. Existing fencing for the site perimeter shall be retained and maintained for the duration of the period of operation of the site.

Reason: To ensure the maintenance of fencing for safety and security.

#### *Access, Traffic and Protection of the Highway*

19. No access to the site may be obtained to or from Dumblederry Lane except for the purpose of gaining access for temporary periods for the winning and working of Etruria Marl and maintenance of the storage mounds and any activities for operation and maintenance of an agricultural use within the area until required for mineral extraction.

Reason: To minimise the potential for any adverse impact on the highway and any conflict of vehicle movements within the site.

20. There shall not be any deliveries of any materials to, or removal of finished products from, the brickworks except via the approved entrance and exit points to Stubbers Green Road.

Reason: To minimise the potential for any adverse impact from traffic on the highway and any conflict of vehicle movements within the site.

21. No vehicles used for extraction of Etruria Marl or accessing active quarry areas or for

delivering imported clays or for restoration of the site shall be permitted to exit the site to enter the public highway without using wheel washing facilities installed within the site in accordance with details of the type and location of such facilities that have first been approved in writing by the Mineral Planning Authority. Thereafter the approved wheel wash or any replacement shall be retained and maintained in an effective condition and operation for the duration of any operations, including restoration and soil placement, at the site.

Reason: To prevent the carriage of clay deposits or other material onto the highway.

22. All exported clays from the proposed quarry extension shall to transported to the Aldridge Works in Brickyard Road only and no clays shall be exported to any other destination unless an Addendum to the Mayer Brown Transport Assessment has first been submitted to and approved in writing by the Local Planning Authority. The exportation of clays shall be carried out in accordance with any agreed addendum.

Reason: To ensure any HGV movements to destinations other than to Brickyard Road have been fully assessed for their potential impact on the highway network, in the interests of the free flow of traffic on the public highway, to highway safety and in accordance with UDP policy T4 and Black Country Core Strategy TRAN2.

23. No overburden materials from the proposed quarry extension shall be removed from the site unless an Addendum to the Mayer Brown Transport Assessment has first been submitted to and approved in writing by the Local Planning Authority. The removal of overburden materials from the site shall be carried out in accordance with any agreed addendum.

Reason: To ensure any additional HGV movements to those predicted within the submitted Transport Assessment and related to the proposed clay exportation, have been fully assessed for their potential impact on the highway network, in the interests of the free flow of traffic on the public highway, to highway safety and in accordance with UDP policy T4 and Black Country Core Strategy TRAN2.

24a. Prior to the commencement of the final restoration plan, a scheme shall be submitted to and approved in writing by the Local Planning Authority, which addresses the Definitive public footpath no. 17 (Aldridge) which immediately abuts the south east boundary of the site, to address a potential diversion of the footpath into the site and encompassing it within the proposals for future public access to the site. Full engineering details including surface materials, access control methods such as barriers and signage etc, shall also be submitted to the Local Planning Authority for technical approval in writing.

24b. Prior to the final restoration scheme first coming into use by the public, if required, a public footpath stopping up/diversion order under an appropriate legal mechanism shall be made and confirmed to stop up/divert the public footpath onto the new alignment and the footpath shall be fully implemented in accordance with the details approved under part (a) of this condition.

Reason: In order to improve and rationalise the public footpath network, in accordance with UDP policy GP2, T8, T11.

25a. Prior to the implementation of the final restoration scheme, full details of the public access points to the site, which shall also consider potential links to The Swag on the northern side of Barns Lane and potential final restoration scheme for Sandown Quarry on the north eastern side of Stubbers Green Road, including any public car parking areas,

together with clarification of the status of the public access routes and links, shall be submitted to and approved in writing by the Local Planning Authority.

25b. Prior to the final restoration scheme first coming into use by the public, the public access points shall be fully implemented in accordance with the approved details and brought in use.

Reason: To the site has satisfactory public access and parking arrangements, in accordance with UDP policy GP2.

### *Stockpiling*

26. Stockpiles of bricks pavers or other products from the brickworks shall not exceed 5 metres above the ground on which they are placed.

Reason: To control the visual impact of stockpiles.

27. Stockpiles of Etruria Marl and any clays imported onto the site for use in the brickworks shall not be kept in any place other than the are annotated on Plan A11/03 and no stockpiles of clays shall exceed 5 metres in height above the ground on which they are placed.

Reason: To minimise the visual impact of stockpiles.

### *Drainage*

28. No fuels, oils, chemicals or other potentially polluting compounds shall be stored within the site except in tanks set on impervious bases within bunds with a capacity of not less than 110% of the volume of the tank or the combined volume of multiple tanks and any filling and draw points shall be detailed to discharge downwards into the bund.

Reason: To prevent any ground or water pollution.

29. No operation for the maintenance of quarry plant equipment or machinery shall be carried out within the site except in areas with an impervious base and for which surface drainage is detailed to ensure that it is only via oil and grease interceptors prior to discharge of any water to the foul and/or storm drainage system in accordance with details given prior approval in writing by the Mineral Planning Authority.

Reason: To prevent any of ground or water pollution.

### *Archaeology*

30. The applicant shall afford access at all reasonable times to the Minerals Planning Authority Archaeologist and shall allow them to observe groundwork and record archaeological remains that may be uncovered as part of the development. Notification of the commencement date of any works with the potential to expose archaeological remains and information as to who the archaeologist should contact on the site shall be given to the Planning Authority not later than 14 days prior to the commencement of such development. Any archaeological features or items of interest discovered during the course of excavations shall be reported to the Planning Authority. Provision for the recording of such features or items of interest by a suitably qualified archaeological organisation, shall be made by the applicant in accordance with a scheme approved by the Planning Authority Archaeologist.

Reason: To identify and safeguard any archaeological remains that may be within the site.

#### *Hydrology*

31a. Before any works within the extended quarry are implemented a scheme setting out a methodology for hydrological assessment and monitoring of groundwater levels in the vicinity of the proposed quarry area including Stubbers Green Bog SSSI, the Swag and Swan Pool SSSI shall be submitted to the Mineral Planning Authority for approval in writing. The methodology shall include timeframes for works linked to the phased development as shown on the approved drawings, a reporting protocol and methodology for dealing with any adverse impacts should they arise.

31b. The development shall be carried out in accordance with the agreed details.

Reason: To prevent any adverse impact on groundwater.

#### *Soil Management and Storage*

32. All topsoil and overburden stripped from the permitted area shall be separately stripped and separately stored and retained within the site in accordance with details approved by the Mineral Planning Authority until required for use in the restoration of the site.

Reason: To safeguard the soils and the condition of soils for use in restoration.

33. No topsoil or subsoil shall be imported onto the site unless and until it is required for use in restoration and then shall only be stored separately from any topsoil and subsoil derived from within the site.

Reason: To safeguard the condition of soils for use in restoration and the ecological value of the site.

34. No topsoil shall be stored in mounds such that the topsoil is greater than 3 metres in depth.

Reason: To safeguard the condition of soils for use in restoration.

35. No subsoil shall be stored in any place or form within the site such that the subsoils are greater than 5 metres in depth and in any event no soils shall be stored within the site to a height greater than the height as measured in metres above Ordnance Datum Levels of the perimeter screen mounds constructed as part of implementation of planning permission BC24328P.

Reason: To safeguard the condition of soils for use in restoration and to safeguard the visual amenity of the area.

36. Soil Management shall only be carried out in accordance with DEFRA Government Guidelines or subsequent legislation.

Reason: To safeguard the condition of soils for use in restoration.

37. Stripping and movement of any topsoils and or subsoils shall not take place except during the period of 1<sup>st</sup> April to 31<sup>st</sup> October of any calendar year unless otherwise previously approved in writing by the Mineral Planning Authority. Notwithstanding soil stripping, movement and storage shall only take place in the permitted periods when it is in a suitably

dry friable condition.

Reason: To safeguard the condition of soils for use in restoration.

38. Topsoil and subsoil storage mounds shall only be created in locations that have received the prior written approval of the Mineral Planning Authority.

Reason: To safeguard the condition of soils for use in restoration.

39. Any land used for storage of topsoils subsoils and overburden shall be restored after removal of this material in accordance with a restoration scheme for the site that has been given prior approval in writing by the Mineral Planning Authority.

Reason: to secure the restoration of any areas used for soil storage.

#### *Permitted Development Rights*

40. Notwithstanding the provisions of Part 19 of Schedule 2 in the Town & Country Planning General (Permitted) Development Order 1995 or any successor orders or legislation no development specified in Part 19 shall be carried out without the prior written approval of the Mineral Planning Authority of details of the location, nature and design of the development.

Reason: To ensure that no development carried out under Part 19 of Schedule 2 in the Town & Country Planning (General Permitted Development) Order 1995 or any successor Orders that causes a breach of any other conditions with this or any successor permission.

#### *Importation of Clay*

41. Not more than 30% as measured in tonnes, of clay processed in the brickworks shall consist of clays imported into the site from outside the permitted area unless otherwise previously approved in writing by the Mineral Planning Authority. Annual statements of clay imported and exported for each calendar year of operation commencing with the year of approval of this schedule of conditions shall be deposited with the Mineral Planning Authority not later than the 31<sup>st</sup> January of the calendar year succeeding the calendar year for which the statement is being deposited.

Reason: To ensure that the Brickworks is not operated as a use that is separate to the quarry subject to this permission.

#### *Water Management*

42a. Prior to commencement of any works within the extension to the quarry or diversion of Anchor Brook a detailed scheme for water management throughout the phases of development and upon restoration of the site as identified in the application and Environmental Statement shall be submitted and approved in writing with the Mineral Planning Authority.

42b. The approved water management regime shall be implemented fully in accordance with the approved scheme and managed and maintained thereafter in accordance with the agreed details.

Reason: To prevent the risk of flooding and ensure appropriate management of water.

#### *Restoration and Aftercare*

43. A scheme for the phased restoration and aftercare of the quarry site, mitigation works at the Mitco land and adjacent The Swag in accordance with the details in the Environmental Statement shall be submitted to and approved in writing by the Mineral Planning Authority.

The scheme shall include the following:

- i. Timetable for restoration works and methods used.
- ii. Details of landscaping and tree/woodland planting and grass seeding to the restored areas for the after use.
- iii. Details of footpath maintenance.
- iv. Details of any maintenance measures for the lake.
- v. Maintenance details for all landscaped areas.
- vi. Management details for the site post restoration.
- vii. Final site drainage.

Reason: To ensure that the restored site remains capable of supporting and maintaining the after use.

44. During any phase of aftercare for any or all parts of the restored site an annual review shall be conducted of the aftercare operations that have been carried out in the preceding year and a report deposited with the Mineral Planning Authority within 1 month of expiry of the first and any subsequent 12 months comprising the annual review period. The review shall consider the need for any additional and/or remediation measures for the area subject to aftercare and such additional and/or remediation measures implemented within the 12 month period following expiry of the first and any subsequent year for which an annual review is carried out. The scheme shall thereafter only be carried out in accordance with the approved details.

Reason: To ensure that the restored site remains capable of supporting and maintaining the after use.

45. Upon cessation of the quarrying operations at the site detailed proposals for the removal of the brickworks, ancillary offices, vehicle parking areas, stockyard and stockpiles areas within the restoration scheme and the restoration, landscaping and planting of this area on removal shall be submitted to and approved in writing by the Mineral Planning Authority and implemented fully in accordance with any agreed details.

Reason: To ensure that the site is restored to an appropriate after use.

### *Ecology*

Conditions are yet to be confirmed.

### **Note for Applicant Section 106 Agreement**

The attention of the applicant is drawn to the Section 106 Agreement which forms part of this permission and the requirements of the terms therein.

### **Note for the Applicant (Highways)**

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



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 2.**

**Reason for bringing to committee: Major application**

**Application Number:** 14/0822/FL

**Application Type:** Full application

**Applicant:** Bovis Homes Ltd

**Proposal:** Variation of condition 33d of permission 02/2417/OL/E2 (Former St Margaret's Hospital development) to amend the approved ground levels, topography and landscaping on the Former Male Homes part of the site.

**Location:** SITE OF FORMER ST MARGARET'S HOSPITAL, QUESLETT ROAD, GREAT BARR, WALSALL, B43 7EZ

**Ward:** Pheasey Park Farm

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:**

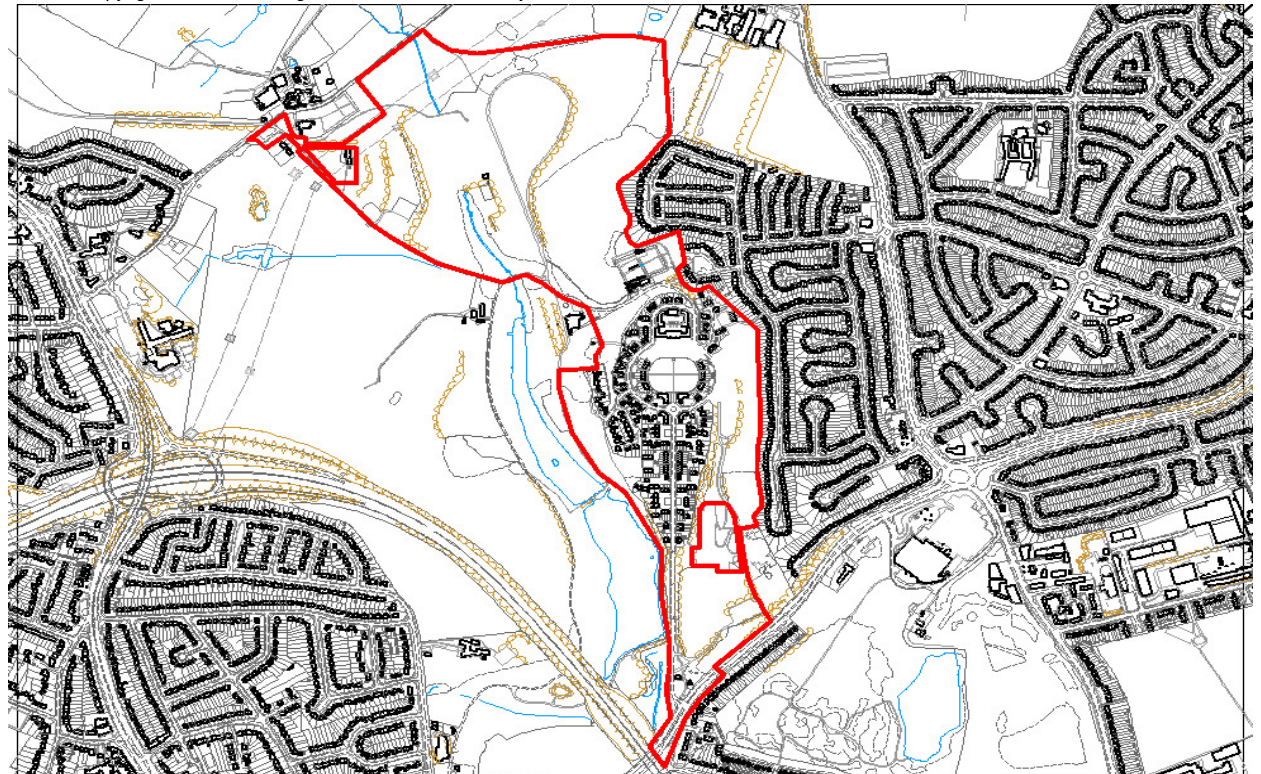
**Expired Date:** 18/09/2014

**Extension of Time Target Date:**

28/11/2014

**Recommendation Summary:** Grant Permission Subject to Conditions

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### **Current Status**

The application was deferred by Committee on 5<sup>th</sup> March 2015 to allow further consultation and negotiation with the applicant to include landscaping and security concerns.

The applicant has met with Councillor Andrew and local residents regarding this matter. Councillor Andrew and residents are reassured that these matters can be satisfactorily addressed through the recommended conditions of this report.

The original report now follows unchanged.

### **Application and Site Details**

The proposal seeks a variation of condition 33d of permission 02/2417/OL/E2 relating to the Bovis development at the former St. Margaret's Hospital site off Queslett Road. The outline permission for residential development and other associated development was granted on appeal in September 2004. Condition 33d requires a scheme of restoration of the natural ground topography of the Male Homes part of the site including reinstatement of the open watercourse between The Duckery and the Gothic Bridge. The site is located within the Great Barr Hall Park and Garden (Grade II Listed) and Great Barr Conservation Area. The former Male Homes part of the site lies to the north of Great Barr Hall and northwest of the housing development.

The proposal seeks to amend the approved ground levels, topography and landscaping on the former Male Homes part of the site. The proposal is to puncture the former Male Homes loop road and cover with demolition waste then cover with 12,500 cubic metres of top soil so that demolition waste is not within 1m of the finished grade level.

The Perry Brook culvert is to be excavated to remove the culvert and old made ground and create a new alignment of Perry Brook and cascades with clean subsoil within 300mm of finished levels.

All finished areas are to be cultivated to a depth of 50mm to form a fine tilth and seeded with species rich grass and wildflower meadow mix including aquatic plants.

The proposed ground levels are lower than existing approved levels and are graded out at a shallower gradient.

The applicant confirms that the materials used to create the landform were screened prior to burying and only materials as agreed within the original framework agreement were buried. They also confirm that the bund along the north side of Suttons Drive will be removed and used on the parkland area to complete the final re-grading levels. Prior to any planting works soil testing will be concluded to confirm the exact phosphorus content. The approved drawing makes reference to the burying of existing demolition materials to a depth of 1m below the final graded ground level, demolition materials are to be screened prior to them being buried to remove any harmful substances and there are no detritus material being buried within these areas. The arisings from the brook de-culverting are to be buried as per the approved drawings 1m below the final graded ground level. A final grading on completion of the earthworks will be carried out with any surface materials being removed.

**The Soil Investigation** – A survey was carried out in September 2014 where 12 spot points were tested throughout the site and further soil samples from the side of the new

stream. It identified that the land has potential to be restored to a diverse, species rich grassland because nutrient levels are mainly low and pH and soil textures are variable. Phosphorus levels on the rubble area are suitable for species rich calcareous grassland. It recommends larger pieces of concrete block and brick fragments are removed as well as visible glass and pottery unless buried below a layer of clean soil 150mm deep. A clean layer of soil to prevent erosion of landfill material into the water is recommended.

### **Relevant Planning History**

02/2417/OL/E2 – Outline application for residential development of former St. Margaret's Hospital Site, alterations to existing access at Queslett Road including repositioning of gate posts and associated development, application accompanied by an Environmental Statement and Master Plan providing up to a maximum of 445 dwellings and design statement - Allowed on Appeal 13/9/04. Condition 33 of the decision states the following: *33. Other than the works of demolition, no development shall commence until a scheme has been submitted to, and approved by the local planning authority relating to:*

- a. The specification of the works for the restoration of the Gothic Bridge including full repairs schedule and arrangements for the commencement and completion of the works.*
- b. The timing and arrangement for the removal of the concrete pedestrian bridge situated alongside the Gothic Bridge.*
- c. The specification of the works for the restoration of the Walled Garden including details of the existing and proposed ground levels; tree clearance; the repairs to the walls; the landscaping of the Walled Garden and the timing for completion of these works.*
- d. A scheme for the restoration of the natural ground topography of the Male Homes part of the site following the demolition of the existing buildings and the removal of all materials from this part of the site. The scheme shall include details for the reinstatement of the open water course between The Duckery and the Gothic Bridge; the removal of the ornamental trees planted in association with the hospital development and the landscaping of this part of the site, including the provision of new tree and hedge planting and the removal of the bunding on the north site of Sutton's Drive.*
- e. The development shall be carried out in accordance with the approved timetable and terms.*

A Section 229A Agreement (equivalent to a Section 106 Agreement) was completed to secure provision of Education, Transport Contributions and Facilities, Highway Works, Affordable Housing Primary Care and Community Facilities, Landscaped Areas and Public Open Space and works of restoration to the Lodge. Variations to this agreement have subsequently been approved in relation to provision of affordable housing including tenure and amount which has been reduced to 18% in total throughout the site.

There is a Tree Preservation across the site – 19/1995.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

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".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 81 encourages local planning authorities to plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.

Paragraph 109 states the planning system should contribute to and enhance the natural and local environment including protecting and enhancing valued landscapes, geological conservation interests and soils and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.  
137. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Paragraph 131 required consideration of sustaining and enhancing the significance of heritage assets and making a positive contribution to local character and distinctiveness.

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. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include provision of a high quality environment.

The above are supported by the following policies:

CSP1: Sets out the targets for sustainable regeneration of the Black Country.

CSP4: A high quality of design of the built and natural environment is required.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

WM5: Resource Management and New Development.

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV1: Defines the purpose of the Green Belt.

ENV2: Allows limited infilling or redevelopment of major existing developed sites in accordance with policy ENV4.

ENV3: Identifies more detailed considerations for proposals in the Green Belt.

ENV4: allows for infilling or redevelopment of major developed sites in the Green Belt provided proposals have no greater impact than the existing development on the openness and purpose of the Green Belt.

ENV8: New development on Great Barr Hall and Estate and St. Margaret's Hospital other than that which is normally appropriate in the Green Belt will be limited to the replacement footprint of existing buildings. All proposals must provide for preservation, enhancement and improvement of the character of buildings of architectural or historic interest, and management of the historic landscape and SINC's, and preservation and enhancement of Great Barr Conservation Area.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV19: Habitat and species protection.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV25: Proposals for development which affect archaeological sites will normally need to be accompanied by an evaluation of the archaeological resource.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area. In the event the Council grants permission for demolition of a Conservation Area property possessing architectural or historic interest the Council will require a building recording scheme.

ENV30: Protects the Borough's registered parks and gardens from the effects of inappropriate built development.

ENV32 & 3.116: seeks to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV33 & 3.117: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

ENV41:

T1: Seeks to improve access and help people get around

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy.

The relevant SPD's are:

### **Designing Walsall SPD**

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

### **Conserving Walsall's Natural Environment SPD**

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

### **Consultations**

**Transportation** – No objections. There are no definitive or other recorded public rights of way crossing the site.

**Pollution Control (Scientific Team)** – No objections.

**Pollution Control (Contaminated Land)** – Objects to the proposed method of disposing existing waste by burying it as part of the proposed changes to the landscape profiles. Burying of waste materials without any pre-treatment to remove detritus is not acceptable particularly in close proximity to a water course. Further advice from the Environment Agency should be sought. No objections to the changes in the landscaping, profile and levels.

**Conservation** – No objections. English Heritage views should be sought as the application should be viewed in conjunction with the wider heritage management across Great Barr Hall Park and Garden.

**English Heritage** – It is regrettable that the developers have been allowed to tip spoil to raise the ground levels here but English Heritage accepts the current proposals to substitute a lower finished ground level than that envisaged when approval was first granted in 2005. There needs to be sufficient depth of topsoil to provide a relevant growing medium for re-establishment of parkland planting. Any overburden tipped near the Gothic Bridge should be removed. The developer should be required to implement an agreed parkland planting programme across the whole of the site. The removal of the bund along Suttons Drive should also be sought.

**Environment Agency** – No objections.

**Local Access Forum (Walsall Ramblers)** – No objections.

**Natural Environment (Ecology)** – No objections but further clarification is required to demonstrate that the proposals are feasible in landscape and ecological terms before the application is determined. Details of measures to prevent silt-laden water affecting the white clawed crayfish population in the lakes downstream are required. Details of reinstatement of the grassland to the south of the new brook course is required. Further details of the landscape design of the land to the north of the new water course. The planning condition refers to tree and hedge planting but the applicant needs to demonstrate how the creation of a diverse grassland area will be managed and what will people use the land for.

**Natural England** – No comments.

#### **Public Participation Response**

There are nine letters of objection from eight households. These representations are summarised as follows:

- Houses on the Bovis development were sold at a premium cost with the promise of a landscaped garden setting
- Dumping of building materials within the conservation area poses a significant risk to the environment
- The nature of the materials dumped is dangerous to people, pets and wildlife
- The materials used should have been screened and crushed to ensure they do not pollute the brook
- Failure to develop the land as originally proposed continues to increase potential for anti-social behaviour and adding to police pressures
- There are already security issues on the site
- Lack of privacy for surrounding houses due to loss of trees and bushes
- If the landscaping is not going to be delivered residents will feel cheated by Bovis
- The landscaping was part of a package of proposals for the development of the housing
- Query whether this the correct process to amend the permission
- Failure to consult with locals or adjacent landowners

All letters of representation are available for inspection upon publication of this committee report.

#### **Determining Issues**

- Principle of development
- Impact on the historic parkland
- Relationship to surrounding properties

- Impact on Perry Brook
- Removal of bunds on Suttons Drive
- Section 106 Agreement

## **Observations**

### **Principle of development**

The principle of restoring the parkland to its original levels was approved on appeal and a scheme of restoration of the natural topography of this part of the site to be secured by condition 33d of the permission 02/2417/OL/E2 as follows:

*33d. A scheme for the restoration of the natural ground topography of the Male Homes part of the site following the demolition of the existing buildings and the removal of all materials from this part of the site. The scheme shall include details for the reinstatement of the open water course between The Duckery and the Gothic Bridge; the removal of the ornamental trees planted in association with the hospital development and the landscaping of this part of the site, including the provision of new tree and hedge planting and the removal of the bunding on the north side of Sutton's Drive.*

A scheme for restoration was granted as part of a submission to discharge the conditions. The approved scheme does not show removal of all materials from this part of the site as the approved Earthworks Strategy includes a reduced dig level in the Horseshoe (Nether Hall Park estate), opening of Perry Brook Watercourse and the re-use of arisings from the residential development. The total quantity of fill produced from these three sources was 75,000m<sup>3</sup>. The strategy explains how the fill material would be tested to determine the classification then compacted and then topsoil added and seeded with grass.

The current proposal is to amend the approved topography and landscaping due to the fact that there is less fill material available on site to create the previously approved topography. The contours have also changed so that they undulate to deter anti-social behaviour from quad biking for example.

Residents are concerned that the materials deposited on the land to complete the restoration are harmful and pose a significant risk to the environment and conservation of the site and could pollute the brook. The supporting information states that materials were screened before being buried. The approved Earthworks Strategy also allows the arisings to be utilised to create the landform.

In order to address the ecologist concerns regarding landscaping and its ongoing management a condition is recommended.

This application to vary the condition on the original permission is the correct process for determining the changes proposed despite residents concerns.

### **Impact on the historic parkland**

Although English Heritage is concerned about the details of restoration already approved they reluctantly accept that the current proposals will not significantly affect the landscape provided there is sufficient topsoil to create a growing medium and secure implementation of the planting.

Paragraph 44 of the decision for 02/2417/OL/E2 states "the proposal would secure the removal of the derelict Male Homes from an open and sensitive part of the site, and reinstatement of parkland." The proposal remains to reinstate the parkland.



All ornamental trees planted when the site was occupied as a hospital have been removed as required by the condition. New planting will be established to return some of the original character.

### **Relationship to adjacent properties**

The nearest properties are new housing on Nether Hall Park, Great Barr Hall Grade II Listed Building and established housing in the Park Farm Road area. The housing and Great Barr Hall are located to the south of the site. Although the parkland originally fell within the curtilage of Great Barr Hall it is now under separate ownership and forms part of the land for which planning permission was secured by Bovis Homes. The proposal to restore the land to parkland will not have any significant impact on surrounding properties. It will also enable the developer to fulfil their obligations to reinstate the parkland and landscaping as many residents are disappointed this has not yet happened and was promised when they purchased their homes.

There have been reports of anti-social behaviour on the land in the intervening years since permission was granted and residents are concerned about security but it is anticipated that once the works are complete and residents make better use of the parkland this will discourage anti-social behaviour as there will be greater surveillance.

Residents are concerned that there has been insufficient consultation with locals and adjacent landowners. A press notice was published; site notices posted and a significant number of letters to immediately surrounding neighbours and land owners were sent as statutorily required.

The site is screened from nearby housing by existing trees and is a significant distance away (at least 80m away from the rear gardens of housing in Aviemore Crescent). On the basis that the principle of the landscaping has already been accepted it is considered that there will be no loss of privacy as a consequence of the amendments to the ground levels, topography or landscaping of this part of the site.

### **Impact on Perry Brook**

The condition requires reinstatement of the open watercourse known as Perry Brook which forms part of the proposals. The brook is in the process of being de-culverted to open it up to open water as required by condition 33d.

### **Removal of bunds along Suttons Drive**

The applicant has indicated that the bund along the northern side of Suttons Drive will be removed and material used to form the final contours on the parkland. This remains to be complied with as part of condition 33d. As all original conditions that have not yet been discharged fully are recommended to be imposed again where relevant this requirement will remain to be met.

### **Section 106 Agreement**

There is an existing Section 229A Agreement (equivalent to a Section 106 Agreement) to secure provision of Education, Transport Contributions and Facilities, Highway Works, Affordable Housing Primary Care and Community Facilities, Landscaped Areas and Public Open Space and works of restoration to the Lodge. Variations to this agreement have subsequently been approved in relation to provision of affordable housing including tenure and amount which has been reduced to 18% in total throughout the site. There are still some matters which remain outstanding such as the primary care and community facilities which the developers are seeking to provide a contribution for in lieu of on-site provision. This was reported to Planning Committee on 29<sup>th</sup> March 2012 but negotiations

are still ongoing with Bovis. In the circumstances a Deed of Variation is required to secure the outstanding matters as the variation of condition 33d result in the issue of a new permission if agreed. The Deed of Variation will essentially tie this permission to the existing Agreement.

### **Positive and Proactive working with the applicant**

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

### **Recommendation**

Grant permission subject to conditions and subject to a Deed of Variation to the original Section 229A Agreement (equivalent to a Section 106 Agreement) to secure the outstanding provisions within the Agreement.

### **Summary of Reasons for Granting Planning Permission**

#### **Recommendation:** Grant Permission Subject to Conditions

##### *General*

1. 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.

2. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions or as may have already been approved under the original consent

02/2417/OL/E2: -

- Site Location Plan (STMG/02/107) received 19/6/14
- Earthworks Reprofilling Plan (1154.01) received 4/6/14
- Earthworks Reprofilling Cross Sections (1154.02) received 4/6/14
- Perry Brook Profile (1154.03) received 4/6/14
- Earthworks Cross Sections (STM-5-1750 & 1751) received 4/6/14
- Cascade Detail (1154.04) received 4/6/14
- Planting Plan (1154.05) received 4/6/14
- Soil Investigation prepared by Rosemary Peel ADA UK Ltd received 17/11/14

*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 may require).

3. No development shall commence on any phase of development until the following details for that phase of development have been submitted to and approved in writing by the local planning authority:

- i. Hard surfacing including roads and footpaths;
- ii. Street and other lighting proposals;
- iii. Details of construction programming; compound requirements and locations and temporary construction lighting requirements;

- iv. Details of public open space to be provided on that phase of development, including children's play area
- v. Details of the locations of underground services.

*Reason:* To ensure the satisfactory development of the site.

#### *Amenity Areas*

4. The areas of open space including areas of Public Open Space as shown on the master plan within each phase of the development shall be laid out within 12 months of completion of development in that phase of development in accordance with details to be submitted to and approved by the local planning authority.

*Reason:* To ensure the satisfactory provision of open space.

#### *Open Areas*

5. Prior to the completion of the amended ground levels, topography and landscaping works a revised Landscape Management Plan to take account of the amendments shall be submitted to the local planning authority for approval in writing and shall include details of the following:

- i. Long term design objectives
- ii. Management responsibilities and maintenance schedules for all the undeveloped areas of the site including open amenity areas within the housing development, the woodlands and the open land formerly comprising the Male Homes part of the site
- iii. Arrangements for the provision of public access to the open land including the provision for walking and cycling between Queslett Road and Chapel Lane using Sutton's Drive.

*Reason:* To ensure the satisfactory maintenance of the open areas of the site and public access.

6. All hard and soft landscape works approved by subsequent reserved matters submissions shall be carried out for each phase of the development within 12 months of the completion of the last dwelling in that phase of the development.

*Reason:* To ensure the satisfactory appearance of the development.

#### *Ecological Management*

7. Prior to the completion of the amended ground levels, topography and landscaping works a revised Ecological Management Plan to take account of the amendments shall be submitted to and approved in writing to the local planning authority. The Ecological Management Plan shall include long term design objectives, including phasing of works to limit public access to the woodlands within and adjoining the site; the identification of significant ecological interests and measures to protect these ecological interests in the woodlands within the site; and its relationship to with the Landscape Management Plan required by Condition 5. The Ecological Management Plan shall be implemented in accordance with the phasing and timing of works contained therein.

*Reason:* To ensure the protection of wildlife and/or protected species on the site.

#### *Cycle and Pedestrian Access*

8. The pedestrian and cycle route between the site and 42 Park Farm Road shall be maintained in accordance with approved details and remain available for use by the public.

*Reason:* To secure sustainable cycle and pedestrian links to the wider area.

#### *Highway Access*

9. No access to the development site for motor vehicles except emergency service vehicles shall be made to the site other than from the improved access onto Queslett Road.

*Reason:* To maintain highway safety.

10. No dwelling shall be occupied until the parking area for that dwelling, and vehicle and pedestrian access to the dwelling from the public highway, has been hard surfaced.

*Reason:* To ensure the satisfactory completion of the development and availability of parking.

#### *Drainage*

11. Details of the scheme for foul and surface drainage for each phase of the development shall be submitted and approved by the local planning authority prior to the commencement of built development on that phase of development. The drainage works shall be carried out in accordance with the approved details.

*Reason:* To ensure the satisfactory development of the site.

#### *Trees*

12. All tree protection measures shall be implemented in accordance with the details submitted under application 02/2417/OL/E2.

*Reason:* To ensure the protection of retained trees.

13. No underground service shall be sited within the crown spread of any tree to be retained except where otherwise agreed in writing by the local planning authority.

*Reason:* To ensure the protection of retained trees.

14. No storage of plant, machinery or materials, the driving of vehicles or lighting of fires shall take place under the canopy of any retained tree throughout the construction period.

*Reason:* To ensure the protection of retained trees.

#### *Implementation*

15. Notwithstanding details previously submitted full details of the following matters shall be submitted to and agreed in writing by the local planning authority prior to the implementation of the works:

(a) Specification of the works for the restoration of the Gothic Bridge including a full repairs schedule and arrangements for the commencement and completion of the works;

(b) The timing of and arrangement for the removal of the concrete pedestrian bridge situated alongside the Gothic Bridge.

(c) The specification of works for the restoration of the Walled Garden including details of the existing and proposed ground levels; tree clearance; the repairs to the walls, the landscaping of the Walled Garden and the timing for completion of these works.

(d) The scheme for the restoration of the natural ground levels, topography and landscaping of the former Male Homes part of the site shall be carried out in accordance with the submitted details referred to in condition 2 of this permission. The reinstatement of the open water course between The Duckery and the Gothic Bridge; the removal of ornamental trees planted in association with the hospital development and the landscaping of this part of the site, including the provision of new tree and hedge planting and the removal of the bund on the north side of Sutton's Drive shall be implemented in accordance with an timetable to be first submitted to and agreed in writing with the local planning authority.

*Reason:* To ensure the satisfactory development of the site.

#### *Restriction of Permitted Development*

16. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or succeeding order or enactment, no development of the type specified below and within the following classes in Schedule 2 to the Order shall take place without prior approval of the local planning authority.

Part 1 - Development within the curtilage of a dwelling house

Class A: The enlargement, improvement or other alteration of a dwelling house.

Class B: The enlargement of a dwelling house consisting of an addition or alteration to its roof.

Class F: The provision within the curtilage of a dwelling house of a hard surface for any purpose incidental to the enjoyment of the dwelling house as such where such hard surface would be closer to a highway or other public area than the nearest part of the original dwelling facing that highway or public area.

Part 2 – Minor Operations

Class A: The erection, construction, maintenance, improvement or other alteration of a gate, fence, wall or other means of enclosure that is visible from a highway or other public area.

Class B: The formation, laying out and construction of a means of access to a highway.

*Routing of Services*

17. Save with the written approval of the local planning authority, all pipes; meter boxes; fibres; wires and cables required by statutory undertakers and all other appropriate bodies including cable TV operators or service providers of telecommunications shall be placed underground or in concealed locations, where this would not damage areas of ecological importance. Prior to any works referred to in this condition being carried out, areas of ecological importance shall have been previously defined on a plan submitted to and approved in writing by the local planning authority.

*Reason:* To safeguard areas of ecological importance.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 3.**

**Reason for bringing to committee: Major application.**

**Application Number:** 14/1734/FL

**Application Type:** Full application

**Applicant:** Joseph Leckie Academy

**Proposal:** Construction of three storey new building teaching block on existing school site at Joseph Leckie Academy together with associated landscape works

**Location:** JOSEPH LECKIE ACADEMY, WALSTEAD ROAD WEST, WALSALL, WS5 4PG

**Ward:** Palfrey

**Case Officer:** Katie Parsons

**Telephone Number:** 01922 652603

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

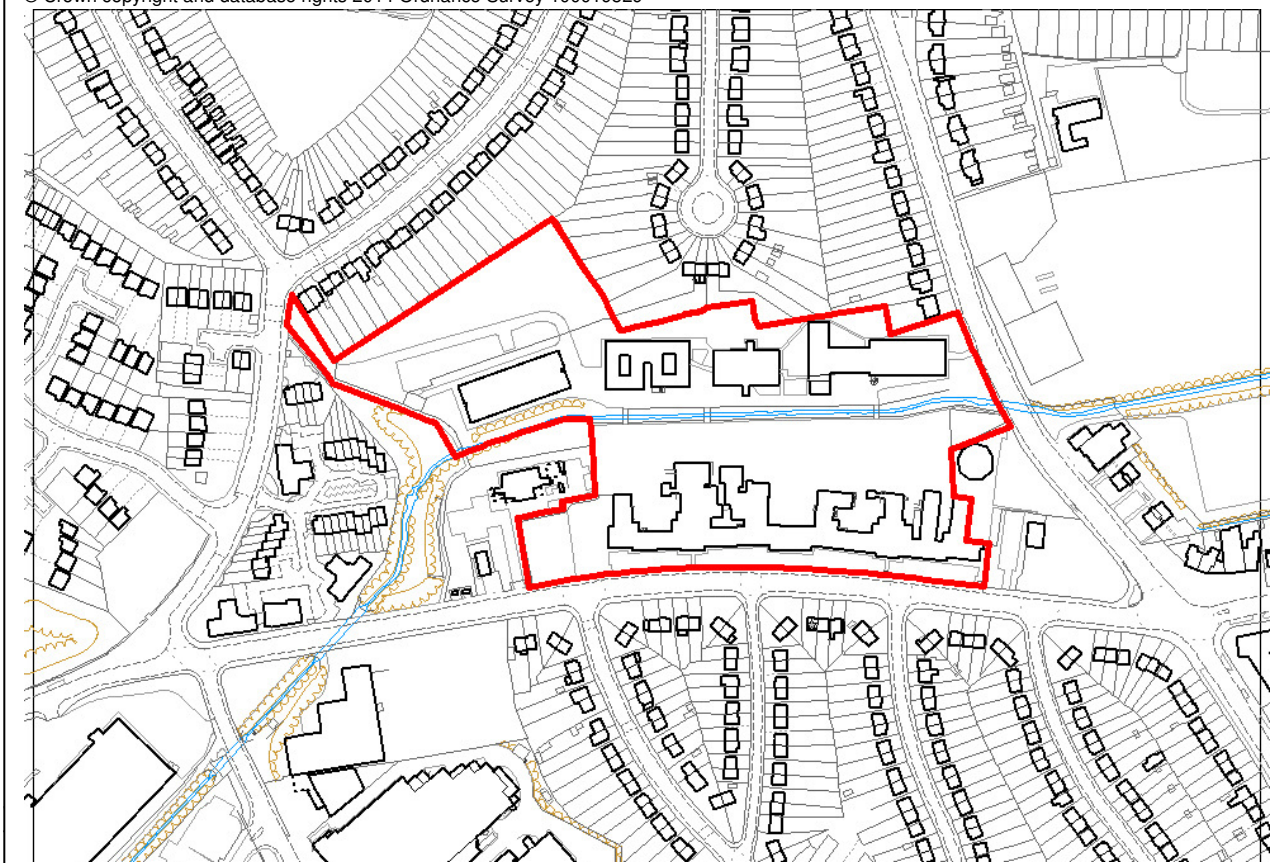
**Agent:** Seymour Harris Architecture

**Expired Date:** 08/04/2015

**Extension of Time Target Date:**

**Recommendation Summary:** Delegate to the Head of Planning and Building Control to approve subject to conditions (subject to any amendments or additional conditions deemed appropriate by officers), subject to receipt of an updated Flood Risk Assessment which does not raise materially different considerations to the submitted Flood Risk Assessment.

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## **Application and Site Details**

The application proposes erection of a three-storey teaching block, an air source heat pump in a compound adjacent to the building, changes to the hard and soft landscaping and some re-grading of levels. Whilst the school envisages a long-term master plan, this application relates to these works only.

The application site is the Joseph Leckie Academy campus, to the north of Walstead Road West. The original school buildings and car park are located to the south of the Full Brook, fronting Walstead Road West. Pedestrian access over the brook leads to further teaching blocks. There is a secondary vehicular access and parking to this part of the site from Lord Street. The proposed teaching block would be constructed on a partially wooded open space at the end of this access road, to the north of the existing teaching blocks (immediately adjacent to Colin Beilby and science blocks), which forms part of an area of designated Urban Open Space. The site is bounded to the north-east and north-west by houses fronting onto Alexandra Road and Brockhurst Street. It is heavily treed with some changes in levels created from soil displaced from the recent construction of the Colin Beilby block in 2009. The school playing fields are on a separate site to the east.

This is a Regulation 4 application as the site is owned by Walsall Council and leased to the Academy.

The proposal has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and was determined not to be EIA development.

Drawings have been received showing the existing and proposed site layout and details of the proposed building, compound, drainage, landscaping, construction site set up and site access/hoardings during construction.

The following supporting documents were also received and informed the assessment:

### **Arboricultural Survey**

Details a pre-development survey. Concludes that the site contains a number of young, early-mature and mature trees in generally fair condition. Recognises the screening and wildlife value of the trees but notes the lack of management may limit the life of the trees. Recommends tree protection to BS5837:2012 for retained trees.

### **Bat Survey**

Sets out that no existing buildings were surveyed as they would not be affected by the proposals, but confirms that existing trees would be suitable for roosting bats, although no evidence of bats was recorded on site. Notes that the trees, scrub and brook would also provide suitable foraging and commuting habitat for bats. Advises that external lighting should be avoided on the northern elevation of the proposed building, and other lighting should be directed to avoid illuminating the trees.

### **Coal Authority Mining Report**

Sets out that there are unlikely to be any risks associated with development of the site.

### **Construction Methodology Statement**

Relates to submitted drawings for the construction phase of development. Addresses matters such as contractor access, management of deliveries, parking, measures to prevent

mud and other debris being carried off site, dilapidations surveys and ecological mitigation during construction.

#### Design and Access Statement

Sets out the proposal; assesses the local area and site constraints/opportunities; explains the context and rationale of the proposal and the alternative options considered; sets out the design process and sustainability measures; summarises the conclusions of the reports accompanying the application. Explains that the original school buildings were originally to be demolished and replaced as part of the Building Schools for the Future initiative, which was discontinued after only the Colin Beilby block was constructed. This application proposes to continue the refurbishment of the school, but with an altered program due to reduced funding. Phase construction and demolition would take place, and eventually it is envisaged that the original school buildings would be demolished, with sports pitches installed. The applicant also submitted some community engagement feedback forms to demonstrate the pre-application publicity carried out.

#### Drainage Statement

Summarises the conclusions of the Flood Risk Assessment; sets out the surface water strategy and methods for minimising water course pollution.

#### Flood Risk Assessment

Examines the flood risk and drainage implications of the proposals and concludes the development would not increase flood risk, subject to suitable finished floor levels of the building and surface water drainage management. It is noted that the report is dated 2008 and relates to the previous application for the Colin Beilby building, adjacent to the current site. An updated report has been requested.

#### Ground Investigation Report

Assesses the geology, hydrology and hydrogeology of the site and potential for contamination; discusses results of gas and groundwater monitoring; makes recommendations for the safe construction of the proposed building. It is noted that the report is dated 2008 and relates to the previous application for the Colin Beilby building, adjacent to the current site. A ground investigation statement was also submitted providing an update to the report, including conclusions of further site investigation works at the current application site specifically.

#### Noise Survey Report

Establishes the existing noise levels across the site to determine the ventilation strategy for the proposed development, to ensure that users are not unduly exposed to noise particularly from the motorway to the south of the site. Concludes that the development would meet BB93 'Acoustic Design of Schools' guidance. This was supplemented by an Acoustic Design Note addressing queries raised by Pollution Control.

#### Phase I and Phase II Geo-Environmental Assessment

Follows on from the findings of the Ground Investigation Report. Considers the geology, hydrology and hydrogeology of the site following intrusive investigations and includes risk assessments. Makes recommendations the safe construction of the proposed building based on the geotechnical conclusions.

#### Planning Statement

Explains the proposal, its context, and assesses it in relation to relevant planning policies. Sets out the pre-submission community engagement carried out by the school and states



that the project timeline did not allow time for detailed pre-application discussions with the Local Planning Authority.

#### Preliminary Ecological Assessment

Sets out the conclusions of a ecological desk study and walkover survey. Makes recommendations in relation to landscaping, watercourse protection, tree/hedgerow/woodland protection, wildlife protection and invasive species.

A detailed letter covering many issues raised in the first round of consultations was also submitted, supplementing the information previous submitted or supporting amended plans.

#### Relevant Planning History

07/2733/FL/W6 - New classroom block and extension of school site – approved 15/07/2008

#### Relevant Planning Policy Summary

Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration in planning decisions and sets out that “... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

#### **National Planning Policy Framework 2012 (NPPF) and associated guidance**

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*”.

It is based on 12 **core planning principles**. Those particularly relevant in this case are:

- Proactively drive and support sustainable economic development
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas
- Support the transition to a low carbon future in a changing climate
- Conserving and enhancing the natural environment and reducing pollution
- Actively manage patterns of growth
- Deliver sufficient community facilities and services to meet local needs

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 **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.

#### **The Black Country Core Strategy (BCCS)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

These Policies are considered to be consistent with the NPPF.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies, as relevant to this application:

CSP2 sets the priorities for development outside the growth network, including community facilities.

CSP3 requires development to protect and enhance environmental infrastructure

CSP4 requires development to make a positive contribution to place-making

CSP5 sets out the transport strategy to support development across the Black Country

HOU5 states that the existing network of education facilities will be protected and enhanced.

ENV1 requires development to safeguard nature conservation

ENV2 requires development to protect and promote local distinctiveness

ENV3 promotes high quality design and sustainability

ENV5 relates to flood risk and sustainable drainage systems

ENV6 promotes high quality open spaces and environmental quality and resists the loss of open space

ENV7 promotes renewable energy measures in development.

ENV8 relates to air quality.

WM1 promotes sustainable waste and resource management

WM5 relates to resource management in new development

## **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

These 'Saved' Policies are considered to be consistent with the NPPF.

The 'Saved' Policies relevant to this proposal are:

GP2 requires developments to make a positive contribution to the quality of the environment and sustainable development principles.

GP5 promotes equal opportunities in the design of developments.

GP6 requires access for disabled people.

ENV10 seeks to protect users of new developments from pollution

ENV11 controls the effects of light pollution

ENV17 supports new tree and hedgerow planting.

ENV18 seeks to protect, enhance and positively manage existing woodlands, trees and hedgerows.

ENV23 promotes enhancing habitats and nature conservation.

ENV32 promotes high quality development and sets out how the quality of design of proposals will be assessed.

ENV33 requires good landscape design to form part of proposals

ENV40 requires conservation and protection of water resources

T1 sets out measures to assist people to get around developments and the Borough

T8 promotes pedestrian routes.

T10 relates to general accessibility standards.

T11 relates to access for pedestrians, cyclists and wheelchair users

T12 relates to access by public transport

LC1 seeks to retain and enhance existing urban open spaces and resists the loss of open space

## **Supplementary Planning Documents**

[http://cms.walsall.gov.uk/index/environment/planning/planning\\_policy/local\\_development\\_framework/ldf\\_supplementary\\_planning\\_documents.htm](http://cms.walsall.gov.uk/index/environment/planning/planning_policy/local_development_framework/ldf_supplementary_planning_documents.htm)

Where relevant BCCS and UDP policies are consistent with the NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy.

The SPDs relevant to this application are:

### **Conserving Walsall's Natural Environment**

Relates to development with the potential to affect species, habitats or earth heritage features and seeks to protect and enhance habitats and biodiversity.

### **Designing Walsall SPD**

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles.

## **Consultations**

**Access Officer** – no objections.

**Area Partnership** – no objections.

**Building Control** - no comments received.

**Coal Authority** – no objections.

**Communities and Public Protection** – no objections.

**Education Walsall** – no objections.

**Environment Agency** – no objections.

**Environmental Health** – no objections.

**Highway Authority** – In respect of this application the Highway Authority would have No Objection to the proposed development shown on drawing no. AP(0)103 Rev E dated 18th February 2015, subject to the following condition relating to construction:

*The Construction Methodology Statement shall be fully implemented in accordance with the approved details during the period of construction, including the Dilapidation Survey of the access area in Lord Street to be undertaken prior to works commencing on site and in conjunction with the Highway Authority.*

*Reason: To ensure that any damage caused to the public highway during the period of construction works shall be reinstated to the satisfaction of the Highway Authority, in the interests of highway safety.*

Notes: The development looks to construct a new 21 classroom teaching block in accordance with the approved masterplan to replace existing outmoded and inefficient workspaces which will be mothballed with a view to future demolition. The development does not involve expansion of pupil numbers but is solely to replace existing buildings.

**Natural Environment Team (Ecology)** – No objection on ecological grounds. The recommendations in the two ecological reports should be secured by condition.

**Natural Environment Team (Landscape)** – The development is acceptable in principal; however further information should be provided as a planning condition:

*Prior to the commencement of development, a detailed landscaping scheme and maintenance strategy for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include where applicable, details of:*

- *Specification and depths of topsoil/ subsoil/ growing medium and any mulches. Note: herbaceous / shrub / hedgerow planting areas should have 450mm topsoil and grass seeded / turfed areas should have at least 150mm. Topsoil specification to relevant British Standard. If existing soils are to be used, details of its retention, improvement, cultivation or safe storage for re-use should be specified.*
- *Further details of proposed tree/plant species, number of plants/shrubs, size at time of planting, density, ground surface treatment, tree support and tree pit details, root barriers and mulching. full details of sizes/ container volumes/ plant numbers/ provenance/ botanical and English names and methods of planting.*
- *Details of proposed turf / seeded areas*
- *Full specification for walls, fences, gates (boundary and internal, showing materials, heights and location), and paving (materials and layout).*
- *Drainage including SUDS*
- *Details of landscape establishment / maintenance proposals to be undertaken during the standard conditioned maintenance period.*

(Case officer comment –these items are addressed by the latest revision of the soft landscaping plan therefore compliance with that plan should be secured by condition)

**Natural Environment Team (Trees)** – The proposal will result in the removal of a significant amount of trees within a wooded area to the north of the site. The wood is of high amenity value and performs a significant screen function between the site and the residential properties to the north and west, as recognised by the applicant in their Cover Letter. The Arboricultural Report only indicates 3 trees to be removed. However, many more will be removed due to the trees within the footprint of the building being surveyed as a group and not individually. These trees should have been surveyed individually as they are of sufficient size and standing within the woodland to warrant so.

The orientation of the building will impact on the long-term retention of boundary trees that perform a good screen function between the site and adjacent residential properties. Re-orientating the building to that which resembles the existing building to the south would have less of an impact on the boundary trees and enable far more to be retained, and at locations that would have a reduced impact on the building through shade and proximity. The Soft Landscape Planting Details (Drawing 1) referred to on the Site Plan (Rev B) do not address, or compensate for, the amount of tree removals both within the site and on the site boundaries. If this scheme is considered for approval, a condition requiring the submission of planting details that addresses all the tree removals must be included.

**Pollution Control** – Comments received as follows:

Noise – Acoustic Design Note 19.02.15

Pollution Control still has concerns about the response from the acoustic consultants. The noise assessment is relying on the suitability of a survey that was conducted over a 2-hour period between 0900 and 1100. Using the data from this survey the consultant is advising that their BB93 assessment shows that the desirable noise levels inside the building will be exceeded by 2 dB(A). The submitted assessment did not contain information relating to traffic conditions during this measurement. While it is accepted that noise from the M6 motorway is the dominant source in the area it is not clear if the results are typical or atypical. Additionally, consideration of impact of noise on upper floor rooms and the effect of shielding by existing buildings at this site is an important factor. Regarding the consultant advice about noise source being planar, without looking at the geographical layout and impacts of other structures between the motorway and the proposed classrooms, it is not possible to advise whether such a comment can be agreed with or not.

As pointed out previously, Pollution Control has an issue over what values the consultants have used for the sound insulation for the acoustic performance of an open window, Mach Acoustics have used a design target of 14 dB, whereas Pollution Control Officers have found such levels to be as low as 8 dB. The consultants are of the opinion that they can specify a glazing system that can achieve 14 dB, it is therefore recommended that this is included as a planning condition. Albeit the new BB93 criteria states that a general teaching space within a new build development has to achieve a target of 40dB LAeq,30mins, which will provide some grace to the acoustic designers, the main issue remains about the noise survey that identifies sound levels the facades will be exposed to and what period of measurement is acceptable to demonstrate noise levels are typical for a site.

Recommended condition:

A. An acoustic survey shall be carried out using measurement periods representative of the proposed building occupancy and containing traffic flow data to demonstrate that the ambient noise levels reported in Noise Survey Report, dated 15/10/14 are typical of the noise climate. The result of the survey shall be provided to and approved in writing by the Local Planning Authority.

B. Using acoustic data obtained as prescribed in the condition above, details of the design and acoustic performance of glazing elements to be installed into the building shall be submitted to and approved in writing by the Local Planning Authority

Other comments previously submitted remain relevant as no additional information has been provided:

#### Contaminated Land

The latest report submitted confirms that elevated levels of ground gas (carbon dioxide and methane) have been recorded on site accordingly the site conditions have been characterised as 'Characteristic Situation 2', in accordance with CIRIA C665 guidance 'Assessing risks posed by hazardous ground gases to buildings'.

Consultant has advised that ground gas protection should be incorporated into the building and indicates that a suspended floor slab is to be used incorporating a 2000 gauge DPM/reinforced gas membrane, with the sealing of all joints and service penetrations. Pollution Control does not object to this arrangement, however, it is required that the developer confirms in writing how they intend to deliver the consultant's recommendation and validate that this has been implemented with the Local Planning Authority prior to construction continuing above the gas protection layer.

#### Recommended conditions:

1. Details of ground gas ingress protection measures to be installed in the proposed building shall be provided to and agreed in writing with the Local Planning Authority prior to development commencing.

#### *Note for Applicant:*

*Advice on basic ground gas ingress protection requirements can be found by reference to the following publication; "Protective measures for housing on gas-contaminated land", BRE Report 414, ISBN 1 86081460 3 (contact CRC Ltd 020 7505 6622 for order information).*

2. 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.

#### Construction Phase / Ground Vibration - Piling

The ground investigation indicates that piling is recommended for the purposes of foundation design / ground stabilisation. There is no qualification as to whether this involves for example impact driven, vibratory, jacked or auger-bored techniques, and given the proximity to extant vibration-sensitive development it is recommended that any planning permission includes commensurate restrictions on permitted levels of vibrations, noise and working hours. The following recommended condition is likely to require revision in light of further technical information becoming available.

Recommended conditions:

1. Levels of structure-borne vibration transmitted to occupied buildings shall not exceed specified criteria for 'low probability of adverse comment' with reference to British Standard BS 6472: 2008 'Guide to Evaluation of human exposure to vibration in buildings'.

2. No 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 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)

*Case officer comments – some of these conditions have been re-worded in the recommendation to ensure they are enforceable)*

**Structures and Geotechnics** – The site is located outside zone of consideration for limestone working and also appear not to have been affected by any coal mining in the past.

**West Midlands Fire Service** – no objections subject to no restrictions or detrimental changes to the existing access road.

**Western Power** - no comments received.

### **Public Participation Responses**

One local resident has objected to the application for the following reasons:

- The proposal would lead to previously private areas being overlooked leading to loss of privacy
- The height and proximity of the development would lead to unreasonable overshadowing
- Loss of trees
- Impact on wildlife
- Noise, disturbance and risk of damage to neighbouring properties all increased due to closer proximity of building

These concerns are addressed in the relevant parts of the report.

### **Determining Issues**

- Principle of development
- Design, appearance and character
- Residential amenity
- Access and highways considerations
- Drainage and flood risk

### **Observations**

### **Principle of development**

The site is located within the settlement boundary, on an existing school site. The area of proposed works is allocated as part of a larger Urban Open Space. The applicant, through the submitted Design and Access Statement, has set out why this is the only feasible location for a new teaching block as demolitions would be required to accommodate it elsewhere on the site, which would cause temporary loss of teaching space and other ancillary accommodation as well as causing disruption and health and safety concerns for the day-to-day running of the school and being beyond the scope of the available budget.

The Design and Access Statement also contains an Urban Open Space Statement, which explains that the site is currently fenced off and used for access and egress only, with no recreational activities taking place on the land. Part of the Urban Open Space has already been taken up by the Colin Beilby building, previously granted planning permission adjacent to the current proposal. An area of the open space to the west of the site would remain untouched by this proposal. Only the area already within the developed part would be developed further. This currently has the appearance of a roadway verge rather than an area of open space. This application proposes to realign fence lines to provide a more coherent area of open space around the proposed new building and Colin Beilby building, and to enhance it through hard and soft landscaping.

Although the proposal results in the loss of the open space overall, the open space statement clearly demonstrates that the school has a surplus of land for its own purposes. Also, whilst the quantity would be reduced, the overall value and quality of the remaining open space would be improved following the implementation of the proposed landscape plan; and the plans illustrate how a previously inaccessible section of open space would come back into use, whilst accommodating an additional teaching facility. Furthermore, although there are three trees to be lost, the majority remain, and would serve to screen the development from the surrounding residential area.

It is also noted that the master plan for the school site eventually proposes the demolition of the original school buildings and provision of sports pitches, which would significantly improve the quality and quantity of open space at the site.

As such the principle of development is considered to be acceptable.

### **Design, appearance and character**

As previously discussed, this part of the site is the most feasible option for the proposed new teaching block. However it is constrained by underground services, a sewer easement, the need to maintain emergency vehicle access to the north part of the site, significant tree coverage, and level changes. This has largely dictated the position chosen for the building. Three surveyed trees, and several trees within the group designation which were not surveyed due to their size, would be removed to accommodate the building. This is unavoidable due to the restricted options for the building location. There is concern that additional trees are likely to need to be removed in the future either due to damage to their roots during construction, or due to them becoming too close to the building as they reach maturity. The amenity and screening value of these trees is recognised. However it is acknowledged that this is the best option for the proposal and that this development is required to allow the school to provide high quality teaching accommodation to students. Without the development it is unlikely that the school could continue to accommodate its current maximum student roll as classrooms within the original school building are accelerating towards becoming unusable. As highlighted in the Design and Access



Statement, the building would relate well to existing school accommodation and open up a currently underutilised part of the site. On balance the proposal to build in this location is therefore supported despite the loss of trees. Seven replacement trees are shown on the landscape plans and a condition is recommended to ensure additional tree planting is undertaken to account for any additional removals that take place, as it is considered likely more than three will be removed to construct the building.

The building would have three storeys and would be partially cut into the existing slope to allow it to sit at a similar ground level to surrounding blocks. The building would have a flat roof concealed by a parapet (to screen plant and solar PV panels) and a double-height cantilevered feature entrance. Some of the windows on the side elevations would be openable for ventilation but screened by projecting feature anodised aluminium mesh panels to provide security whilst the windows are open. This adds some visual interest to the elevations of the building, because other than the feature entrance the building has a box-like appearance with repetitive window placement. Whilst very modern in character, the building would sit satisfactorily alongside existing buildings at the site and would reflect the predominate red-brick used across the majority of the site. The adjacent Colin Beilby block is quite utilitarian in appearance, with dark grey and blue brickwork, but is itself the anomaly on an otherwise red-brick campus.

The air source heat pump compound would be as close to the new building as practical, although a certain distance must remain to ensure the noise from the compound does not affect noise inside the new building. It would be enclosed by timber fencing and planting to screen it visually and acoustically.

The proposed site plan shows the areas where existing landscaping and trees would remain, where trees would be removed and where new hard and soft landscaping would be created. The existing access road would be reshaped to run across the front of the new building and some re-grading of levels would be required to accommodate the building into the slope, necessitating some vegetation removal. Soil removed from the building works would be deposited onto the adjacent strip of existing grass and seeded with new grass to create a landscaped mound. The orientation of the building and access road lead to some potentially awkward areas of soft landscaping but the scheme is considered to be acceptable on balance and would improve the appearance of this part of the site.

The building would incorporate onsite renewables, an energy efficient fabric and natural ventilation, but BREEAM accreditation is not proposed.

The building has been designed to be fully DDA-compliant and accessible to all, and will also comply with BS8300 and Part M of the Building Regulations.

A noise survey has been submitted demonstrating that internal noise levels would be acceptable but as some concerns have been raised about the conclusions, conditions are recommended to secure further data and details of proposed glazing.

A contaminated land investigation has also been carried out which recommends mitigation measures therefore a condition is recommended to ensure mitigation measures are approved and installed.

None of the submitted plans show the proposed lighting scheme, and it is important to biodiversity that this is controlled, therefore a condition is required stating that no lighting is to be installed until it has been approved.

## **Residential amenity**

The submitted sections show that the building would not be significantly higher than existing trees on the site. The existing trees at the northern boundary of the site provide screening to surrounding residential properties. These would be retained – the three tree removals would be further down the slope at the edge of the building. On the basis that the existing trees would remain, it is considered that the proposed building would not introduce significant additional shadowing over and above that already caused by the trees. The presence of the trees and the separation distance between the proposed building and the closest residential dwellings (approximately 50m) is also considered to mitigate any additional overlooking that may occur; it is considered that no significant loss of privacy would occur.

It is recognised that some noise and disturbance may occur during construction. Pollution Control have recommended conditions to restrict the days and hours of construction work and limit vibrations to surrounding occupiers, in the interests of residential amenity.

Concern has also been raised that the principle of the proposal would increase noise, disturbance and security risks to nearby occupiers. However this is already part of the school site and can already been used by the school therefore the proposal is not considered to introduce material harm.

## **Access and highway considerations**

The school currently accommodated 1200 secondary school and 300 sixth form students. This is not proposed to change as a result of the proposals because the 21 new classrooms would replace existing out-dated classrooms in the original school building, which would be vacated with a view to future demolition. As no additional car parking is proposed to support the new teaching block, a condition is recommend to ensure that the school roll is not increased above existing. No new access to the site is proposed, rather a reconfiguration of the existing secondary access within the site boundaries and some new hard landscaping for pedestrian circulation. The Highway Authority has confirmed no objection to the proposals provided that a condition requiring a Construction Method Statement to be submitted, to include a dilapidations survey and reinstatement of any damage caused by construction to the Lord Street entrance to the site.

## **Drainage and flood risk**

Parts of the school site are located within Flood Zone 3, due to the Full Brook running through the site. However the proposed building would be located entirely within Flood Zone 1 and although hard and soft landscaping works would be carried out within the Flood Zone, the applicant has confirmed that surface water runoff will be attenuated to existing Greenfield Runoff rates, managed by a flow control device. As the building would be located within Flood Zone 1, it has not been considered necessary to apply the Exception Test to the development. The existing soils are largely impermeable therefore infiltration is not a solution for surface water run-off in this instance. Instead underground storage beneath the porous paved areas is proposed, discharging to the Full Brook. It is noted that the submitted Flood Risk Assessment dates from 2008 and was prepared in relation to the now-constructed Colin Beilby building but the background data and conclusions are considered likely to be equally applicable to this proposal. However an updated report has been requested to confirm this. Should the updated report include different conclusions then officers will provide an update to the Committee on a supplementary report.

## **Conclusions**

The application is considered to be acceptable subject to suitable conditions, subject to receipt of the updated Flood Risk Assessment.

## **Positive and Proactive working with the applicant**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long that they safeguard the natural and built environment, highway network and the amenity of citizens.

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## **Recommendation**

Delegate to the Head of Planning and Building Control to approve subject to conditions (subject to any amendments or additional conditions deemed appropriate by officers), subject to receipt of an updated Flood Risk Assessment which does not raise materially different considerations to the submitted Flood Risk Assessment.

## **Conditions**

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

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and details:

Drawing Number 1 'Soft Landscaping Planting Details'  
AP(0)102 'Site Location Plan'  
AP(0)103 Rev E 'Block Plan/Site Plan'  
AP(0)106 Rev B 'Proposed Site Plan'  
AP(0)108 Rev A 'Proposed Site Sections'  
AP(0)110 Rev A 'Proposed Site Sections'  
AP(0)201 'GA Ground Floor Plan'  
AP(0)202 'GA First Floor Plan'  
AP(0)203 'GA Second Floor Plan'  
AP(0)204 'GA Roof Plan'  
AP(0)401 'North and East Elevations'  
AP(0)402 'South and West elevations'  
AP(0)601 'Typical Bay Plan Detail'  
AP(0)602 'Hard Landscape Material Samples'  
AP(0)603 'Building Material Samples'

REASON: to define the permission and ensure the development is carried out in accordance with the approved plans and details.

3. The external surfaces of the development hereby permitted shall be constructed of the materials specified in the approved plans, or alternatives of substantially the same external appearance should the specified materials be unavailable.

REASON: In the interests of the visual amenities of the area.

4. No, 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 Monday to Friday 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)

REASON: To protect the amenities of the local area and nearby residential occupiers.

5. Levels of structure-borne vibration transmitted to occupied buildings from the development site shall not exceed specified criteria for 'low probability of adverse comment' with reference to British Standard BS 6472: 2008 'Guide to Evaluation of human exposure to vibration in buildings'.

REASON: To protect the amenities of the local area and nearby residential occupiers.

6. A. No development shall take place until a Construction Methodology Statement has been submitted to an approved in writing by the Local Planning Authority, together with amended versions of the submitted 'Contractor Access/Hoarding Plan' and 'Contractor Site Set-Up Plan'. The statement and plans shall include: full details of the measures to be taken to prevent mud and other debris from the site being deposited on the public highway; identify areas for the parking of site operatives and turning area(s) for delivery vehicles within the site; details of the management of site deliveries to avoid peak school traffic periods; details of the temporary access arrangements in Lord Street including a dilapidation survey to be undertaken with the Highway Authority; ecological mitigation during construction; tree protection locations.

B. Development shall be carried out only in accordance with the approved Construction Methodology Statement. Any damage caused to the public highway during the period of construction shall be reinstated to the satisfaction of the Highway Authority.

REASON: To ensure the safe and satisfactory operation of the development during the period of construction, in the interests of highway safety, and protection of trees and biodiversity.

7. A. No development shall take place until an acoustic survey has been carried out using measurement periods representative of the proposed building occupancy and containing traffic flow data to demonstrate that the ambient noise levels reported in the submitted Noise Survey Report, dated 15/10/14 are typical of the noise climate, and the results and recommendations have been submitted to and approved in writing by the Local Planning Authority.

B. No development shall take place until, using the approved acoustic data, details of the design and acoustic performance of glazing elements to be installed into the building have been submitted to and approved in writing by the Local Planning Authority.

C. The development shall be carried out in accordance with the approved details and retained as such thereafter.

REASON: to ensure acceptable internal noise levels for users of the development.

8. A. No development shall take place until details of ground gas ingress protection measures to be installed in the building have been submitted to and approved in writing by the Local Planning Authority.

B. The development shall be carried out in accordance with the approved ground gas ingress protection measures.

C. The development shall not be occupied until a validation report confirming the details of the measures implemented and substantiating information and justification of any changes from the approved remedial arrangements has been submitted to and approved in writing by the Local Planning Authority.

REASON: to ensure any risks from ground gas are mitigated prior to development.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any Order revoking and re-enacting that order, no external lighting shall be installed on the site or affixed to any buildings on the site except in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Such details should include the location, type, technical specifications and hours of operation for the lighting and light spill plans. The lighting scheme shall be designed to minimise impacts on biodiversity and to minimise light spill to nearby residential properties, ensuring that lighting is directed downwards and inwards by the use of hoods or cowls.

REASON: in the interests of visual amenity, residential amenity and nature conservation.

10. The number of pupils on The Joseph Leckie Academy roll shall be limited to no more than 1500 total (secondary school plus sixth form) at any one time.

REASON: To ensure that the development does not give rise to an increase in traffic to and from the school, which could result in a detrimental and unmitigated impacts on car parking requirements and the local road network.

11. A. The development hereby permitted shall be carried out in accordance with the mitigation measures outlined in the submitted Bat Survey and Preliminary Ecological Assessment.

B. An ecological site inspection report demonstrating compliance with those recommendations shall be submitted to the Local Planning Authority for approval within three months of the first occupation of the building hereby approved.

REASON: In the interests of nature conservation

12. A. Following the completion of any arboricultural works but before any equipment, materials or machinery are brought onto the site in connection with the development, protective fencing and ground protection such as geomembrane or scaffold boards shall be installed around all trees and vegetation shown for retention on the approved plans, in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority

B. After the tree protection has been installed on the site in accordance with the approved details, and before any development takes place, the developer shall notify the Council's Arboricultural officer to allow a full inspection of the protection measures. No development shall commence until the Local Planning Authority has confirmed in writing that the Arboricultural Officer is satisfied with the installation of the tree protection.

C. The approved tree protection measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within those areas shall not be altered, nor shall any excavation or vehicular access be made, without the written consent of the Local Planning Authority.

REASON: In the interests of protecting retained trees.

13. The development hereby permitted shall be carried out in accordance with the submitted Drainage Statement, Flood Risk Assessment and approved Drainage Layout plan.

REASON: To ensure the development does not increase flood risk on or off site.

14. A. All planting shown on the approved plans shall be carried out and completed in accordance with the approved scheme in the nearest planting season (01 October to 31 March inclusive) to the completion of the development, or prior to first occupation of the development whichever is the sooner.

B. All hard landscaping works shown on the approved plans shall be carried out and completed in full accordance with the approved scheme prior to first occupation of the development.

C. As a minimum, the quality of all hard and soft landscaping works shall be carried out in accordance with British Standard 4428:1989 'Code of Practice for General landscape Operations' or any subsequent revision.

D. All trees and other plants included within the approved works shall be healthy, well formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees and Shrubs' and British Standard 4043 (where applicable) (or any subsequent revision).

E. No retained tree (whether surveyed as an individual or as part of a group), hedgerow or group of shrubs shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, unless otherwise agreed in writing by the Local Planning Authority. Any topping or lopping shall be carried out in accordance with British Standard 3998:2010 (Tree Work) and in accordance with any approved arboricultural method statement.

F. Any trees or other plants (either retained or forming part of the approved soft landscaping scheme or planted as a replacement for another tree or plant) which, during the course of the development or within a period of 5 years from the either the completion of the development or the planting of that tree or plant (whichever is the later), die, are removed, uprooted, destroyed, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (01 October to 31 March inclusive), either with others of the same size, species and quality as approved and shall be planted in the same place, or in accordance with a revised soft landscaping scheme which has first been submitted to and approved in writing by the Local Planning Authority.

G. Any areas shown for soft landscaping purposes on the approved plans shall be retained as such and shall not be removed or used for any other purpose.

H. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and/or re-enacting that Order with or without modification), no hard surfaces other than those shown on the approved drawings shall be provided on the site.

REASON: In the interests of nature conservation, to safeguard existing retained trees, hedges and shrubs, good landscape design, the visual amenity of the area and reducing flood risk from surface water run-off.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 4.**

**Reason for bringing to committee: Major Application**

**Application Number:** 14/1869/FL

**Application Type:** Full application

**Applicant:** Mr P Weaver

**Proposal:** Redevelopment of existing block of flats to convert from 6 x 1 bed and 3 x 2 bed units to 9 x 1 bed units and 6 x studio apartments.

**Location:** CROFT APARTMENTS, CROFT STREET, WILLENHALL, WV13 2NU

**Ward:** Willenhall South

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652615

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

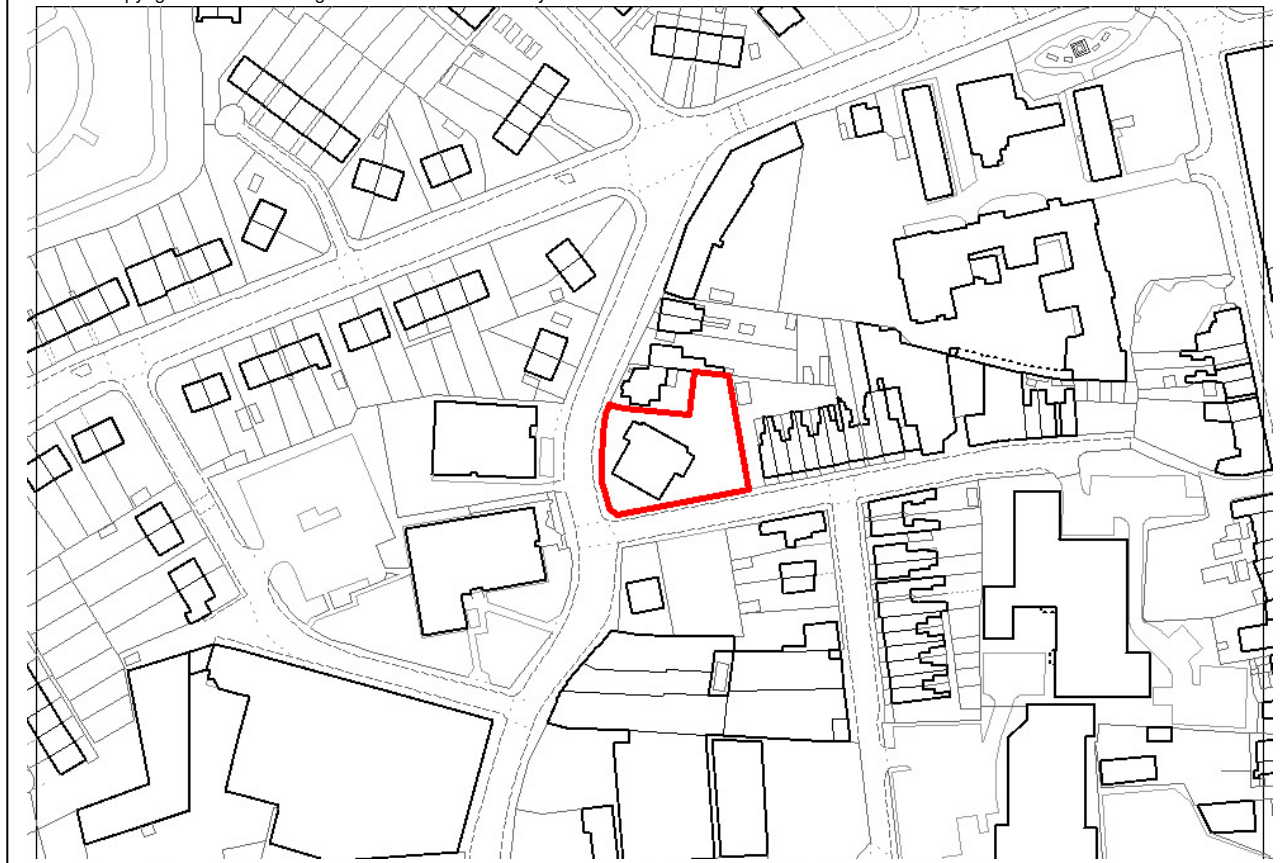
**Agent:** W Jones Associates Ltd

**Expired Date:** 15/04/2015

**Extension of Time Target Date:**

**Recommendation Summary:** Grant Permission Subject to Conditions

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## **Application and Site Details**

The site is situated on the corner of Croft Street and Field Street and comprises a 1990's three storey building which provides 9 residential units, 6 x 1 bed flats and 3 x 2 bed flats, three on each floor. The building sits on an angle on the front corner of the site and has tile hanging at second floor level and a mansard roof design. Vehicle access to 13 parking spaces and a refuse area is situated off Croft Street. The building is surrounded on the frontage by grass and landscaping.

The site is situated 25m to the west of the Willenhall district centre in a mixed use area. Two storey residential properties are situated to the north in Field Street, a Salvation Army hall and clinic to the west in Field Street and commercial premises to the south in Field Street and Gomer Street. Terraced houses lie to the east in Croft Street and Gomer Street with a large health centre and community centre to the south east in Gomer Street.

This application proposes internal alterations to the building to provide 15 residential units, 9 x 1 bed units and 6 x studio apartments with 3 x 1 bed units and 2 studio apartments on each floor of the building. The conversion would involve internal works only with no alterations to the external appearance of the building.

The proposals also include a reorganisation of the existing parking area to provide 14 parking spaces and 1 disabled parking space. The existing refuse area to the side of the access would be reused and a cycle store provided.

The application is supported by a Design & Access Statement which describes the existing building and the site, discusses the reason/need for the proposals, describes the works, parking and amenity.

## **Relevant Planning History**

BC29194P, erection of 9 flats, granted subject to conditions 22-03-90.

## **Relevant Planning Policy Summary**

### **National Planning Policy**

#### **National Planning Policy Framework (NPPF)**

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*".

#### **4. Promoting sustainable transport**

32 All development should have safe and suitable access to the site for all people. Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

35 Developments should be located and designed where practical to: accommodated efficient delivery of goods, give priority to pedestrian and cycle movements, create safe and secure layouts.

#### **6: Delivering a wide choice of high quality homes**

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

#### 7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. states permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of the area and the way it functions.

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. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

#### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

#### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be

published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The key planning policies include:

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CSP4: A high quality of design of the built and natural environment is required.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness.

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: New developments and existing facilities must demonstrate their travel and transportation impacts together with proposals for mitigation.

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV32: Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

H3: Encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

Flats – 1.5 spaces per unit

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

#### **Designing Walsall SPD**

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

### **Consultations**

**Transportation** – No objections subject to conditions to ensure that car parking area is consolidated, surfaced, drained and demarcated and cycle storage is provided.

**Housing Strategy** – No objections, the proposals would add 6 residential units and provide smaller units to meet the needs of those requiring more affordable and 1 bed units would be easier to heat. As the net increase in units is only 6 the affordable housing provisions of HOU3 do not apply.

**Housing Standards** – No objections, the proposed flats and studios would meet the floor area requirements and fire detection and precautions would be required in line with current building regulations.

**Fire Officer** – No adverse comments.

### **Public Participation Responses**

None

### **Determining issues**

- The Principle of Residential Development
- Design and Layout

- Impact on the Amenities of the Surrounding Occupiers
- Access, Parking and Highway Safety
- Provision of Urban Open Space and Affordable Housing
- Local Finance Considerations

## **Observations**

### **The Principle of Residential Development**

The building currently provides 9 flats, the proposals would not change the use of the building but would provide 6 additional units. There are no objections to the principle of the development in this very sustainable location just outside the Willenhall district centre.

Housing Strategy have advised that the proposed one bed units a studio apartments would meet the needs of those requiring more affordable and easier to heat accommodation.

The submitted Design and Access Statement states that the flats are sought after in this location by people on low income and/or housing benefit, but the heating costs of the flats (due to their size) are a constant cause of complaint from the tenants. The owner has tried to improve the thermal performance of the building with insulation and double glazing.

### **Design and Layout**

Each floor would be converted from 3 units currently to 5 smaller units. The units would be reduced from 65sqm & 72sqm to between 30 and 48sqm, making them more affordable and cheaper to heat and the sizes proposed are considered satisfactory by Housing Standards.

The works would require minor internal alterations to achieve the additional two units on each floor but this would be done without any alterations to the external appearance of the building, all the existing windows would be retained, so the building would appear no different within the street scene.

The existing amenity space would be retained, which comprises of grass and landscaping (some trees) around the perimeter of the the building (street frontage), whilst this is not necessarily private useable amenity space, it is the existing amenity for the occupiers of the building and the site is situated adjacent to the district centre and Willenhall Memorial Park is situated approx 280m to the west of the site. In these circumstances whilst the level of amenity space on the site would fall below the requirements of Appendix D of Designing Walsall (20sqm per unit) the level of amenity is considered acceptable.

### **Impact on the amenity of the surrounding occupiers**

Whilst the proposals would increase the number of units within the building the building itself would not change, it is considered that the proposals would have no adverse impact on the amenities of the adjoining occupiers.

### **Parking, Access and highway safety**

The existing vehicle access off Croft Street would be utilised and the existing parking area rearranged to provide one additional space and one new disabled space, which would allow for one space per residential unit.

Whilst this falls below the requirements of Policy T13 of the UDP (1.5 spaces per flat) by 8 spaces, the type of accommodation and its location must be considered. The site sits just 25m from the district centre boundary and within walking distance of local services, shops and buses and the nature of the affordable accommodation is likely to attract tenants on low

income where car ownership is likely to be low. The level of parking in this case is considered acceptable.

### **Provision of Urban Open Space and Affordable Housing**

Despite providing 15 residential units the proposals represent a net increase of only 6 residential units on the site. The net increase (6) falls below the threshold for both affordable housing and urban open space contributions.

The smaller units proposed would in themselves provide affordable accommodation.

In relation to Urban Open Space, a previous appeal decision (APP/V4605/A/08/2064550 – Woodside Close) the Inspector concluded that a contribution towards Urban Open Space would only be applicable if the net increase in residential units exceeds the threshold in the SPD (10 units).

In this case no contributions have been sought.

### **Local Financial 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 additional residential units.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

### **Summary of Reasons for Granting Planning Permission**

#### **Recommendation:** Grant Permission Subject to Conditions

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 and documents: -

Site Location Plan submitted 15<sup>th</sup> December 2015

Existing Site Layout, Floor Plans and Elevations submitted 15<sup>th</sup> December 2015

Proposed Site Layout, Floor Plans and Elevations submitted 15<sup>th</sup> December 2015

Design and Access Statement submitted 15<sup>th</sup> December 2015

*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. Prior to the development first coming into use, the extended car parking area shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground.

3b. The parking area shall thereafter 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.

4a. Prior to the development first coming into use, full details of the proposed cycle shelter shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be installed in accordance with the approved details.

4b. The cycle shelter shall thereafter 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, T8, T11 and T13 and BCCS TRAN4.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 5.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 14/1616/FL

**Application Type:** Full application

**Applicant:** Shaun Hussey

**Proposal:** Erection of 2 no. dwellings and 2 storey rear extension to no. 23 Blackwood Road

**Location:** 23 BLACKWOOD ROAD, WALSALL, B74 3PH

**Ward:** Streetly

**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652614

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** The Tyler-Parkes Partnership Ltd

**Expired Date:** 18/12/2014

**Extension of Time Target Date:**

**Recommendation Summary:** Grant Permission Subject to Conditions

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Page 73 of 187



## **Application and Site Details**

This application seeks permission for the erection of 2 new detached houses with retention of the existing house on the site of 23, Blackwood Road, Streetly which has an existing street frontage measuring 27metres. The single house to be erected at the rear of the site will have its rear garden facing towards no 5 Blackwood Road which runs along the northern boundary of the site. This will be dormer bungalow and provide 5 bedrooms, it will have a double garage and parking spaces in front for a further two vehicles. The rear garden amenity area will be in excess of 200 sq. mts. with the rear elevations being approximately 35 metres away from the rear elevation of no 5 Blackwood Road.

It is proposed to retain and refurbish the existing house which provides a good example of an interwar period house and draws on a number of architectural references, mainly the metro land suburban style of housing, fusing art deco with the arts and crafts vernacular. It also has principal features of quoined brickwork set in render round fenestrations, with corner chamfered windows being a principal feature. It will be extended to the rear at both ground and first floor by 5.5 mts from the existing rear elevation. This will provide extended lounge and family dinning room with an additional bedroom with ensuite.

The retained rear garden to no. 23 Blackwood Road will measure approx. 11m in length.

Plot 1 will be erected on the frontage of Blackwood Road sitting to the south of the existing detached two storey house which sits in the northwest corner of the site. This new house will also have four bedrooms, lounge, dining room and kitchen. It will have an integral garage with external parking for two vehicles. It has been designed with features such as tiled, hipped roof, a chimney, rendered upper walls with brick detailing and a front gable, reflecting the design of no. 23 and similar houses along Blackwood Road.

A new access drive would be created off Blackwood Road along the southern boundary of the site adjoining no 27 will serve the one new dormer bungalows.

Plot 2 is a dormer bungalow with 5 bedrooms (3 located within the roof space), with an integral garage located at the side, with a subservient ridged roof and will be built with brick faced walls and tiled roofs.

The proposed development site comprises a large, detached 2-storey house at no. 23 Blackwood Road, Streetly together with its associated rear and side gardens. It has an area of approx. 0.17 hectares, the proposed DPH of the development would be 11.76 DPH.

The site lies on the east side of Blackwood Road, just to the south of its junction with the B4151 Foley Road West; the road continues in a southerly direction, joining Ferndale Road before connecting with Bridle Lane.

The site lies within an established residential area. Blackwood Road is characterised mainly by detached and semi-detached 2-storey houses, but there are a number of dormer bungalows and bungalows including one at no. 27, the adjacent property to the south. This is mostly inter-war development, featuring rendered walls, tiled hipped roofs, gables etc. as exemplified by no. 23 itself, there is also more recent development of contrasting appearance such as the substantial property directly opposite the site.

The east side of Blackwood Road is characterised by some 'back land' developments including three properties to the rear of nos. 1a to 5b (nos. 167, 169a and 169b Foley Road West), and no. 5 Blackwood Road, a single-storey dwelling which lies directly adjacent to the north side of the rear part of the application site.

To the east (rear) of the site is the extensive Foley Wood, protected by a Woodland Tree Preservation Order, imposed in 2005.

The southern boundary abuts the property and rear garden of the dormer bungalow at no. 27 Blackwood Road.

The grounds of no 23 have been cleared and there are two trees on the northern boundary which have a proposed TPO on them.

To the south of the site, at the junction with Egerton Road is a local centre (300 metres), with Post Office, shops, a library and other services. On the opposite side of Blackwood Road, to the rear of the residential houses is Blackwood School. There is a frequent bus service every 20 mins during peak and 30 mins off peak times) along Blackwood Road (no.77), connecting Walsall and Sutton Coldfield.

The following documents have been submitted with the application:

*Planning support statement*

- It concludes that the proposed dwellings will not cause material harm to the character and appearance of the area, or to the residential amenities which the occupiers of existing nearby dwellings; the proposal provides adequate amenity space and levels of privacy for the future occupiers of each plot.

*Arboricultural Impact Report*

Recommends a tree protection plan, the proposed re-development of the site would not result in the loss of any significant trees and would seek the retention of the native birch trees on the eastern boundary, creating amenity value. The re-development of the site will create an opportunity to plant more sustainable trees than currently exist on the site.

**Relevant Planning History**

None

**Relevant Planning Policy Summary**

**National Planning Policy Framework (NPPF)**

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants.
- Take account of the different roles and character of different areas.
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.

- Contributing to conserving and enhancing the natural environment.
- Encourage effective use of land by using land that has previously been developed (brownfield land), provided that it is not of high environmental value.

**Key provisions** of the NPPF relevant in this case:

1. Delivering sustainable development

19 Planning should encourage sustainable growth.

4: Promoting Sustainable Transport

32 All development should have safe and suitable access to the site for all people. Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

35. Developments should be located to create safe and secure layouts.

39. If setting parking standards for residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

6: Delivering a Wide Choice of High Quality Homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development.

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

58. Decisions should aim to ensure that developments:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

60. It is proper to seek to promote or reinforce local distinctiveness.

61. Decisions should address the integration of new development into the natural, built and historic environment.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11. Conserving and enhancing the natural environment

109. The planning system should contribute to and enhance the natural and local environment by, protecting and enhancing valued landscapes.

118. Local planning authorities should aim to conserve and enhance biodiversity by...incorporate biodiversity in and around developments.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

**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.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **Local**

#### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

CPS4: The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness as defined in Policy ENV2.

ENV1: Nature Conservation. Development will safeguard nature conservation by ensuring species which are legally protected, in decline, are rare in the Black Country will not be harmed by development.

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Proposal should aim to sustain and reinforce locally distinctive elements.

**ENV3: Design Quality**

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits. Implementation of the principles of "By Design" to ensure the provision of a high quality networks of streets, buildings and spaces. Meeting Code for Sustainable Homes Level 3 or above.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

TRAN4: Requires new developments to link to existing walking and cycling networks. Cycle parking facilities should be provided at all new developments.

WM5: All new developments should address wastes as a resource, minimise waste as far as possible, manage unavoidable waste in a sustainable and responsible manner, and maximise use of materials with low environmental impacts.

It is considered in this case that the relevant provisions of the BCCS can be given full weight

**Walsall's Unitary Development Plan (UDP) (2005)**

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

**GP2: Environmental Protection**

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

XII. The effect on woodland or individual trees on or near the site.

3.6 Development and redevelopment schemes should as far as possible, help to improve the environment of the Borough.

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV17: New planting will be encouraged.

ENV18: Existing Woodlands, Trees and Hedgerows. The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

Development will not be permitted if it would damage or destroy trees or woodlands protected by Tree Preservation Order.

#### ENV23: Nature Conservation and New Development

(a) The layout of all new development must take account of:-

I. The potential for enhancement of the natural environment through habitat creation or the exposure of geological formations.

II. The nature conservation opportunities provided by buildings by designing in features which provide roosting/ nesting places for bats.

(b) The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology. Where loss or damage of existing features is unavoidable, the Council will require mitigation measures to which adequately compensate for the features lost.

#### ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development but will be particularly significant in the following locations:

VI. Areas with a special character arising from the homogeneity of existing development in the neighbourhood.

(b) When assessing the quality of design the Council will use the following criteria:

I. The appearance of the proposed development

II. The height, proportion, scale and mass of proposed buildings/structures.

IV. The integration and co-ordination of buildings and external space.

VI. The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

VII. The effect on the local character of the area.

#### ENV33: Landscape Design

Good landscape design is an integral part of urban design

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

#### H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites and through the conversion of existing buildings, including vacant dwellings and the upper floors above shops and other business premises, provided that:-

I. A satisfactory residential environment can be achieved, taking into account the considerations set out in Policy ENV10.

II. There is no overriding need for the land or buildings to be retained for employment or any other use.

III. The proposal would have good accessibility by a choice of means of transport and be well related to schools, shops and other social and community facilities.

IV. Residential development would not unacceptably constrain the development of any adjacent site for its allocated or identified use.

V. The proposal is acceptable in terms of other policies of the Plan.

#### T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

#### T10: Accessibility Standards – General

(b) Standards will apply to all development proposals with the exception of:

i small residential developments within existing residential areas including infill plots

7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.

#### T13: Parking Provision

4 bedroom houses and above, 3 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

#### **Designing Walsall (Feb 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies.

Design Principle – Homes: Plot sizes and built density will relate to their local context. Exploitation of large building plots in residential areas for inappropriate infill will not be permitted. Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity. Minimum guidelines are contained in Appendix D, however greater distances may be applicable where it is in the interests of protecting the character of an area.

The following are the relevant policies;

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character – new development to be informed by the surrounding character and to respond in a positive way to it by reflecting local urban design characteristics, such as street patterns, building scale, topography and culture.

DW4 – Continuity – New development proposals must give consideration to common building lines and how the development will give definition to streets and spaces to reinforce the existing urban structure and give significance to important streets and spaces.

DW5 Ease of movement - create places that are easily connected, safe to move through;

DW6 – Legibility – New development must maximise its potential to enhance local distinctiveness by making positive visual connections with its surrounding environment.

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW10 – new development should make a positive contribution to creating a sustainable environment.

Annexe D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing.

### **Conserving Walsall's Natural Environment SPD**

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees

### **Consultations**

**Transportation** – no objection subject to conditions in regard to layout, access, parking and visibility.

**Pollution Control** (*Scientific Team*) – no objection subject to conditions to control dust and debris and construction working hours.

**Pollution Control** (*Contaminated Land*) – no objection.

**Police Architectural Liaison Officer** – no objection subject to use of security measures conditions.

**Regeneration (Ecology)** - no objection

**Regeneration (Landscape)** - concerns in respect of impact of development on landscape. Planning condition required regarding planting schedule and maintenance scheme.

**Regeneration (Tree)** - objects on grounds of impact of the development on trees.

**Severn Trent water** - no objection subject to use of a recommended condition in regard to drainage details.

### **Public Participation Responses**

5 letters have been received objecting to the application on the following grounds:

- The number and size of the properties in relation to the space is excessive.
- The gardens will be very small.
- Planned extension to the rear of No 23 will extend beyond the permitted line and will be detrimental to light and privacy.
- Work all hours of the day and night, including weekends... needs Construction Working Agreement for the week. Saturdays restricted to work up to 1.00pm and no Sunday working.
- Set a precedence for development in back gardens
- New drive will make us more vulnerable – before we felt safe.
- High fence between our drive and the proposed new drive will block views and create hazard as drivers will be unable to see traffic or pedestrians ... telegraph pole already blocks the view.
- The development with tiny gardens is out of character with the plot sizes of the detached houses North and South of the site.
- Depth of plots are below guidelines
- Back of no.23 and side of plot 2 are 12m apart below guidelines
- protected trees in Foley Wood affected by the development
- the access road affects an oak tree and silver birch on the southern boundary
- provision of one garage and one parking space for plot 1 is inadequate
- Blackwood Road is narrow and a bus route



- The houses and gardens North and South of the site will be overlooked by plot 2 especially by the windows on the upper floors, affecting privacy outside and inside.
- Rear plots not in keeping with the area...lead to disturbance of the peaceful enjoyment of our garden by noise and light
- height of plot 2 is set on higher ground in relation to the bungalow no 5
- dozens of mature trees have been taken out...thirty to forty mature trees on the site which were cut down
- no plans to plant natural screening
- number of bird species, mammals and bats has been reduced... damage to local habitat
- noise, pollution and disruption of the building works
- Potential danger and disruption during construction work.
- increased risk to school children, obstruction of road traffic and the busy bus routes, impeding access to properties in Blackwood Road....parents/ carers picking up and dropping off within meters of the building site resulting in traffic chaos
- further traffic congestion in Blackwood Road
- outlook has been dramatically changed from a pleasant wooded, green and leafy environment to what will be a mini housing estate.

### **Determining Issues**

- Principle of development
- Layout and Design / Character
- Impact on protected trees
- Relationship to adjoining properties
- Access and parking
- Comments on objections
- Local Finance Considerations

### **Observations**

#### **Principle of residential development**

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. The application is wholly 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. 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); therefore there is no requirement to release non-brownfield land at this time. The development of brownfield land, however is only encouraged and not the only way to support sustainable economic development to deliver the homes that the country needs.

Housing applications should be considered in the context of the presumption in favour of sustainable development. This is a sustainable location within an existing residential area with open space, local shops, schools and bus stops within walking distance. The principle of housing at this location is considered acceptable in this instance, subject to impact upon the character of the area, residential amenity, ecology and landscape, parking and impact upon trees.

#### **Character of the 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.

It is considered that the character of the immediate area falls into two separate characteristics: back land development and the existing application site of detached /semi detached plots with long rear gardens.

Whilst the application site currently reflects the character of some housing along Blackwood Road, the proposed layout and orientation is characteristic with other back land development further along Blackwood Road and reflects the density of these sites.

The Council has no policies to resist back land development and the NPPF has a presumption in favour of granting permission. There are examples of tandem developments in the area, to the east side of Blackwood Road in particular is characterised by 'back land' development including three properties to the rear of nos. 1a to 5b (nos. 167, 169a and 169b Foley Road West), and no. 5 Blackwood Road, a single-storey dwelling which lies directly adjacent to the north side of the rear part of the application site. This current proposed layout, orientation and position, would not be viewed at significant odds with the pattern of those neighbouring developments and the wider character of the area.

### **Design and Street scene of Blackwood Road**

The erection of a new house fronting Blackwood Road adjacent to the existing house is considered acceptable reflecting the traditional street character of Blackwood Road and will not detrimentally impact on the appearance of Blackwood Road. Its design will reflect the mix of detached and semi-detached 2-storey houses and including dormer bungalows and bungalows (no. 27, the adjacent property to the south) fronting Blackwood Road. Mostly it consists of is inter-war development, featuring rendered walls, tiled hipped roofs, gables etc. as exemplified by no. 23 itself but there is also more recent development of contrasting appearance such as the substantial property directly opposite the site.

The proposed new frontage house will have the same ridge height as the existing house and will continue the existing street scene, reflecting similar houses along Blackwood Road. The retention and refurbishment of the existing house is welcomed.

The rear gardens will be in line with the existing houses to the north providing rear gardens 11m in length and in excess of 100 sq mts in both plots as required by Designing Walsall SPD and are comparable with garden sizes in the area to the north.

The rear garden of the existing dwelling and the new house (plot 1) will be in line with houses to the north of the application site.

### **Impact on the amenities of surrounding occupiers**

The proposed two storey rear extension of the existing house accords with the Council's 45 degree guidance when applied to the rear facing habitable room windows of no. 21 Blackwood Road.

The gable end of plot 2 will be 24.5 metres from the rear of plot 1 (18.5 mts to the side wall of the garage), this is acceptable because there will be no habitable side facing windows in that elevation.

The first floor of plot 2 will have non habitable room windows for bathrooms and en-suites, facing towards the rear of no. 27 and these can be conditioned to be obscure glazed and be

high level opening to ensure the continued protection of the amenities of those residents in no. 27.

It is proposed to erect a new 1.8 metre high close boarded fence along the boundary with no. 27, there is some existing tree screening along this boundary and additional planting is also proposed, the new fence will help to screen the development at the rear and potentially reduce any traffic noise using the new access drive.

The rear garden of plot 2 will be 8 metres deep and up to 24 metres wide with additional garden area at the side, in total it will be in excess of 200 sq mts. The rear elevation is at least 35 metres away from the rear of no. 5 Blackwood Road and there is a mature boundary between the two. This is considered acceptable in order to protect the amenities of existing residents in no. 5.

On balance it is considered that the relationship between the proposed plot at the rear and surrounding residential properties provides sufficient separation to ensure that the proposal would not give rise to a loss of privacy, outlook or light in accordance with the guidance.

Concerns about increased noise and disturbance due to the distance of the house away from other houses and the position of the private drive within an existing residential area it is considered the proposal would not give rise to significant noise and disturbance to the adjacent neighbour. Again the new fencing will assist to reduce any potential impacts.

Noise and disturbance from the building operation is not a reason to refuse a planning application as generally, this disturbance is only for a short period of time, plus conditions are recommended by Pollution Control to minimise any potential noise and dust issues during construction works.

Neighbours comment about security along the access drive and the Police have been consulted on this application and do not object subject to the use of recommended secure by design measures. A condition is recommended. Weight is given to the surveillance that the house would bring to this existing secluded garden.

### **Trees, Landscape and Ecology**

*Trees*- The tree officer objects on the grounds of the private amenity space (rear garden) on the north side of plot 2 will be at odds with the guidance in Site Layout Planning for Daylight and Sunlight and as a result of its siting and orientation it is likely to receive little or no direct light due to Foley Wood to the east and south east, the position of the building and the orientation of the site. As a result there may be pressure to remove trees that contribute to the amenity value of the area.

Majority of the trees on this site have been cleared prior to the submission of this planning application. None of the trees were protected and the trees, which are to be left have limited merit with the exception of a scots pine and an oak tree along the northern boundary of the site, which are proposed to be retained. A tree preservation order has been imposed on these two trees and the arboricultural report recommends the use of hedges fencing in order to ensure the root protection areas are protected and that any hard surfacing used within root protection areas is permeable and gas porous.

The report also states that further vegetation removal (mainly hedges) will be necessary to accommodate the new driveway, this is considered acceptable on the basis that it currently adds little environmental value to the site.

*Landscaping*- The landscape officer has concerns regarding the development being close to the site boundaries and potential to cause damage to the trees in the woodland and adjoining gardens resulting in pressure to remove trees in the future

The landscaping looks impractical in places. In particular the planting on either side of the access road are in quite narrow beds (estimated at less than 1m). The planting also abuts new and existing buildings, these areas will mainly be taken up by the foundations and will not support planting. Generally there is little landscape information however this can be required by way of a condition.

The proposed landscaping in principle is acceptable, although further information on total numbers of plants, management and maintenance is required under the terms of a planning condition.

*Ecology* - The location of the site results in a bat survey being required, one has been carried out and it has been concluded that it is unlikely there are any bat roosts on the site.

Whilst there is sufficient green infrastructure adjacent to the application site for there to be a reasonably high prospect of finding bats in the building as the site backs on to Foley Wood and gardens nearby are relatively large and mature which could be expected to provide good foraging habitat.

### **Parking and Access**

The development looks to construct 1 x four bedroom and 1 x five bedroom detached dwellings, the single dwelling to the rear will be served by a new private access road. There is parking for at least 3 vehicles per dwelling, this accords with UDP T13 parking policy.

The access road measures 4.1m in width for the majority of its length of about 45m. Whilst part of it is below the required 4.1 mts it is only for a short section and it is some distance from the Blackwood Road which removes the possibility of vehicles having to reverse on to the highway if they cannot pass safely. The necessary visibility splays at the new access point can be achieved.

Access for a Fire Appliance vehicle requires an access road to be at least 3.7m in width to enable access to within 45m of all parts of a proposed dwelling. The current layout can achieve this

The site is within walking distance of a small parade of shops at the junction with Egerton Road which provides local facilities such as a Post Office, shops, a library and other services. On the opposite side of Blackwood Road, to the rear of the residential houses is Blackwood School. There is a frequent bus service along Blackwood Road (no.77) which connects Walsall and Sutton Coldfield, it is considered to be in a sustainable location.

### **Comments on objections**

These have been categorised as follows:

Construction Hours – any planning consent will be subject to hours of construction condition.

Overdevelopment – the density of the site is similar to other sites nearby

Contrary to Policy – the relevant space standards have been achieved and on balance the relationship with surrounding properties is considered to be acceptable.

### **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 2 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

#### **Positive and proactive working with the applicant**

Officers have liaised with the applicant's agent during the application process to seek the fullest possible information is available at the earliest opportunity to fully consider the proposal.

#### **Summary of Reasons for Granting Planning Permission**

##### **Recommendation:** Grant Permission Subject to Conditions

1. The 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.

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

- Context Plan (BRSC/CP/10) received 21/10/14
- House Type Plot 1 Plans & Elevations (HT\_BRSC/100) received 19/2/15
- House Type Plot 2 Plans (HT\_BRSC/300) received 19/2/15
- House Type Plot 2 Elevations (HT\_BRSC/300(2)) received 19/2/15
- Extension to 23 Blackwood Road (HT\_BRSC/500) received 19/2/15
- Extension to 23 Blackwood Road (HT\_BRSC/500(1)) received 19/2/15
- Street Elevations (BRSC/08A) received 6/1/15
- Planning Support Statement prepared by Tyler Parkes received 24/10/14
- Arboricultural report prepared by Marlow Consulting received 21/10/14
- Bat Survey Report prepared by Cotswold Wildlife Surveys received 15/12/14

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

3a. No development including any demolition or site preparation shall commence until measures for controlling dust, flying debris, and drag-out from the site, have been submitted to and agreed in writing by the Local Planning Authority.

3b. All agreed measures shall be fully implemented and maintained throughout the duration of demolition and site preparation operations and construction activities.

*Reason:* To ensure that the amenities of neighbouring occupiers are not compromised.

4a. No development shall commence until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

4b. The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained thereafter.

*Reason:* To ensure the development is provided with a 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.

5a. No development shall commence until tree protection measures as detailed in the Arboricultural report prepared by Marlow Consulting received 21/10/14 have been fully implemented

5b. The approved details shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2012.

*Reason:* To safeguard the retained trees on the site.

6a Prior to the commencement of development details shall be submitted to the Local Planning Authority in conjunction with the Highway Authority, setting out where the location of parking for site operatives and visitors has been provided within the application site.

6b The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during the development process.

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

7a. No construction above the damp proof course shall commence until a schedule of facing materials to be used in external walls and roofs, which includes the colour, texture and sizes of the materials has been submitted to and approved in writing by the Local Planning Authority.

7b. The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained thereafter.

*Reason:* To ensure the satisfactory appearance of the development and ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

8a. No construction above damp proof course shall commence until details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority.

8b. Prior to the first occupation of any part the development, the boundary treatments shall be completed in accordance with the approved details and retained thereafter.

*Reason:* To safeguard the amenities of the adjoining residential occupiers and the visual amenities of the area.

9a. Prior to the installation of any external lighting, including its location, angle of positioning and level of illumination it shall be first submitted to and approved in writing by the Local Planning Authority.

9b. The agreed details shall be fully implemented and retained in working order thereafter.

*Reason:* To prevent light pollution and to protect the amenity of surrounding residential occupiers.

10a. Prior to any construction above damp proof course shall be carried out until full details of hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- correct botanical names
- numbers/planting densities for each block of planting proposed
- size supplied of all proposed tree and shrubs at time of planting
- details of proposed turf/seeded areas
- topsoil and mulching depths and specifications
- staking details for proposed trees
- details of landscape establishment / maintenance proposals to be undertaken during the standard conditioned maintenance period
- Details of the future management of the landscape scheme.
- Ground preparation measures to be adopted.
- Existing and proposed levels.
- Management Plan, including arrangements for the grassed area next to the private drive.

10b. Prior to the first occupation of any part of the development the approved landscaping scheme shall be fully implemented and retained for 5 years and managed in accordance with the approved management details.

10c. The approved management plan for the grassed area next to the private drive shall be implemented and maintained thereafter.

*Reason:* To ensure the satisfactory appearance of the development and protect wildlife.

11a. Prior to the first occupation of any dwelling on the development the following shall have been carried out:

- i) all access ways, parking and vehicle manoeuvring areas associated with the dwelling shall be fully consolidated, hard surfaced and drained and brought into use,
- ii) vehicle footway crossings to align with the new access points onto Blackwood Road shall be installed and constructed in accordance with Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority.

11b. All access ways, parking and vehicle manoeuvring areas shall thereafter 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.

12a. Prior to the construction above damp proof course of any part of the development, security measures to meet Secure by Design recommendations for the development shall have been submitted to and approved in writing by the Local Planning Authority in conjunction with the Police.

12b. The approved security measures shall be implemented prior to the first occupation of any of the dwellings and retained thereafter.

NB. A "Note for Applicant " which advises on specifications for Secured by design is attached below.

*Reason:* To create a safe environment.

13. 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; 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:* To safeguard the amenities of the adjoining residential occupiers.

14. The bathroom windows within plot two as shown on the approved drawings shall have obscure glazing to Pilkington level 4 privacy glass standard, which shall be retained.

*Reason:* To protect the residential amenity of adjoining occupiers.

15. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995, or succeeding Orders, the dwellings hereby permitted shall not be altered or enlarged to deprive them of an existing garage, drive or parking area as approved.

*Reason:* To ensure the satisfactory provision of off-street parking.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, 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 without the prior approval of a planning application.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

17. The bin hardstanding area shall only be used for the storage of bins on the day that bins are to be collected. The area shall otherwise be kept clear of waste or storage containers for the rest of the week.

*Reason:* In the interests of visual amenity.



**Note for the Applicant:**

The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the required footway crossing works within the existing public highway

**Notes for applicant regarding Secure by Design:**

West Midlands Police: The Police Architectural Liaison Officer has been consulted on the application and has made the following comments:

1. The developer should be aware of Secure By Design specifications which will significantly increase the security of the building (doors and windows). Information can be found at [http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2010.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf)
2. All door sets both external and internal should comply to PAS 24 standards.
3. All ground floor and accessible windows should comply to BS7950 or WCL4 standards. This should improve the standard of security to the more vulnerable ground floor windows.
4. All ground floor, accessible windows and doors should contain at least one pane of 6.8mm laminated glass, this includes French and Patio doors.
5. All ground floor front windows should have an area of defensible space across their width. This should be made up of densely planted shrubs, selected to be suitable for the environment they are to be planted in. This will provide a buffer area between the windows and other public or private space, making it more difficult for offenders to access such windows.

Where plants / shrubs are to be used in front of windows or around parking spaces the plants should be such that they grow to no more than 1m in height when mature. Plants and shrubs should also suit the environment they are to be located in terms of soil and light.

6. Perimeter and Boundary fencing should be at least 2.1m in height, the fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m fencing can include 300mm trellis topping in order to offer protection of the vulnerable rear of the properties.

Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components.

7. All side gates should be as close to the building line as possible to improve natural surveillance around these vulnerable locations by removing or limiting the recess's

8. Due to the national increase in metal thefts where possible lead substitute products should be used.

9. All the buildings on this development should be suitably fitted with an intruder alarm.

**Note for Applicant regarding S38/S278 Works**

No works on the public highway shall be commenced until all engineering details have been approved by the Highway Authority and an agreement under Section 38/278 of the Highways Act, 1980 entered into. All costs are to be met by the applicant and it should be noted that any non standard materials, landscaping, highway drainage or structures etc will require a commuted sum for future maintenance. Note for applicant regarding Mud on Highway 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.

**Note for Applicant regarding Drainage over the public highway**

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning areas do not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway or vice versa.





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 6.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 15/0240/FL

**Application Type:** Full application

**Applicant:** Mr A Toon

**Proposal:** Conversion of 4 bed house to a 2 bed house and 1 bed flat (resubmission following refusal of 14/1308/FL)

**Location:** 6 ASHTREE ROAD, WALSALL, WS3 4LR

**Ward:** Pelsall

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Extension Design Services

**Expired Date:** 14/04/2015

**Extension of Time Target Date:**

**Recommendation Summary:** Grant Permission Subject to Conditions

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### **Application and Site Details**

The proposal is for the conversion of an extended 4 bedroom semi-detached house to create a 2 bedroom house and 1 bedroom flat. The property is on the north side of Ashtree Road which is just off the High Street within Pelsall Common Conservation Area. The character of the street is predominantly terraced housing interspersed with detached and semi-detached housing and predominantly on-street parking. There is a public car park nearby on the opposite side of the road.

The property was extended following the grant of planning permission 02/1967/FL/H2 on 6 December 2002. The two storey side extension has a driveway beneath leading to a paved area within the rear garden currently used for parking. The paved area has been extended recently so that it extends across the whole width of the garden and projects 3.2m from the rear of the utility room. The remainder of the garden comprises a lawn and there are two sheds against the rear boundary.

The proposal is to separate the original dwelling from the extensions to create a two bedroom house and 1 bedroom flat respectively. The original door opening would be reinstated with original features to serve the house. The proposed kitchen for the flat would be at first floor with lounge and shower room and the bedroom in the loft space which already has a roof light window facing the street and rear facing dormer window.

The proposal utilises the existing parking spaces within the rear garden which are accessed beneath the two storey extensions. There are three spaces indicated. The remaining garden is to be split to retain a garden for the two bed house (69m<sup>2</sup>) and a garden area for the proposed flat (28m<sup>2</sup>). A storage shed is also proposed for the flat in order to accommodate cycle storage.

The application is a re-submission seeking to address reasons for refusal of application 14/1308/FL which was dismissed at appeal. The application sought to provide four parking spaces, two for the house and two for the flat all located at the rear of the site with no remaining garden for the house and an inadequate amenity space for the flat resulting in a rear amenity space dominated by parking.

**The Design & Access Statement** – Explains that the current dwelling is under-occupied following the departure of the current occupier's children and the proposals offer the opportunity to increase the availability of rented accommodation in the area. It highlights that the current extensions increased the floor space at the house by 90%. It identifies there are 3 car parking spaces for the current 4 bed property but that additional on-street parking is available and a Council car park opposite the site. There is adequate garden space retained for the 2 bed house and 1 bed flat including a shed for cycle storage. There is also good access to public transport and the local village shops. The statement considers the proposals allow for smaller households making more efficient use of the existing property to promote regeneration.

### **Relevant Planning History**

14/1308/FL – Conversion of 4 bed house to a 2 bed house and 1 bed flat – Refused by the LPA for the following reason:

- 1. The proposed introduction of additional parking spaces within the current rear garden would be visually intrusive to surrounding neighbours, results in additional noise and disturbance from the comings and goings of vehicles and vehicle manoeuvring within the rear garden and is out of keeping with the surrounding area. The proposals also displace garden space for the existing dwelling and provide inadequate private*

*amenity space for the proposed flat. This is a poor design that is detrimental to the visual amenities of the area and residential amenities of existing and future occupiers contrary to the aims and objectives of the National Planning Policy Framework and contrary to policies CSP4 and ENV3 of the Black Country Core Strategy and saved policies GP2, H3 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document: Designing Walsall.*

Appeal Dismissed 12/02/15 due to the unacceptable level of harm to the living conditions of the occupants of the adjoining dwellings in terms of noise and disturbance, and would also result in a level of amenity space that is of insufficient size.

02/1967/FL/H2 – Two storey side and single storey rear extensions – GSC 6/12/02. PD restricted for side facing windows and doors.

Proposals for conversion to create separate dwellings in Ashtree Road:  
69 Ashtree Road

02/0009/FL/E6 – Conversion to two dwellings – GSC 11/03/02.

63A Ashtree Road

05/1351/FL/H2 – Rear single storey granny annex – GSC 18/08/05. This includes a condition restricting occupation to relatives or employees of the occupiers of the existing house only.

64 Ashtree Road

05/1523/CE/E5 – Certificate of existing use: separate dwelling – Granted 09/04/08. The use had existed for 4 years or more.

08/0922/LE – Certificate of lawfulness existing use: separate dwelling – Granted 15/07/08. The use had existed for 4 years or more.

58 Ashtree Road

05/2389/FL/E4 – Division of existing dwelling to 2 flats and construction of a further 2 dwellings – GSC 06/04/06.

**Relevant Planning Policy Summary**

**National Planning Policy Framework (NPPF)**

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".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

**Key provisions** of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 64 states permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of the area and the way it functions.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Paragraph 131 in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

Paragraph 132 indicates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraph 134 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

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. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include provision of a high quality environment.

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.



CSP4: A high quality of design of the built and natural environment is required.

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area.

ENV32 & 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

T1: Seeks to improve access and help people get around

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

1, 2 & 3 bedroom houses: 2 spaces per unit

Flats with individual spaces: 2 spaces per unit

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

### **Designing Walsall SPD**

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

**Human Rights Act 1998** - Article 8 of the European Convention on Human Rights provides that everybody has the right to respect for his private and family life and his home, and there should be no interference by a public authority with the exercise of this right, except where that interference is (amongst other considerations) in accordance with the law and is necessary in a democratic society for the protection of rights and freedoms of others.

### **Consultations**

**Transportation** – No objections. The development is to convert the existing 4 bedroom house into a 2 bedroom house and 1 bedroom flat. There is parking for 3 cars to the rear accessed via the under-croft area. A shed is to be provided for secure cycle storage and there is unrestricted on-street parking available. On balance the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF Paragraph 32.

**Conservation** – No objection. The changes to the front elevation are acceptable. Re-opening of the original entrance will restore symmetry to the building and is supported.

**Environmental Health** – No adverse comments.

**Pollution Control** – No specific requirements.

### **Public Participation Response**

There are 24 emails/letters of objection from 7 households including repeated objections and comments on amended plans. These are summarised as follows:

- Previous objections still stand
- The proposals have been refused previously and in appeal
- Sets an unwanted precedent
- Pelsall Village should be protected from further development
- Pelsall Village needs to be available for families
- The proposal is garden grabbing
- Flats conversions and rented properties in the street has reached capacity and changed the character
- Existing problems of anti social behaviour from residents of rented flats in the area
- Security risk to gardens in Norbury Avenue
- Noise from cars as car spaces back onto gardens and living rooms at the back of Norbury Avenue
- Noise and disturbance in the garden from cars coming and going at all times
- Noise and light pollution from the parking area
- Increased carbon dioxide emissions
- The car park area poses a security risk to surrounding properties
- A full Environmental Study and Flood Risk Assessment should be required
- The whole garden becomes a car park
- The confined parking space brings vehicle manoeuvring closer to adjoining properties
- The car parking area has already been extended
- No cars were parked at the rear of the property prior to the appeal
- Reduction in parking does not address neighbour concerns
- One less parking space
- Inadequate turning space
- The existing car park is a breach of planning
- More back gardens becoming car parks changes the character
- A parking permit system should operate in Ashtree Road
- Do not want to be surrounded by a car park
- Existing issues of parking commercial vehicles in the street
- The proposed overflow parking on street and on the car park is already at capacity
- The proposed overflow car park is underused due to security concerns
- Safety concerns regarding visibility at the access
- Pedestrian safety
- Flood risk from storm water run-off
- Loss of habitat
- The proposed extensions were approved as a playroom so now proposals to convert the space to a flat cause concerns of overlooking
- Proposed car parking borders adjoining gardens invading privacy
- Adversely effects Human Rights
- The applicant is a property developer
- Objectors details should not have been passed on to the applicant

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Whether the proposals address the reasons for refusal and dismissal of appeal for 14/1308/FL
- Principle of development

- Layout & Design
- Relationship to neighbouring properties
- Access and Parking

### **Observations**

#### **Whether the proposals address the reasons for refusal and dismissal of appeal for 14/1308/FL**

The first application 14/1308/FL was refused by the Council as it proposed introduction of additional car parking spaces in the rear garden extending back to the rear boundary leaving no garden for the original house and very little space for the new flat. This was considered visually intrusive to neighbours and results in additional vehicle manoeuvring that would cause noise and disturbance detrimental to residential amenities. The lack of garden space was also considered detrimental to the amenities of future occupiers. The appeal was dismissed due to the unacceptable level of harm to the living conditions of the occupants of the adjoining dwellings in terms of noise and disturbance, and insufficient amenity space.

The current proposal is to retain the existing car parking area and provide a garden area for the 2 bed house and amenity area for the 1 bed flat. Although there will still be vehicles at the rear of the property the car parking area is not now proposed to be extended as far as the rear garden boundary covering the entire rear garden. This will reduce the visual impact of vehicles and potential noise and disturbance from vehicles manoeuvring in this location. Although the parking area has been extended more recently planning permission was not required for this as it was permitted by Class F of the Town & Country Planning General Permitted Development Order 2008.

Surrounding residents sustain their objections to the proposals as they consider they have already been refused on appeal. The proposals differ from the appeal in so far as there is no extension of the parking area beyond that already available at the property and the layout allows for retention of garden space for both properties created. One resident states that there was no parking in the rear garden prior to the appeal. The existing layout allows for parking at the rear as there is undercroft access to allow for this, whether it is used constantly or not.

The proposals now reduce the extent of the parking area. It is considered that the level of vehicle manoeuvring will not be dissimilar to that currently experienced. The proposals also allow for provision of adequate garden space for the two properties created. On this basis the proposals are considered to address the reasons for refusal and dismissal of the appeal.

### **Principle of development**

The principle of bringing forward underused land and buildings for a residential use is in accordance with UDP policy ENV14. UDP policy H3 also encourages provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

The principle of residential use at the site is established. Whilst the proposal is to sub-divide the property intensifying its use the policy does support provision of additional housing subject to being able to achieve a satisfactory residential environment. The amended proposals retain adequate garden space for both the resulting properties which is considered acceptable.

Objectors are concerned that there are already several properties in the locality that have converted to flats and that this is changing the character of the area to the detriment of existing residents including problems in relation to anti-social behaviour. They consider that

Pelsall should be safeguarded for families and request that Pelsall Village is protected from further development. They also consider the proposals as garden grabbing. Provision of a mix of different house types, sizes and tenure is generally supported in sustainable locations such as this provided that a satisfactory residential environment can be achieved. The proposal makes use of the existing house and does not introduce additional housing within the garden as normally associated with garden grabbing.

The applicant acknowledges that the extensions at the house increased the floor space by 90% but that since the departure of their children this space is under-utilised. They consider that as the proposal offers the opportunity to provide new rented accommodation in the area it should be supported. A mix of dwellings to cater for different household sizes is supported, particularly in this sustainable location.

The applicant has referred to other properties in Ashtree Road which have been converted to flats so considers the principle has already been established. Examples are referred to in the planning history. These examples do not set a precedent as each case has to be assessed on its own merits, but it is considered that the physical changes to the building (reinstatement of the original door) do not adversely affect the character of the area. Objectors are concerned that there are too many flats in the area and this proposal sets a precedent but as explained above each case is reviewed on its own merits.

Objectors are concerned that the applicant is a property developer and the proposals do not benefit existing residents. This is not a material planning consideration.

The principle of making more effective use of an existing property in a sustainable urban location is acceptable.

### **Layout and Design**

The proposal utilises the extensions built under permission 02/1967/FL/H2 to create an independent flat involving internal alterations to the dwelling. The remaining house is reduced from 4 bedrooms to 2 bedrooms as a consequence and the original front door reinstated. The appearance of the property will not be significantly altered from the street as a consequence of the proposals.

The existing house has a large area of hard standing at the rear which is available for parking for the 4 bed house. Beyond the hard standing area are a lawn and two sheds. The proposal is retain the parking area for 3 vehicles and to divide the rear lawn area to create a 69m<sup>2</sup> garden for the 2 bed house and 28m<sup>2</sup> garden for the 1 bed flat. This is acceptable and accords with guidance in SPD: Designing Walsall and provides a satisfactory residential environment for future occupiers.

Surrounding residents have objected to the proposals on the grounds that it would create more noise, disturbance and noise pollution from vehicles parking and manoeuvring in such close proximity to their gardens and homes. The vehicle manoeuvring will not be dissimilar to that already created by the 4 bed house.

The Conservation Officer is satisfied that the design has no significant impact on the Conservation Area. The physical changes to the building are minimal and the plans show reinstatement of the original front door to match the original design. A condition is recommended to secure matching details.

A condition is recommended to remove permitted development rights for extensions to the dwelling (6 Ashtree Road) and for outbuildings as any further extensions would displace garden space and could have an adverse impact on the amenities of adjoining occupiers.

The layout and design is considered to be acceptable as there are no significant physical changes.

### **Relationship to neighbouring properties**

The proposals do not physically extend the existing buildings so despite neighbour concerns about potential overlooking there is no significant impact on loss of privacy. The relationship between facing windows was considered at the time the existing extensions were approved. Although a kitchen and lounge are included at first floor the principle of habitable rooms (bedrooms) at first floor is already established.

Objectors are concerned that the proposed access introduces a security risk to surrounding gardens which they consider would become vulnerable to crime. There are presently garage doors on the front of the undercroft which are to be retained so the site does remain secure as it would only be accessible by occupiers of 6 Ashtree Road or the new flat.

The parking area is to remain as it is so the potential for intensification of vehicle manoeuvring likely to cause disturbance to the amenities of surrounding residents at the rear of the houses where they would normally expect peace and quiet is limited. The parking is also further away from properties in Norbury Avenue. The existing boundary walls and fencing are to remain in place and will help mask vehicles manoeuvring. The potential for additional noise and light pollution or additional vehicle emissions from vehicles using the parking area will not be dissimilar to the current situation as the parking area is not being enlarged. The relationship to adjoining housing does not change.

With regard to objector's details being available to the applicant, the planning application file is a public document and the Council are statutorily required to make all documents available for public inspection. Neighbours are advised of this in the neighbour notification letter.

Article 8 of the Human Rights Act provides that everybody has the right to respect for their private and family life and their home. This report makes consideration of residential amenities and concludes that the proposals do not have any significantly greater impact on the private or family life or homes of surrounding occupiers. Human Rights are considered not to be adversely affected.

There have been representations regarding flood risk to neighbouring properties due to surface water run-off from the car park area. This proposal does not trigger a requirement for provision of a Flood Risk Assessment or Environmental Impact Assessment despite neighbours concerns. There is an existing drain within the car parking area at the rear of the site to channel surface water within the site.

The proposal does not result in loss of any significant ecological habitat.

The proposal is considered to have no significantly greater impact on residential amenities of neighbouring properties and is acceptable.

### **Access and Parking**

The transportation officer is satisfied that the utilisation of the existing access and the proposed level of off-street parking is adequate to serve the development and there will not be severe highway implications. There is available parking for up to 3 vehicles at the rear, there is a shed available for cycle storage and there is unrestricted on-street parking available in the vicinity.

Objectors consider that the reduction in parking spaces from the original proposal does not address neighbour concerns. The existing 4 bed house would require 3 spaces as recommended in policy T13. The proposal is for a 2 bed house which requires 2 spaces and a 1 bed flat which also requires 2 spaces. The level of parking normally required is therefore the same. In this instance, although there are only 3 spaces the site is in a highly sustainable location close to the centre of Pelsall where there are shops and local facilities and links to public transport. There is also space within a shed for cycle parking to encourage sustainable travel. Bearing in mind it is only an additional 1 bed flat proposed this is unlikely to have severe impacts on the highway and parking availability. Residents suggest a parking permit system may help relieve parking pressure in the area but this is a matter for occupiers to suggest to highways enforcement team.

The existing extended driveway at the rear does not require planning permission so is not in breach of planning despite neighbour's concerns. The neighbour's state they do not want to be surrounded by a car park but as the situation is not changed from the current parking availability at the site there is no greater impact.

Objectors consider that the overspill car park in the street is already at capacity as shop workers use it in the day and there are security problems so it is not a realistic option for future residents. Nevertheless, there is alternative unrestricted on-street parking available.

The proposal does indicate sufficient parking on site to cater for both properties and vehicle manoeuvring will occur as it does presently. It is assumed that the existing garage door is to remain in position so the rear parking remains secure. The adequacy of pedestrian visibility for vehicles exiting the site would have been considered when the two storey extensions were granted and the proposals do not change this. On this basis there is no greater impact on highway or pedestrian safety.

Residents have highlighted that commercial vehicles parking in the street causes difficulties for residents. This is not a specific issue arising from the current proposals and is not material to the consideration of the current application.

The access and parking arrangements are considered to be satisfactory and a condition is recommended to maintain parking spaces.

### **Positive and Proactive working with the applicant**

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

### **Recommendation**

Grant permission subject to conditions.

### **Summary of Reasons for Granting Planning Permission**

1. The development must be begun no 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 and documents except in so far as may otherwise be required by conditions:

-

- Location Plan provided on 17/02/15
- Existing Elevations (2014-22-01) received 17/02/15
- Existing Floor Plans (2014-22-02) received 17/02/15
- Proposed Floor Plans (2014-22-04A) received 17/02/15
- Proposed Elevations (2014-22-03A) received 17/02/15
- Block Plan & Roof Plan (2014-22-06) received 17/02/15
- Proposed Parking & Amenity Area (2014-22-05D) received 04/03/15
- Design & Access Statement received 17/02/15

*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 may require).

3. Prior to the commencement of the development full details of the facing materials to be used for reinstatement of the original front door shall be submitted to and approved in writing by the Local Planning Authority. The materials shall be retained as such after completion of the works.

*Reason:* To ensure the satisfactory appearance of the development and to comply with policies ENV29 and ENV32 of Walsall's Unitary Development Plan.

4. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) Schedule 2, Part 1, Classes A and E no extensions or enlargement of the dwelling, or provision of buildings within the garden shall be permitted other than those shown on the approved drawings.

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

5. The parking spaces hereby approved shall be retained in perpetuity and shall not be used for any other purpose.

*Reason:* To ensure an adequate level of parking is provided in accordance with policy T13 of Walsall Unitary Development Plan.







# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 7.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 14/1315/FL

**Application Type:** Full application

**Applicant:** Mr Kirpal Singh Mann

**Proposal:** Erection of a two storey detached building to be utilised as a hot food takeaway (A5).

**Location:** LAND ADJACENT 44B, PINSON ROAD, WALSALL, WV13 2PR

**Ward:** Willenhall South

**Case Officer:** Devinder Matharu

**Telephone Number:** 01922 652602

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Elan Design Consultancy

**Expired Date:** 19/03/2015

**Extension of Time Target Date:**

**Recommendation Summary:** Refuse

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### **Application and Site Details**

The application site is the land to the south of number 44B Pinson Road, which is currently used for parking for both 44A and 44B Pinson Road. Numbers 44a and 44b Pinson Road is a detached two storey building which has a newsagents and convenience store at the ground floor with residential accommodation above. The newsagents and convenience store is accessed from 44B. Both properties on the ground floor occupy the newsagents and convenience store. The existing property has a hipped roof with high eaves on the sides and two hipped front projecting features that project out from the main front elevation fronting Pinson Road.

The parking area, which is the application site, is gated and enclosed by a boundary wall and railings with double gates fronting Pinson Road and a dropped kerb onto Pinson Road. A telegraph pole is located in front of the southern part of the site.

To the northern (adjacent 44 Pinson Road) and southern boundary of the site (adjacent the application site), there are two large advertising boards located within the forecourt of 44A and 44B. There is an access point to the north of the 44a Pinson Road to access the rear of the premises with a dropped kerb onto Pinson Road.

To the south of the application site are commercial buildings and a commercial yard owned by Middleton Paper. The commercial premises on this site fronting Pinson Road are positioned approximately 3m back into the site with a small black railing fence that forms the site boundary along Pinson Road.

To the north of 44A Pinson Road are two storey terrace properties numbers 44 to 37 (odd). These properties are positioned approximately 3m back from the front elevation of 44A and 44B Pinson Road. On the opposite side of the road are semi detached properties and the majority of these properties have altered the front gardens to off road parking areas. Directly opposite 44A and 44B is a cul de sac, Pinson Gardens serving 4 bungalows.

To the rear of the site are consecutive numbers 19 to 24 Summer Street which are terrace properties that have a rear projecting two storey and single wings. Numbers 19, 20 and 21 are immediately to the rear of the application site and have principal habitable rooms at both first and ground floor facing the application site. There are trees in the rear gardens of these properties with 19 having some evergreen and 20 and 21 having deciduous trees. Pinson Road curves to the right resulting in the even sided properties being positioned at an angle to the properties on Summer Street.

The area is predominately residential in character with commercial buildings and use to the south of the application site.

To the south of the site is the junction of Wolverhampton Street, Pinson Road and New Road.

The site is located approximately 326m, as accessed from New Road and 421m, as accessed from Wolverhampton Street from the edge of Willenhall District Centre. Numbers 1 to 18 (even) Wolverhampton Street are located within the Willenhall District Centre and located 431m from the application site. Along this street there are food outlets including two hot food take-away facilities. Wolverhampton Street is within 5 minutes walking distance of the application site. Within the district centre there are 6 vacant units, 3 of which are being advertised for let with one of these units having former being utilised as a cafe.

The application proposes the erection of a detached two storey building to be utilised as a hot food take-away. The detached building will be:

- Positioned 3m from the side elevation of 44B to provide two tandem parking spaces.
- Positioned back into the site 2m at the closest point and 2.4m at the furthest point.
- 4.6m in width, 6.9m in length and 7.5m high.
- Positioned 1.6m further forward of 44A and 44B Pinson Road.

The ground floor of the premises would accommodate the main take-away service area at the front of the unit with the prep area at the rear. The first floor would accommodate an office at the front and cloakroom, stockroom and WC at the rear. Windows will be included on the southern (side) and western (rear) elevation at ground floor and on all elevations at first floor.

The refuse and bin store will be located along the rear boundary of the site abutting the rear boundaries of 20 and 21 Summer Street.

The application form states:

- there are 4 existing parking spaces and 4 parking spaces will be retained.
- The hours of opening not known.
- 1 full time job and 2 part time jobs to be created.

The applicant has submitted a covering letter with the 342 letters of support, which are referred to in the representations section of this report. The covering letter states:

- They have run the convenience store for the last 10 years
- Hard work and customer good will has helped to earn good will and trust of customers and neighbourhood
- No complaints about rubbish, youths hanging outside or parking
- Customers have asked on several occasions to start a hot food including several workers from businesses around Pinson Road such as Middleton, Asha Alby, J.D Snooker Club, Kwik Fit, CEF Elector Store, Thomas Ely Funeral Directors, Creations Flower Factory.

Whilst the extraction flue has been shown on southern elevation of the submitted plans, no manufacturer's details of the odour extraction system or grease trap details have been provided.

### **Relevant Planning History**

10/1652/FL- Proposed single storey side and rear extension. Grant permission subject to conditions 03/03/2011.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Proactively drive and support sustainable economic development to deliver business
- Always seek a high quality design and a good standard of amenity for all existing and future occupants

- Enhance and improve the places in which people live their lives;

**Key provisions** of the NPPF relevant in this case:

**1: Building a Strong, Competitive Economy**

- 18. The Government is committed to securing economic growth in order to create jobs and prosperity.
- 19. The planning system should do everything it can to support sustainable growth
- 20. Meet development needs of businesses

**2. Ensuring the vitality of town centres**

- 23. recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.
- 24. Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.
- 27. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact it should be refused.

**4: Promoting Sustainable Transport**

- 35. Plans should protect and exploit opportunities for the use of sustainable transport modes

**7. Requiring good design**

- 56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.
- 58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.
  - Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.
- 63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
- 64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

**8: Promoting Healthy Communities**

- 70. Ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the community.

**11. Conserving and Enhancing the Natural Environment**

- 123. Planning policy should aim to avoid noise from giving rise to significant adverse impact on health and quality of life as a result of new development.

On **conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

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.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

## **Local**

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The key planning policies include:

CSP4: Place Making

States that the hierarchy of centres will provide a focus and concentration for essential local services and activities with easy access by walking, cycling and public transport.

TRAN4: Creating coherent networks for cycling and walking

Creating an environment that encourages sustainable travel and cycle facilities should be located in a convenient location with good natural surveillance.

CEN6: Meeting Local Needs for Shopping & Services

Makes provision for meeting local needs for shopping and services, particularly with emphasis on providing and retaining local services within walking distance of people's

homes. It requires such shops and services to be of an appropriate scale and nature to meet a specific day to day need of a population within a convenient, safe walking distance for new improved facilities.

CEN7: There is a clear presumption in favour of focusing development in centres. Proposals for out-of-centre development will have to demonstrate that development cannot be provided in-centre or at edge-of-centre locations of existing Centres appropriate to the hierarchy. For retail purposes, a location that is well connected and within easy walking.

ENV3: Design quality

Responding to the identity of each place by high quality design.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

The relevant policies are:

3.6: development should help improve the Borough.

3.7: The council will seek to protect people from unacceptable noise, pollution and other environmental problems.

GP2: Environmental Protection

All development should make a positive contribution to the quality of the environment and the principles of sustainable development

I. Visual appearance

II. The creation of, or susceptibility to, pollution of any kind

VII. The adequacy of the access, and parking.

XIX. The hours of operation of any activities proposed.

XX. Any other factor of environmental significance.

ENV10: Pollution

States that the development of a facility which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

ENV14: Where either the site or adjoining land is found to have been occupied or underlain by uses or activities which may have:

I. contaminated the site;

II. affected the stability of the site; or

III. led to the generation of landfill gas;

the application must also be accompanied by a site investigation report which identifies the hazards actually present on the site, assesses the level of risk for the proposed development and sets out a strategy and timescale for dealing with them as part of the proposed development.

3.113, 3.114, 3.115, ENV32 & 3.116: Design and Development Proposals

(a) states that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted, particularly within a Town, District or Local Centre.

(b) requires the quality of design of any development proposal to be assessed using the following criteria:

- The appearance of the proposed development
- The height, proportion, scale, and mass of proposed buildings/structures.

- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.

#### S1: Definition of Town Centre Uses

Identifies hot food takeaway uses as town centre uses.

#### S6: Meeting Local Needs

In terms of local need - out-of-centre development may be appropriate to meet such specific local needs and small-scale local facilities, or extensions to existing facilities, will be permitted if it can be shown that

- I. The proposal is of a scale and kind to meet a local need for improved facilities.
- VII. There must be no significant loss of amenity for neighbouring homes. To ensure this, the establishment of shops or other uses that attract the public in terraced properties adjoining dwellings will not normally be permitted.

5.4 – 5.7 and S7: Proposals for the establishment of other town centre uses in out-of-centre (except where in accordance with Policy S6 or where existing commitments or proposals of the Plan) will only be permitted where it can be demonstrated that all of the following tests are fulfilled:-

- need for the facility.
- The development must be shown to accord with the sequential approach there being no more centrally located sites, buildings or opportunities which could be used to serve the catchment area of the use proposed.
- likely to have an adverse economic impact upon the vitality and viability of any existing Town, District or Local Centre (within or outside the Borough) through the diversion of trade and/or deterrence of investment which would help sustain and enhance that centre, bearing in mind the strategy for the centre set out in the development plan.
- The proposal must not have an adverse economic impact on existing or planned provision to meet local needs.
- The proposal must offer genuine and realistic safe and easy access by public transport, walking and cycling for all sections of the community, and from a wide catchment area, to help achieve better access to facilities and development by a choice of sustainable transport modes.
- The proposal should not be designed and located so as to be reliant primarily on access by car and should, insofar as possible, contribute to the objective of reducing the need to travel, especially by car.
- The proposal must not have an adverse traffic impact on the local highway network.

#### S10: Hot Food Takeaways

These uses will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings. In such locations the Council will usually impose a condition requiring the premises to close at 2300 hours Monday to Friday and 2330 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits.
- III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour



nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

**T4: The Highway Network**

District Distributors, which are important routes connecting the main residential and employment areas of the Borough. Heavy commercial traffic will be allowed (except where subject to HCV restrictions), but will not be encouraged where satisfactory routes exist on the Strategic Highway Network. Street parking and direct frontage access will be strictly regulated.

**T7: Car Parking**

All development should satisfy the car parking standards set out in Policy T13 and provide an adequate level of car parking to meet the operational needs of the development.

**T13: Parking Standards**

Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50sqm

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

**Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

**Designing Walsall (Feb 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW3 – Character -design to respect and enhance local identity;

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 20m<sup>2</sup> per dwelling where communal provision is made.

**Consultations**

**Transportation** –Objection on the grounds of parking

**Pollution Control Scientific Team** – Objection on the grounds that no information has been submitted on odour mitigation from the proposed activity. The applicant needs to ensure neighbouring developments will not be adversely affected by the proposed activities.

**Environmental Health** – Objection on the grounds that the proposed use is in close proximity to surrounding residential properties.

**Coal Authority** – Objection on the grounds that the site is in a high risk area and a coal mining risk assessment report will need to be submitted.

**Severn Trent Water** – No objection subject to a drainage condition.

**Fire Officer** – No objection

**Public Participation Responses**

Twelve letters from nine residents received objecting to the proposal on the following grounds:

- Not suitable in residential area
- Affect quality of life and garden life
- Design
- Visual amenity
- Overshadowing
- Overbearing
- Loss of sunlight
- Overlooking
- Loss of privacy
- Cooking smells
- Existing take-aways on Wolverhampton Street
- Noise nuisance- convenience store opens 6am to 8pm, deliveries of newspapers to convenience store at 5am, lorries using the roads currently and proposed building works, customers and youths hanging outside talking
- Youths hang around convenience store
- Youths hanging around seen as perceived threat to nearby elderly people resulting in them not leaving their leave their homes.
- Increase in litter and general rubbish will increase vermin
- Lighting nuisance- existing external lights affect neighbours opposite.
- Existing litter problems from take-aways on Wolverhampton Street
- Parking issues and highway safety - Existing congestion problems with local traffic and HGV's using Pinson Road as a short cut, residents would not be able to park outside their homes, increase congestion, traffic and on street parking, constant traffic throughout the day, vehicles cueing to get into Middleton Paper site
- Premises need of improvement in a food and safety hygiene inspection.
- Customers asked to sign petition in support of application

A petition with 32 signatures objecting to the proposal has been submitted on the following grounds:

- Pinson Road is a busy bus route with calming measures
- Existing parking issues
- Litter
- Encourage louts
- Smells
- 

David Winnick MP has written in objecting to the proposal on the following grounds:

- Litter problems
- Parking issues
- Retail outlet would not be appropriate or desirable in a residential road.

342 Letters have been submitted three times via email, on CD and in paper form supporting the proposal on the following grounds:

- Regular customers of convenience store
- Customers to the convenience store have asked applicants to start selling hot food
- Applicant running business for last 10 years and brought about good changes inside and out.

All letters of representation are available for inspection upon publication of this committee report.

## **Determining Issues**

- Principle of development
- Land stability
- Design and layout of the proposed building
- Operation of the take-away
- Visual amenity of extraction system
- Impact of the proposed use on neighbouring residential occupiers
- Access and parking

## **Observations**

### **Principle of development**

Hot food take-aways are classed as town centre uses under policy S1 of the UDP and such uses are supported and encouraged in established town, district and local centres. The application site is an out of centre site located 326m away from the edge of Willenhall District Centre where there are currently 6 vacant units with 3 units being advertised for let, one of which has been previously utilised as a cafe and a number of existing food outlets including hot food take-aways. As a result the tests of policies CEN7 of the BCCS and S7 of the UDP will need to be applied.

The agent has provided no information on alternative sites, as required in the sequential approach, policy CEN7 and S7. Furthermore, the agent has not satisfied that this local need cannot be better met by investment in a nearby centre, policy CEN6 and S6.

Given that there are vacant to let units within the centre, one formerly utilised as a café and that Willenhall District Centre is located within 5 minutes walking distance of the application site, the proposed use could readily be accommodated within this local centre helping to support its viability and ensure the local population could be better served by a take-away in the local centre offering more linked trips.

Objectors have stated that there are take-aways in Wolverhampton Street. Wolverhampton Street is located at the junction of Pinson Road and leads in to the district centre. The edge of the district centre from the application site along Wolverhampton Street is 434m away, which is within reasonable walking distance. It is considered that there are existing facilities in the local centre which would serve the surrounding area along New Road, Wolverhampton Street and Pinson Road.

Whilst applicant has submitted 342 letters in support of the proposal, the majority of these letters are standard letters that have been signed by customers of the convenience store and do not necessarily demonstrate that there is a strong local need for this hot food take-away that cannot be better met by investment in Willenhall District Centre. A petition has been submitted with 32 signatures objecting to the proposal, the objectors who have signed this petition reside adjacent and opposite the application site on Pinson Road and would be directly affected by the proposed use as opposed to those residents who have signed the letters of support who reside further a field and would not be directly affected by the proposal.

The proposal would be contrary to the National Planning Policy Framework, policies CEN6 and CEN7 of the Black Country Core Strategy and policies S1, 5.4, 5.5, 5.6, 5.7, S6 and S7 of the UDP.

### **Land stability**

The Coal Authority have objected to the proposal and have indicated that within the application site and surrounding area there are coal mining features and hazards, specifically historic unrecorded underground coal mining at shallow depth, which need to be considered in relation to the determination of the application. The applicant has failed to demonstrate that the application site is safe and stable to accommodate the proposed development and therefore the proposal is contrary to UDP policies GP2 and ENV14. Without evidence to demonstrate the land stability issues can be addressed the principle of new development cannot be considered fully.

### **Design and layout of the proposed building**

The development looks to construct a new building to be used as a hot food take-away over two floors with a gross floor area of about 70sqm. The building would be positioned 3m away from the side elevation of 44B Pinson Road and positioned 1.6m further forward of 44A and 44B Pinson Road and 1.2m further forward of the commercial premises to the south of the site. For southbound traffic along Pinson Road this building would not only be prominent, as it would be positioned further forward of 44A and 44B Pinson Road but it would also be visually detrimental in the street scene, as the building would be two storeys high and would have a blank section of wall that would project further forward of 44A and 44B Pinson Road. This section of the development could purposefully have been left blank to install an advert on the side elevation to attract passing trade, in which case, any proposed advert, which would be considered under advert regulations, would be visually detrimental in the street scene.

To northbound traffic, whilst the building would be seen, it would be seen in line with the natural curve of the road and the building from this point would not be unduly prominent or visually detrimental in the street scene.

The design of the proposed building reflects the design of the existing building.

To the rear of the site are numbers 19 to 24 consecutive Summer Street. These properties are terrace properties with a rear two storey and single storey wings that projects out from the main part of the house. There are habitable room windows on the rear elevation of these properties on the rear wing at first floor. The proposed building is positioned to sit in line with the rear boundary of number 20 and part way over the boundary of 21. The building would be set off the rear boundary with these properties by a metre at the closest point near number 20 and 3.8m at the furthest point near number 21. The rear gardens of these properties are approximately 17m in length. The separation distance from the nearest habitable room window on the rear wing elevation is approximately 18.5m to the boundary with the application site.

The proposed windows on the rear elevation are small windows and if planning permission was to be granted and in order to protect the amenity of these occupiers, these windows can be conditioned to be obscurely glazed and fixed. It is considered that the proposed development would not unduly result in loss of privacy or overlooking to these occupiers to warrant refusal of the application.

With regards to overshadowing and loss of sunlight, the proposal will result in some loss of early morning sunlight to numbers 19 and 21; however, this loss of light would only be the very bottom part of the gardens to these properties. It is considered that loss of sun light to the bottom part of these gardens would not unduly impact on the amenities of these occupiers by way of loss of sunlight and overshadowing.

The application site and the existing building are more prominent and visible from number 20 Summer Street. The proposal to erect a two storey building at the bottom of this garden would have a notable impact and would exacerbate the situation with the new building and as such would have an overbearing impact upon the visual amenities of this occupier.

### **Operation of the take-away**

Environmental Health have advised no details for the fresh air supply are provided to ensure adequate ventilation within the premises. They also state the submitted plans do not provide sufficient information to determine if the size of the food preparation area and storage rooms within the building are sufficient to accommodate a suitable layout with fixtures, fittings and appliances usually associated with food take-aways. The layout may have an impact upon the scale of the overall built development, if the service areas need to be extended or enlarged, and if these areas cannot be extended internally. If the internal areas can be extended then the issues can be dealt with directly with Environmental Health, If the building needs to be enlarged then the agent will need to resubmit a larger scheme for consideration.

Pollution Control and Environmental Health have commented that no information has been supplied on the effluent drainage system from the food preparation area and it is recommended measures are installed to ensure that Fat/Oils/Greases cannot enter the drainage system. If planning permission was to be granted then these details can be secured by way of a planning condition.

Food hygiene inspections would be undertaken by Environmental Health and would not be a material planning consideration in this case.

Objectors have raised concerns over litter and the increase in litter. If the planning application was to be supported then details of litter bins to be placed outside of the premises can be secured through planning conditions.

Environmental Health have raised concerns about external storage of food and equipment giving rise to poor practices and attraction for pests. The proposal does not seek any external storage, and if permission was to be granted then a condition ensuring no outbuilding or external storage are undertaken.

### **Visual amenity of extraction system**

The proposed extraction system would be located on the southern elevation of the building and would be visible from the street scene. The extraction unit would be stainless steel and would protrude 1m above the eaves. Environmental Health and Pollution Control have advised that DEFRA Guidance requires the discharge point of the extraction system to terminate 1 metre above the highest point of any nearby roof and clarification is sought that the discharge point will be higher. If the discharge point is raised higher than any nearby roof, then the extraction system would be visually prominent in the street scene and as such would have a detrimental visual impact upon the character and setting of the area. As such the proposal would be contrary to the National Planning Policy Framework, policy ENV3 of the BCCS and Saved Policies GP2, ENV32, and S10 of the UDP.

### **Impact of the proposed use on neighbouring residential occupiers**

Objectors have raised concerns about cooking odours and smells. Both Environmental Health and Pollution Control have advised that no information on odour mitigation has been supplied and even with such systems being in place, odours from an activity close to residential properties will remain, through emissions through doors and windows and odours which remain untreated or poorly dispersed by the ventilation system. It is considered that the proposal in close proximity to residential properties would unduly impact upon the

amenities of the occupiers of neighbouring properties and as such the proposal would be contrary to Policies GP2, ENV10 and S10 of the UDP.

The proposed refuse and bin store will be located along the rear boundary of the site abutting the rear boundaries of 20 and 21 Summer Street. It is considered that the use of this refuse and bin store in close proximity to neighbouring properties would unduly impact upon the amenities of the occupiers of these properties in terms of noise and general disturbance and smells.

Neighbours have concerns with existing noise nuisance from the operation of the convenience store with deliveries starting at 5am and the existing convenience store opening late at night with youths congregating outside the convenience store. The proposed take-away together with the existing late night opening of the existing convenience store would intensify late night activity at the site and create additional late night activity in close proximity to residential properties. The take-away would inevitably create additional late night activity, noise and potential general disturbance in this residential area with noise emanating from groups gathered outside the premises talking and from vehicles coming and going to and from the premises with car doors banging, car engines starting and stopping, car radios and car horns and general noise and potential disturbance in what is essentially a residential neighbourhood and particularly during times when residents are most likely to be at home and would expect a reasonable level of amenity. As such the proposal the proposal would be contrary to the National Planning Policy Framework, and saved policies S10 and GP2 of the UDP.

Any existing issues regarding noise from deliveries are matters to be dealt with under Environmental Health legislation.

If planning permission was to be granted, a planning condition restricting works on site would be implemented to protect the amenity of adjoining and surrounding residential occupiers.

Environmental Health have raised concerns about the potential for noise disturbance from plant and associated equipment with ventilation and refrigeration equipment, customers frequenting the premises and others attracted to such establishments, from deliveries to the premises and plant or equipment. The applicant fails to provide any information relating to the proposed equipment or measures designed to mitigate noise from equipment. On this basis, the full extent of any issues regarding noise from the extraction system and ventilation and equipment cannot be fully considered, as a result the proposal is contrary to Saved Policies GP2, ENV10 and S10 of the UDP.

Whilst the proposal fails to provide opening hours and delivery times, if planning permission was to be granted then these can be issued by way of a condition restricting delivery times to normal working hours and opening hours until 9pm to protect the amenity of residential occupiers opposite, adjacent and surrounding the application site.

### **Access and parking**

Policy T13 of the UDP requires 6 parking spaces plus 1 disabled space for Hot Food Takeaways with the existing shop and flat requiring 10 parking spaces, which includes 2 spaces for the flat.

The proposed building is located on the existing car park to the south of the existing convenience store with residential accommodation above. The existing site also has an access point to the north of the site adjacent 44 Pinson Road.

Issues relating to parking, in particular existing congestion problems with local traffic and HGV's using Pinson Road as a short cut, residents would not be able to park outside their homes with the proposed use, constant traffic throughout the day and vehicles queuing to get into Middleton Paper site. The proposal seeks to provide four spaces utilising two existing access points which is significantly below the policy requirement. This is likely to result in indiscriminate parking around the site on Pinson Road which is a classified road ( B4484) and a District Distributor which carries heavy commercial traffic and is a bus route. Policy T4 (b) of the UDP, which applies to District Distributor roads, looks to strictly regulate street parking as such roads are important routes connecting employment and residential areas. The removal of existing off -street parking and together with the increase in parking demand as a result of the new development is contrary to this policy.

The Highway Authority consider that the cumulative impacts of the development in terms of its location on the highway network, the impact on the existing on-site parking for the shop and flat together with the increase in parking demand for the proposed hot food take-aways, would be severe and therefore unacceptable.

### **Positive and proactive working with the applicant**

The agent has been advised to submit the required information in relation to the sequential test, extraction details and grease trap details three times but this information has not been forthcoming. The agent was advised in the last correspondence that the application would be reported to Planning Committee due to significant community interest.

### **Recommendation: Refuse**

1)The proposal has failed to:

- I. Demonstrate a local need for the A5 hot food take-away facility in an out of centre location which would detract investment from existing established centres such as Willenhall District Centre.
- II. Provide information or alternative sites in accordance with the sequential approach.
- III. Satisfactorily demonstrate that this local need cannot be better met by investment in a nearby centre.

As such the proposal is contrary to the National Planning Policy Framework, policies CEN6 and CEN7 of the Black Country Core Strategy and Saved Policies S1, 5.4, 5.5, 5.6, 5.7, S6 and S7 of the Walsall Unitary Development Plan.

2) There is a lack of evidence to demonstrate that the land stability issues as a result of former mine workings on the site can be adequately addressed as no coal mining risk assessment has been provided. In these circumstances the stability of the land to accommodate new development has not been adequately demonstrated to justify the principle of new development. The proposal is contrary to the National Planning Policy Framework and Saved Policies GP2 and ENV14 of Walsall Unitary Development Plan.

3) The proposed two storey building with a blank section of wall being positioned further forward of 44a and 44b Pinson Road would be visually prominent and visually detrimental in the street scene especially when viewed to the south along Pinson Road. From the rear of the site the proposed two storey building would be visually prominent from the rear of number 20 Summer Street having a notable visual impact resulting in an overbearing impact upon the visual amenities of this occupier. The proposal is contrary to the National Planning Policy Framework, policies CSP4 and ENV3 of the Black Country Core Strategy and Saved Policies 3.6, 3.7, GP2, ENV32, 3.113, 3.114, 3.115, 3.116 of the Walsall Unitary Development Plan and Policy DW3 of Designing Walsall.

4) The discharge point of the extraction system to terminate 1 metre above the highest point of any nearby roof would be visually prominent in the street scene and as such would have a detrimental visual impact upon the character and setting of the area. Furthermore, the proposal fails to provide any information on odour mitigation and information relating to the proposed equipment or measures designed to mitigate noise from equipment and in close proximity to residential properties would unduly impact upon the amenities of the occupiers of neighbouring properties. As such the proposal would be contrary to the National Planning Policy Framework, policy ENV3 of the Black Country Core Strategy, Saved Policies GP2, ENV10, ENV32, and S10 of the Unitary Development Plan and Policy DW3 of Designing Walsall SPD.

5) The proposed hot food take-away would create additional late night activity and increase late activity on the site with the late opening of the existing convenience store and would result in additional cumulative noise and general disturbance from this increased activity with noise emanating from groups gathered outside the premises talking and from vehicles coming and going to and from the premises with car doors banging, car engines starting and stopping, car radios and car horns particularly during the evening time when residents are most likely to be at home and would expect a reasonable level of peace and quiet. The proposal would have a detrimental impact on the amenities of the adjacent and surrounding residential occupiers. Furthermore, the use of the refuse and bin store located in close proximity to 20 and 21 Summer Street would unduly impact upon the amenities of the occupiers of these properties in terms of noise and general disturbance and potential smells. As such the proposal would be contrary to The National Planning Policy Framework, Policies CSP4, CEN6 and CEN7 of the Black Country Core Strategy, Saved Policies GP2, 3.6, 3.7, S1, S6, S7, ENV10, ENV32 and S10 of the Walsall Unitary Development Plan.

6) The applicant has failed to demonstrate that there is sufficient parking to meet the operational needs of the development together with the adjoining shop and flat premises detrimental to the free flow of traffic and to highway safety. Furthermore, the proposal fails to provide any cycle stand facilities for the use of staff or customers. As such the proposal is contrary the National Planning Policy Framework, Policy TRAN 4 of the Black Country Core Strategy and Saved Policies S10(iii), GP2, T4, T7 and T13 of the Unitary Development Plan.







# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 8.**

**Reason for bringing to committee: Sale of Council land**

**Application Number:** 14/1777/FL

**Application Type:** Full application

**Applicant:** B E Wedge Holdings Ltd

**Proposal:** Proposed car park

**Location:** LAND BETWEEN LITTLE WOOD STREET AND MALT HOUSE LANE,  
WILLENHALL

**Ward:** Willenhall South

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Roger Evans & Associates

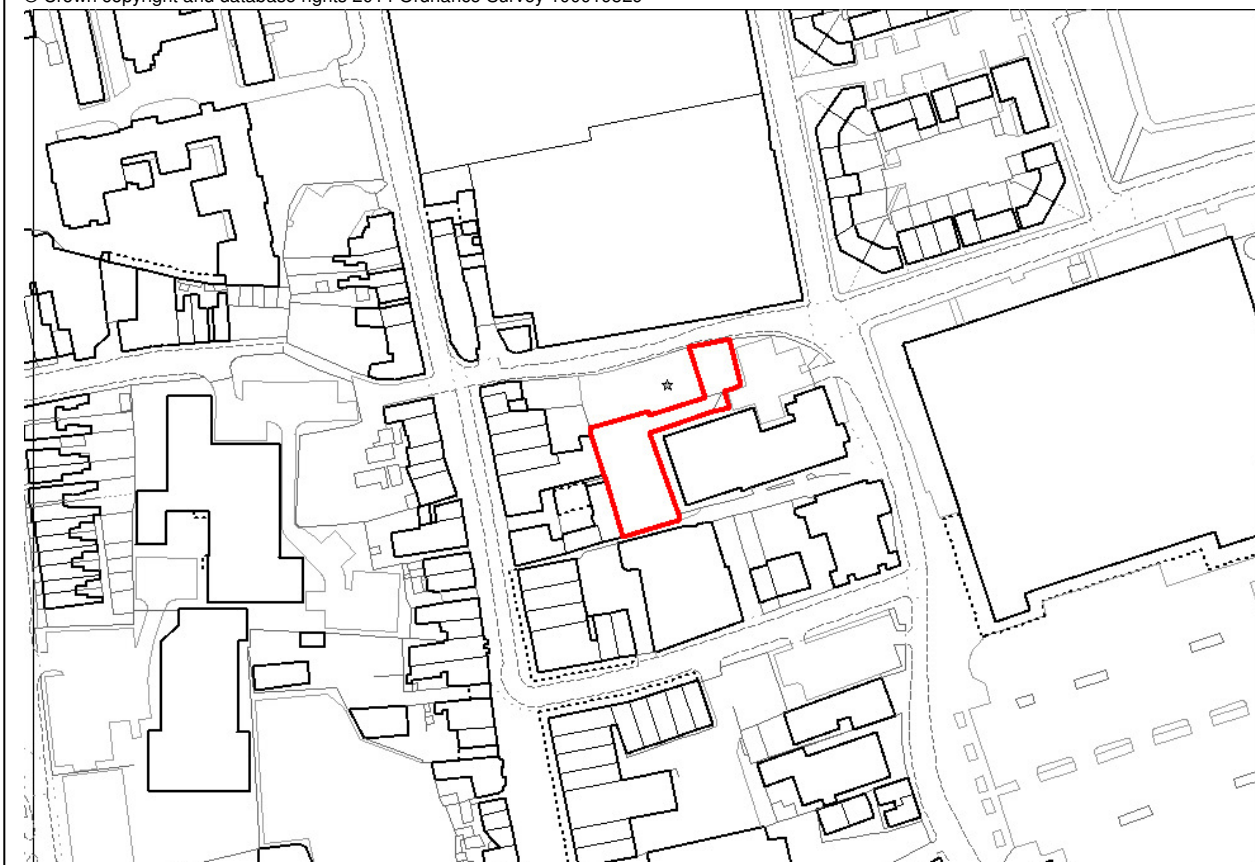
**Expired Date:** 27/01/2015

**Extension of Time Target Date:**

27/03/2015

**Recommendation Summary:** Grant Permission Subject to Conditions

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### **Current Status**

The application was deferred by Committee on 5<sup>th</sup> March 2015 to allow further negotiations with the applicant in relation to potential retention of more trees on site.

Natural Environment officers have reviewed the proposals and make the following comments:

It is impractical to retain the trees on site as they occupy the land needed to connect the current car park to the proposed extended car park. Many of the trees do not justify retention due to their health and condition and all the best trees would have to be removed to allow for the development. It is proposed to create new tree stations within the existing and proposed areas of car parking. Tree planting can be located in the areas where it has the most visual impact and causes least disruption to the operation of the car park.

The plan attached as an appendix to this report shows how the layout could work. The tree stations could be permeable paving and do not necessarily need to contain other planting. A condition to secure this is recommended (a replacement condition 8).

The original report now follows unchanged with the exception of the replacement condition 8 to secure tree planting which is shown in italics.

### **Application and Site Details**

The proposal is for a proposed car park on vacant land located between Little Wood Street and Malt House Lane, within Willenhall Conservation Area. There are the remains of a small toilet building on site. The land is presently owned by the Council. The proposed car park is for use by B E Wedge Holdings Limited who occupies premises immediately opposite the site in Little Wood Street and already has a small car park on the adjacent land. Parking currently occurs along the side of the industrial building.

Malt House Lane is a public right of way (Will 78) and runs parallel to the southern boundary of the site. There is a Job Centre surrounding two sides of the site and the rear of commercial premises in Stafford Street adjoins the western boundary. There are mature trees along the boundary with the Job Centre and at the front of the site facing Little Wood Street.

The proposed car park will accommodate 38 spaces when combined with the existing car park. There are 33 spaces accessed from the existing car park and 5 further spaces accessed from the additional land. Whilst some trees are retained in the corners trees along the boundary between the existing car park and Job Centre are to be removed to create the access to the enlarged car park land. Some new tree planting with permeable paving beneath is proposed in these areas.

The remains of the toilet block are to be demolished to accommodate parking.

The proposal includes provision of new green Weldmesh fencing with green metal posts along two boundaries facing Little Wood Street, a dwarf boundary wall along the frontage of the extended car park facing Little Wood Street and retention of existing fencing and palisade fencing along the boundary with the Job Centre.

The site is 894 square metres.

**The Planning Statement** – Describes the site and surrounding area. It explains that the proposal is to provide staff parking for employees of B E Wedge Galvanizing Limited located

on the north side of Little Wood Street. The car park utilises existing accesses and will be fenced, surfaced and drained.

The Tree Survey – Identifies 20 trees surveyed of which 14 are proposed to be felled and replaced and 6 where retention is preferred and should be explored. Of all of these trees only one is category A (high quality and value), 5 category B trees, 7 are category C trees and 7 are category U (unlikely to be retained). Root protection areas are identified for those trees to be retained.

The Ground Investigation Report – Identifies the land uses, geology, hydrogeology and hydrology, flooding issues, designated environmentally sensitive sites, mining and natural hazards. It

### **Relevant Planning History**

05/2276/FL/W2 – Change of use to car park – GSC 02/03/06.

#### **16A Stafford Street**

10/1440/FL – Conversion of workshop adjacent to public footpath - ground floor to workshop/retail (computer repairs), first floor to 2 bed dwelling, new shop front – GSC 10/01/11.

14/0040/FL - Conversion of ground floor from computer repairs workshop to 2 bed apartment – GSC 25/02/14.

### **Relevant Planning Policy Summary**

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate:

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 64 states permission should be refused for development of poor design that fails to take account for improving the character and quality if an area and the way it functions.

Paragraph 109 seeks to protect and enhance the natural and local environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 131: In determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

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.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide a sustainable mix of modern, strategic high quality employment land and new residential communities well supported by community services and local shops built on brownfield sites close to existing public transport routes.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CSP4: A high quality of design of the built and natural environment is required.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV11: Consideration of proposals for external lighting.

ENV14: Development of Derelict and Previously-Developed Sites.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area.

ENV32: Development proposals should take account of the context and surroundings, particularly in a conservation area. The design should be well integrated with surrounding land uses and local character.

ENV33: Deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

S2: The Hierarchy of Centres

S3: Integration of Developments into Centres

T1: Seeks to improve access and help people get around.

T4: Identifies the highway network.

T7: Refers to car parking provision and states it should be well designed and sensitively integrated into the townscape. Except where there is an accepted need for dedicated provision, parking within or on the edge of centres should be generally available to serve the needs of the centre as a whole.

T10 (a): Refers to accessibility standards.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

WH3: Environmental Enhancement

WH4: Development / Investment Opportunities

WH9: Traffic Management

WH10: Parking

## **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

### **Designing Walsall SPD**

Policy DW1 Sustainability  
Policy DW2 Safe and Welcoming Places  
Policy DW3 Character  
Policy DW4 Continuity  
Policy DW5 Ease of Movement  
Policy DW6 Legibility  
Policy DW9 High Quality Public Realm

### **Conserving Walsall's Natural Environment SPD**

NE1: All relevant applications to be supported by an adequate impact assessment.  
NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.  
N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

## **Consultations**

**Transportation** – No objections subject to securing details of layout, access and operation of the car parking area. Conditions are recommended to secure these details. The access points on Little Wood Street are existing and are acceptable subject to minor changes.

**Conservation** – Screening to Malt House Lane is required. The loss of trees in this urban character area will not harm the conservation area as typically trees are sparse or planted formally within the street. It is recommended that better screening in conjunction with the railings along Malt House Lane is incorporated.

**Local Access Forum (Walsall Ramblers)** – No objections. The permeable paving and new tree planting along the boundary to Malt House Lane will handle any run-off generated by the increased parking area and prevent flooding onto the public right of way.

**Natural Environment (Ecology)** – No ecological issues other than the retention of trees on site. The best trees will be lost and those remaining may be too close to the parking areas and it is unlikely they will be retained.

**Pollution Control** – No specific requirements.

**Tree Officer** – The trees in the site are protected by Willenhall Conservation Area. There appear to be a good group of trees on site that provide much needed landscape value in the area which is largely devoid of tree cover. Some trees worthy of retention and replacement planting should be expected.

## **Public Participation Response**

One letter of objection received which is summarised as follows:



- There are windows at the rear of shop premises in Stafford Street overlooking the site
- The proposal creates a fire risk as there is no exit for residents

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of a car park
- Loss of trees
- Impact on Willenhall Conservation Area
- Relationship to adjacent properties

### **Observations**

#### **Principle of a car park**

The land is presently vacant and overgrown. The proposal to utilise the land for expansion of the car park for the industrial premises opposite in Little Wood Street will make more effective use of the land and may go some way to relieving parking congestion in the area caused by staff parking. The land is not allocated for any specific purpose and therefore its use as a car park to support the existing long established business and local employer is considered appropriate.

#### **Loss of trees**

There is no specific Tree Preservation Order on the trees throughout the site but they are protected as they fall within Willenhall Conservation Area. A tree survey has been supplied. The Tree Officer and Ecologist do not support the removal of the trees as they consider this will harm the character of the area.

The proposal is to remove the majority of trees along the boundary with the Job Centre. Without removal of the trees there would be no access to the land at the rear which extends to Malt House Lane. Malt House Lane is a public right of way with no vehicular access. The land would therefore remain undeveloped and detract from the character of the area. The existing trees are set back from the public frontage in Little Wood Street and are considered not to be prominent within the area. The conservation officer considers that it is more typical to have street trees in an urban conservation area. Some of the trees are to be retained and new tree planting is proposed nearest the Malt House Lane frontage which is welcomed.

On balance, the proposal to create a car park for staff of the existing long established business B E Wedge which is a significant local employer and would relieve parking congestion on the edge of the building in Little Wood Street are considered to outweigh the loss of trees.

#### **Impact on Willenhall Conservation Area**

The land is presently unused and overgrown which detracts from the conservation area. The utilisation of the land as an extension of the present car parking area will not have a significant impact on the appearance of the conservation area as it tidies up the land. The proposed new dwarf wall and fencing facing Little Wood Street will also improve the appearance of the site. Retention of trees, albeit limited, and new tree planting will also help enhance the area. The displacement of some of the parking along the side of the industrial building will also improve the character of the area.

The new dwarf wall and fencing facing Little Wood Street is considered acceptable in visual terms. The loss of the small toilet building will not have a significant impact on the character

or appearance of the conservation area. The conservation officer is satisfied that the proposals will not have a significant adverse impact on the conservation area but requests further planting incorporated behind the railings along Malt House Lane. It is proposed to plant two new trees along this boundary which will help address this request.

On balance there is no significant impact on Willenhall Conservation Area.

### **Relationship to adjacent properties**

The land is surrounded by the Job Centre with its boundary fencing, the public right of way in Malt House Lane and the rear elevation of buildings in Stafford Street. The existing boundary treatment is to remain around the Job Centre and Malt House Lane so there will be no significant impact on these adjoining sites. Although trees are to be removed adjacent to the Job Centre boundary this will not have a significant impact on outlook or privacy for the offices.

The objector is concerned that there are windows of premises in Stafford Street overlooking the site and the use for a car park would block the fire exit from the premises. The rear elevation of the Stafford Street properties is currently an extensive brick facade although there is a permission to convert the building to flats which includes provision of habitable room windows at ground and first floor facing the site. The permission, 14/0040/FL, identified part of the current application site as garden land for the proposed flats and the certificate of ownership indicated that the land belonged to that applicant which is not the case. Although there are no conditions on permission 14/0040/FL to require implementation of the garden condition 5 requires implementation of the permission in accordance with the approved plans. In order to do this the applicant for 14/0040/FL would require the Council's consent as landowner to utilise the land as garden land for the flats. Alternatively if the applicant wanted to implement the permission without the garden then this would require a separate planning permission.

In light of the above it is considered that the existing permission 14/0040/FL should not prejudice the determination of the current application. There could potentially be two bedroom windows and a secondary lounge window in the ground floor facade of the building overlooking the site. The proposal for car parking does not include any new boundary treatment along this boundary that would obscure the windows. The parking is for staff of B E Wedge only rather than a public car park which limits the amount of comings and goings as staff would park up for their shift and are unlikely to move throughout the day. In the circumstances it is considered the proposals would not have a significant adverse impact on the amenities of potential future occupiers. Also bearing in mind the proposed flats are in a town centre the expected levels of noise and disturbance is not the same as that expected in a purely residential area.

In terms of the fire exit gate between the Stafford Street buildings which leads onto the site, although there is no formal right of access over the land, the proposed use as a car park does not prevent it being used as a fire exit for pedestrians as there are no buildings proposed on the site.

For the above reasons it is considered that the proposals will not have any significant impact on residential amenities of potential future occupiers sufficient to warrant refusal of the application. There are no significant adverse impacts on other adjoining premises.

### **Positive and Proactive working with the applicant**

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant

supporting information and amended plans have been submitted to enable full support to be given to the scheme.

### **Recommendation**

Grant permission subject to conditions.

### **Summary of Reasons for Granting Planning Permission**

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.

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

- Ordnance Survey Plan Boundaries Amended (476-00-01B) received 25/11/14
- Amended Layout Trees & Fencing (476-00-15) received 05/02/15
- Planning Statement prepared by Roger Evans Associates received 25/11/14
- Tree Survey prepared by Cedarwood Tree Care received 05/02/15
- Ground Investigation prepared by GroundSure EnviroInsight (GWD-1805725) received 10/12/14

*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. Prior to the car park coming fully into use, it shall be fully consolidated, hard surfaced and drained in such a way that no surface water from the site discharges onto the public highway and the parking spaces clearly demarcated on the ground.

3b. The car park shall at no time be used for any other purpose other than for private parking ancillary to the BE Wedge Holdings Ltd site.

*Reason:* To define the use of the car park and to ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2 and T7.

4. At no time shall vehicular access to the car park be gained via Malt House Lane.

*Reason:* To minimise vehicular traffic along Malt House Lane which is a narrow, predominantly pedestrian route between the main shopping areas, in order to remove potential pedestrian/vehicle conflicts, in the interests of highway safety.

5. Prior to the car park first coming into use, the required alterations to the eastern existing vehicular footway crossings in Little Wood Street to align with the new car park entrance including the reinstatement back to full kerb height any redundant dropped kerbs, shall be fully implemented to a specification to be first agreed in writing by the local planning authority and to the satisfaction of the Highway Authority. All works within the public highway shall be in accordance all statutory requirements.

*Reason:* To ensure the satisfactory operation of the car park access points in accordance with UDP Policy GP2 and in the interests of highway safety.

6. Prior to the car park coming into use the proposed new boundary treatments identified on the approved drawing 476-00-15 shall be fully implemented and thereafter maintained in accordance with the approved details.

*Reason:* To safeguard the visual amenities of the area.

7. The retained trees identified on the approved plan 476-00-15 shall be protected and maintained throughout the lifetime of the development.

*Reason:* To safeguard the visual amenities of the area.

*8a. No development shall commence until a detailed tree planting scheme has been submitted to and approved in writing by the Local Planning Authority. The tree planting scheme shall include:*

- i. Numbers, species and specification for proposed trees, trees shall be no smaller than selected standards at the time of planting.*
- ii. Locations of all tree planting and extent of associated tree pits on a plan not less than 1:100 scale.*
- iii. Construction details showing method of staking and tying trees and specification for tree pits and permeable paving;*
- iv. Management and maintenance of newly planted trees for 4 years after planting. Maintenance operations shall include, provision for watering in dry periods, pruning dead wood, firming in and adjusting tree ties and stakes.*

*8b. The approved scheme shall be implemented before any part of the development is brought into use and then maintained in accordance with the approved details thereafter.*

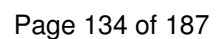
*8c. Any tree which dies, becomes diseased or is damaged or destroyed by any cause shall be replaced in the first planting season following death or damage with a tree to an identical specification*

*Reason:* to retain tree cover in the immediate neighbourhood in accordance with saved UDP policy ENV18: Existing woodlands, trees and hedgerows.

#### **Notes to Applicant (Highways)**

1. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the alterations to the access points within the public highway.
2. The attention of the applicant is drawn to the need to keep the highway from any mud or other material emanating from the application site of any works pertaining thereto.

Regeneration - Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG  
Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email: [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone: (01922) 652677,  
Textphone: 0845 111 2910, Fax: (01922) 652670





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 9.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/1903/FL

**Application Type:** Full application

**Applicant:** Dr Jane Owen

**Proposal:** Proposed front extension and alterations to front garden/driveway layout.

**Location:** 2A OAKEN DRIVE, WILLENHALL, WV12 5NU

**Ward:** Short Heath

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652615

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Star Planning and Development

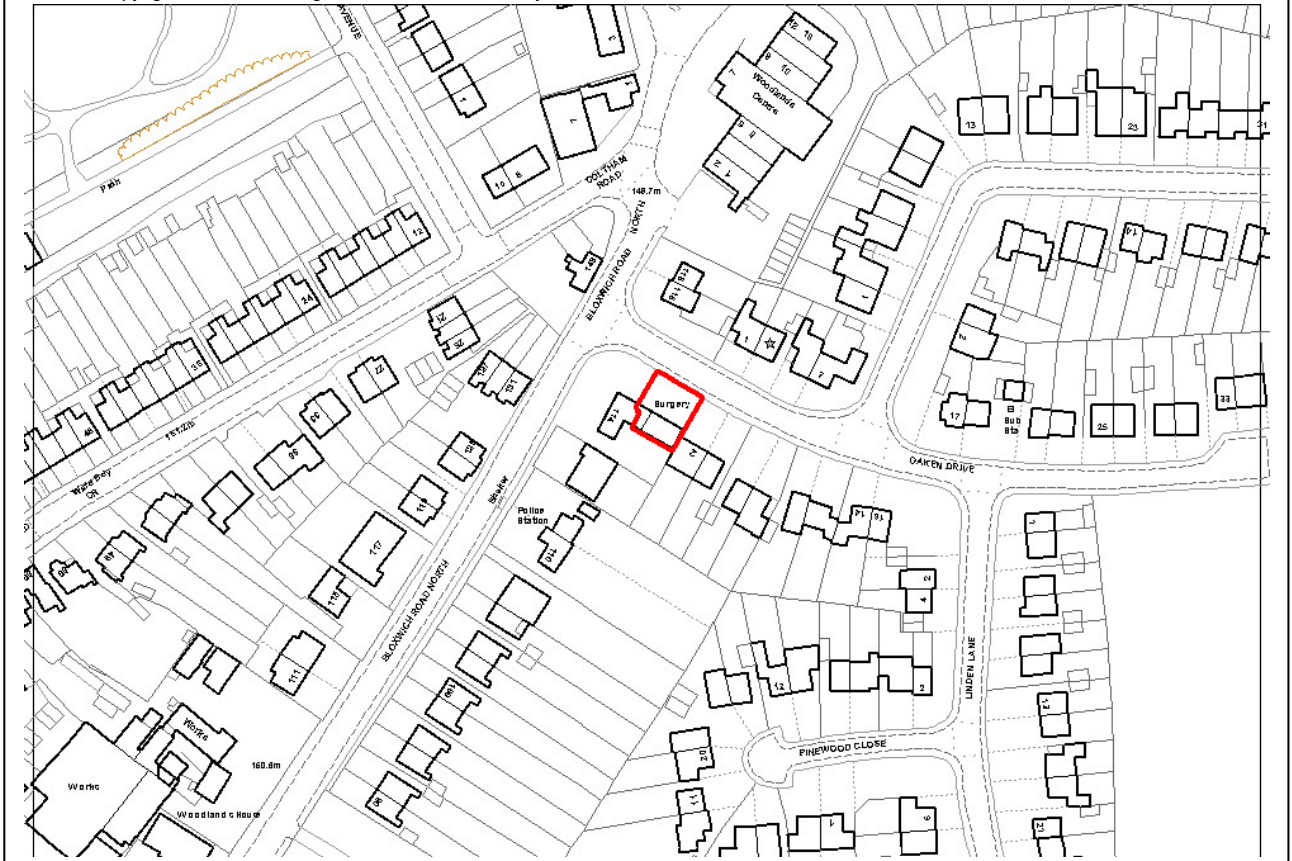
**Expired Date:** 13/03/2015

**Extension of Time Target Date:**

10/04/2015

**Recommendation Summary:** Grant Permission Subject to Conditions

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## **Application and Site Details**

The site is situated on the southern side of Oaken Drive, just to the east of the junction with Oaken Drive and comprises a single storey building to the rear of 114 Bloxwich Road North (a two storey detached house). The main rectangular part of the building has a gable roof but the shaped part of the building that adjoins No 114 has a flat roof. The boundary of the site to the rear with the garden to 114 is formed by a wooden fence approx 1m from the rear elevation of the building. The building is used independently from 114 as a dental surgery.

Part of the frontage of the property is used for parking two cars off street (tandem) with the remainder retained as landscaping.

The site is situated in a predominantly residential area. No 2 Oaken Drive to the east is a semi detached house with single storey side garage adjoining the boundary with the site. No 114 Bloxwich Road North to the west is a two storey detached house with a single storey side garage to the southern side. The rear garden of No 114 sits immediately adjacent to the rear boundary of the application building. The application building originally operated as a doctors surgery ancillary to 114, but has been sold off separately in recent years and now operates as a dental surgery.

Woodlands local centre sits approx 60m to the north of the application site and Woodlands School sits approx 180m to the south west.

This is a revised application following two previous refusals for a first floor extension and for a large dormer window to the frontage to provide first floor accommodation together with a new entrance porch.

This application now proposes a single storey extension to the frontage of the property to provide improved internal facilities at the dental surgery and a new entrance. The extension would project 1.8m from the existing front elevation and be 6m wide with a hipped roof that would be no higher than the main roof of the building. The proposals also include alterations to the front garden/driveway layout to provide two side by side off street parking spaces and a cycle store. The frontage layout has been amended since submission.

The existing dentist operates 0800 – 1700 hours Mon – Fri operating with two dentists and this would remain unchanged.

The extension would allow the 2 existing surgeries to be increased in size to accommodate wheelchair users, improved disabled access and disabled WC as well as an improved reception area.

The submission includes a petition of 63 signatures in support of a more modern dental practice and accessible for disabled patients with disabled WC.

In addition a Survey to Record Methods of Transport to the practice has been submitted in support of the proposals.

This covers the period 18-11-14 – 20-01-15 and shows an average 12 patients per day.

The survey indicates an average of:

8 patients per day walking to the surgery

1 using public transport

2 using car

0.8 using taxi

## **Relevant Planning History**

Will 2168, erection of a dwelling house and consulting room land at the corner of Bloxwich Road North for Dr Singh, granted 11-07-61.

14/0438/FL, proposed first floor extension to existing dental surgery and new front entrance porch refused 29-05-14.

14/0972/FL, proposed dormer to front refused 16-10-14.

Reasons for Refusal:

1. The proposed dormer window would have a poor visual appearance and be out of character with the general street scene and would have an adverse impact on the amenities of the occupiers of 114 Bloxwich Road North through loss of light and outlook due to the proximity of the extension to a first floor habitable room window. The development would therefore be contrary to the National Planning Policy Framework, the Black Country Core Strategy in particular policies ENV2 and ENV3 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall Appendix D.

2. The proposals fail to demonstrate sufficient parking to meet the needs of the development, fails to provide adequate details of the proposed car parking layout, fails to provide any details of the required access alterations, including visibility splays, to serve the enlarged car park, and to provide secure cycle storage facilities, to the detriment of the free flow of traffic and pedestrians on the public highway and detrimental to highway safety. As such the proposals would be contrary to the National Planning Policy Framework (2012), are contrary to the aims and objectives of the Black Country Core Strategy (2011), in particular policy HOU5 and TRAN4, saved policies GP2, T7 and T13 of Walsall's Unitary Development Plan (2005).

## **Relevant Planning Policy Summary**

### **National Planning Policy**

#### **National Planning Policy Framework (NPPF)**

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Take account of and support local strategies to improve health

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 7: Requiring good design***
- ***NPPF4: Promoting Sustainable Transport***
- ***NPPF8: Promoting Healthy Communities***

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.

## **Local Policy**

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- HOU5: Education and Healthcare Facilities
- TRAN4: Creating Coherent Networks for Cycling and for Walking

### **Unitary Development Plan**

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV32: Design and Development Proposals
- S1: Definition of Town Centre Uses
- S6: Meeting Local Needs
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.7 The enhancement of existing, and the provision of new, facilities for education, health and other community needs (including those of religious groups and other community organisations) will be encouraged.

## **Supplementary Planning Document**

### **Designing Walsall**

- Policy DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

## **Consultations**

**Transportation** – No objections subject to conditions to ensure the provision of satisfactory off street parking, access, visibility and cycle storage facilities. This revised scheme is a significantly reduced scale from the previous schemes. The development does not seek to add additional surgeries and therefore there is no additional parking requirement. The proposals would continue to provide 2 off street parking spaces but in perpendicular arrangement rather than the current tandem arrangement which would make the spaces more accessible. Cycle storage facilities would be provided which are

absent currently. Double yellow lines protect from indiscriminate parking near the junction of Oaken Drive and Bloxwich Road North otherwise there are no parking restrictions on Oaken Drive itself. It is considered that this revised scheme would not have severe transport implications and is acceptable.

### **Public Participation Responses**

Five objections received from four nearby residents.

Objections:

- The best plans so far, no additional height
- 'about' 1.8m front projection too vague
- The front projection would spoil the appearance of the street and the estate
- Forward of building line and would set a precedent if approved for forward extensions.
- Existing on street parking issues since the two dentists working at the premises, cars parked both sides of the road, some with two wheels on the pavement and some over driveways.
- Inconsiderate parking likely to increase
- Existing congestion in Oaken Drive, Linden Lane and Woodside Way.
- Coaches for the school have trouble getting down the road as well as bin lorry and emergency vehicles
- Reversing off driveways dangerous due to parked cars on both sides of the road and worse at school times
- 5 staff but only 2 parking spaces
- Forms inaccurate, 2 dentists working full time, patients visiting every 6 months, how can most patients be within walking distance?
- The survey information re methods of transport to the surgery are misleading and inaccurate concluding on average only 2 patients per day arrive by car.
- Patients asked to sign a petition for a disabled toilet, it was not made clear that an extension was to be built as well.
- The addresses on the petition do not hold with the statement that most patients arrive by foot.
- Widening of the dropped kerb will exacerbate existing parking problems.
- Highly unlikely that 8 cycle storage spaces would be required for the use a similar shelter would suffice and is a shelter really appropriate on the frontage?
- Recent adverts for new NHS patients as NHS dentists becoming rare, likely to attract more patients from a far wider area.
- Parking on the road associated with the dental practice is becoming worse as time goes on, 7 cars parked on the road and 2 on the driveway at the time of writing, making a mockery of the 'average 2 cars per day' stated in the application.
- The current owners show little care for the neighbourhood.
- The boundary fence between the site and No 114 has been leaning in a precarious way since early December.
- Some of the staff who smoke discard their cigarette ends into adjacent garden.

All letters of representation are available for inspection upon publication of this committee report.

### **Determining issues**

Whether the proposals overcome the previous reasons for refusal in terms of:

- Design, impact on the general street scene and impact on the amenities of the adjoining occupiers
- Parking, access, highway safety and cycle storage facilities

## **Observations**

### **Design, impact on the general street scene and impact on the amenities of the adjoining occupiers**

The proposals are a much reduced scheme from the two previous refusals, which both proposed the addition of first floor accommodation. The proposals now include a modest ground floor extension to the frontage of the building adjacent to the boundary with No 2 Oaken Drive, with a 10.8sqm footprint. The proposed hipped roof design would reduce the bulk of the extension and angle the roof away from the boundary with No 2, reducing its impact on the amenities of the occupiers of No 2 and the general street scene and is considered appropriate for the building and the street scene. It is considered that the proposed extension would be of a domestic scale would no longer have an adverse impact on the amenities of the occupiers of either 114 Bloxwich Road North or 2 Oaken Drive.

Whilst the extension would be forward of the main building line of Oaken Drive it would only extend 1.8m forward which is not dissimilar to a porch extension on a residential property and it is not considered would be detrimental to the general street scene.

The frontage layout has been amended since submission to ensure an adequate access between the two parking spaces to allow both spaces to be used by disabled persons and to reduce the size of the cycle store and amend its location to make it less obtrusive within the street scene.

The site is an existing D1 use granted consent in 1961 with no conditions to restrict the hours of use or the number of medical practitioners that operate from the site. Whilst the objectors are concerned about an additional dentist operating from the site and a recent increase in the hours of operation, there are no restrictions to the current use and the proposals would only improve the existing facilities rather than adding to the facilities at the surgery.

### **Parking, access, highway safety and cycle storage facilities**

This revised extension to the building is a significantly reduced scale from the previous schemes, not adding any additional surgeries or facilities and it is therefore considered that the proposals would not require any additional parking spaces. The proposed layout would continue to provide 2 off street parking spaces but in a perpendicular arrangement rather than the current tandem arrangement with hatching between, which would make both of the spaces more accessible for disabled users. Cycle storage facilities would be provided which are currently absent which would encourage the use of alternative modes of transport.

The submitted modes of transport survey indicates that patients use a variety of transport modes to visit the dentist, the provision of cycle storage would improve facilities and may encourage more patients to use a cycle. Whilst the site is situated in a residential area, it is in close proximity (walking distance) to a local centre (Woodlands) with two regular bus routes operating along Bloxwich Road North and is therefore considered to be in a sustainable location.

The objectors suggest that the Modes of Transport Survey submitted is inaccurate in terms of the number of patients that drive to the surgery, as on street parking causes

issues to the surrounding residential occupiers. It is considered however that as the proposals would not increase the facilities but just make them more user friendly for disabled patients, that the parking and activity at the site would be unlikely to be exacerbated by the proposals. The level of parking on site would remain at 2 spaces but these would be more useable as side by side spaces rather than tandem spaces. Whilst there are double yellow lines protecting the junction of Oaken Drive and Bloxwich Road North from indiscriminate parking but there are no other parking restrictions on Oaken Drive itself.

Whilst the submitted petition includes patients from a wider area and adverts for NHS patients may bring more patients from outside walking distance, the numbers of patients seen at any one time at the surgery would not increase as the number of consulting rooms/surgeries would not change from the current situation and a condition is recommended to restrict the use to two consulting rooms only.

It is considered that this revised scheme would not have severe transport implications and is acceptable.

**Recommendation:** Grant Permission Subject to Conditions

**Summary of Reasons for Granting Planning Permission**

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 and documents: -

Site Location Plan and Block Plan Drawing 3A submitted 17<sup>th</sup> March 2015

Existing Floor Plans and Elevations Drawing 1 submitted 22<sup>nd</sup> December 2014

Proposed Floor Plans and Elevations Drawing 0130/002 Rev A submitted 17<sup>th</sup> March 2015

Front Garden Layout Drawing 0130/004 submitted 17<sup>th</sup> March 2015

Design and Access Statement submitted 22<sup>nd</sup> December 2014.

*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 policy ENV32 of Walsall's Unitary Development Plan.

4a: Prior to the enlarged facilities first coming into use;-

i) the two 2.4m x 4.8m car parking spaces on the property frontage shall be fully consolidated, hard surfaced and drained to ensure surface water from the parking area does not discharge onto the public highway, together with the demarcation of the parking bays to include a minimum 1.2m hatched pedestrian zone between the two parking spaces to provide a clear pedestrian access route to the building and facilitate disabled access to either parking space.

ii) the existing dropped kerb footway crossing shall be extended to align with the new parking spaces and shall be installed and carried out in accordance with Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority. All works within the public highway shall be in accordance all statutory requirements.

4b: The parking spaces shall thereafter 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, T4, T7 and T13.

5: All parking spaces shall provide 2.4m x 3.4m pedestrian visibility splays, within which no structure or planting shall, at any time, exceed 600mm in height above footway level.

*Reason:* To ensure adequate pedestrian/vehicle inter-visibility at the access points onto the highway is provided and retained, in accordance with UDP policy GP2 and in the interests of highway safety.

6a: The cycle shelter facility shall be fully implemented in accordance with the approved details prior to the first occupation of the development.

*Reason:* To encourage sustainable travel modes in accordance with UDP T13 and BCCS TRAN4.

7: The premises shall operate with no more than two consulting rooms in use at any one time.

*Reason:* To ensure sufficient parking provision is available in accordance with Walsall Unitary Development Plan Policy T13 and in order to safeguard the amenities of the surrounding occupiers in accordance with Walsall Unitary Development Plan Policy GP2.

8: No 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 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.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 10.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 14/1699/FL  
**Application Type:** Full application

**Case Officer:** Karon Hulse  
**Telephone Number:** 01922 652614  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** TSP

**Applicant:** Addaction

**Proposal:** Change of use from B1 offices to facilities providing substance misuse treatment and support services.

**Location:** SUITES 1 AND 2, BRIDGE HOUSE, BRIDGE STREET, WALSALL, WS1 1JQ

**Ward:** St. Matthews

**Expired Date:** 24/03/2015

**Extension of Time Target Date:**

**Recommendation Summary:** Grant Permission Subject to Conditions

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## **Application and Site Details**

This application seeks to change the use of part of the first floor of Bridge House, Bridge Street, Walsall from general offices (B1 use) to D1 use class. The premises would be used to provide treatment including prescribing services for those accessing support for substance misuse amongst other services being provided. The proposals will include space for “1-2-1” meetings as well as group work sessions accessed by the general public as well as clinics supported by training staff members. There will also be general office space for administrative purposes.

Addaction is a registered charity that specialises in drug and alcohol treatment. Addaction runs over 70 projects across Britain, from a mother and toddler service in Scotland to an alcohol and drugs agency counselling young people and their families in Cornwall. Drug users can arrive on referral from social services, the courts or GPs. The aim is to assess and tailor a treatment plan aiming to help understand drug use and find practical ways to change the lifestyles.

The proposed opening hours will be 8.00am to 8.00pm, Monday to Friday.

Bridge House is occupied by a number of other users such as pubs, bars, nightclubs (mostly on the ground floor), Walsall County Court, training and offices (upper floors). There is also retail and residential nearby. The proposed use will be on first floor with access via a communal entrance hall which is intercom restricted, off Bridge Street.

The site is situated on the eastern side of Bridge Street and comprises of a three storey 1960's commercial block, in a commercial street frontage where the buildings are at the back of the footpath. All are in a general state of repair and reasonable appearance. There is parking

The site is within the Bridge Street Conservation Area. There will be no external alterations to the premises.

## **Relevant Planning Policy Summary**

### **National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)**

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*”.

All the **core planning principles** have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 1 - Building a strong, competitive economy***
- ***NPPF 2 - Ensuring the vitality of town centres***
- ***NPPF 4 - Promoting sustainable transport***

- **NPPF 8 - Promoting healthy communities**
- **NPPF 12 - Conserving and enhancing the historic environment**

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.

### **Local**

#### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

CPS4: The design of spaces and buildings will be influenced by their context and seek

HOU5: Education and Health Care Facilities

CEN2: Hierarchy of Centres

CEN3: Growth in the Strategic Centres

CEN4: Regeneration of Town Centres to enhance the unique attributes the area offers.

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Proposal should aim to sustain and reinforce locally distinctive elements.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.



TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

TRAN4: Requires new developments to link to existing walking and cycling networks. Cycle parking facilities should be provided at all new developments.

TRAN5: Influencing the Demand for Travel and Travel Choices

It is considered in this case that the relevant provisions of the BCCS can be given full weight

### **Walsall's Unitary Development Plan (UDP) (2005)**

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

VII. The adequacy of the access, and parking.

3.6 Development and redevelopment schemes should as far as possible, help to improve the environment of the Borough.

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

GP2: Environmental Protection

GP5: Equal Opportunities

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV29: Conservation Areas

S1, S2, S3 defines the retail hierarchy of Walsall Town Centre, District centres and local centres and deliver retail development and other town centre uses in these locations first.

S4. Sustain and enhance the range and quality of the town centre uses.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T10: Accessibility Standards – General

(b) Standards will apply to all development proposals

T13: Parking Provision

WA3: Other Town Centre Uses

WA5: Conservation Areas and Areas of High Townscape Value

### **Supplementary Planning Document**

#### **Designing Walsall**

- Policy DW1 Sustainability
- Policy DW3 Character

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

### **Relevant Planning History**

None relevant

### **Consultations**

**Transportation** – No objections.

**Police ALO** – concerns with regards to the appropriateness of the location

**Regeneration (Conservation)** – no objections

### **Public Participation Responses**

Four individual letters of representation and 11 repeated letters signed by individuals) objecting on the following grounds:

- our responsibility to safeguard the learners and vulnerable adults
- the shared public access will put learners at risk due to the complex issues related to the treatment of people with substance misuse.
- any access to the proposed substance misuse treatment centre should be “self-contained”.
- potential risk to other occupiers.
- two instances over the years where drug users have found their way into corridors or toilets used by staff beyond general public areas.
- Found using the toilets for drug use and hypodermic needles were found.
- A town centre location, close proximity to other commercial uses, not appropriate for this type of facility.
- licensed bars and off licence in and around Bridge House
- police and local businesses working hard to address problems of anti-social behaviour
- proposed treatment centre would exacerbate existing problems
- vacant shops in Bridge Street, perception of low-footfall and anti-social behaviour issues make properties difficult to let, addiction centre would make this worse and deter customers visiting existing businesses
- should be encouraging businesses, working together to regenerate town centre
- covered forecourt at Tameway Tower has become a focal point for anti-social persons to congregate.. this will escalate if the proposed addiction centre goes ahead.
- On separate occasions people have entered our building and urinated and worse
- vomit in doorways/shop fronts which businesses have to clear it up.
- graffiti
- Two businesses closed over last couple of years due to arson attacks
- We have been on Bridge Street since 1932...to protect our building and staff we are having to consider an entry system on our entrance doors.
- support the need for addiction treatment facilities but the proposed location is inappropriate and will make conditions more difficult for neighbours.

### **Determining Issues**

- Principle of the use
- Security and crime
- Character of the area
- Conservation Area
- Parking and Highway Safety

## **Observations**

### **Principle of the use**

The application site is located in the Walsall town centre and on one of the main highways in and out of Walsall town centre. The proposed use, Class D1 (non residential institution) is regarded as appropriate in the town centre location and adds to the range of services provided within the town, there is no reason to view this type of D1 use differently.

The level of commercial activity would be acceptable taking into account the proposed type use of the units and will be conducive with the operations of existing units within Bridge House.

Whilst the proposed change will result in the loss of B1 floor space (which the BCCS has targets for) it is being replaced by another suitable centre use – UDP Policy S1 (VI) supports the provision of public service, cultural, community and health facilities falling within Class D1 which serve more than local needs in accordance with Policy S6. Furthermore, BCCS Policy HOU5 Education and Health Care Facilities states health facilities should be directed to centres. As such, the weight of policy and principles of sustainable development support this form of development in this location and as such the application is supported in principle.

### **Security and crime**

It is important that the fear of crime doesn't undermine quality of life or community cohesion and the planning system should create environments which people want to occupy and use, creating a strong and positive sense of communal identity

The majority of objections/comments received are from neighbouring businesses and it is clear from the nature of the representations that there is a general fear of crime from the proposed use. In particular, occupants or users of existing premises have concerns about their vulnerability, potential conflict with the proposed users of the building and that it is felt to be an inappropriate location for the proposed use.

Addaction currently operates from premises on Stafford Street. In the last year there has been 1 recorded crime and 5 police incidents at that premises, this illustrates that the business is well run and does not tolerate antisocial behaviour from its clients.

This successful business is growing and needs to relocate and whilst they have specifically looked at buildings already in a D1 use class none have been of a size which could accommodate the growing business.

Where crime prevention or the fear of crime is material to a proposed development, it is recommended that due consideration is given to the use of planning conditions to secure measures that reduce the possibility of crime. On balance it is considered the proposed change of use can be supported provided a higher standard of security and personal safety measures are put in place to provide safe and secure use of the premises without any fear of crime to other users and visitors of Bridge House

This can be satisfactorily secured by conditions which control access and which monitors comings and goings to the address.

### **Character of the area**

The building is in the town centre where the immediate area consists of a variety of uses including pubs, bars, nightclubs, retail, offices and residential. The proposed use will be on first floor and access to this is off Bridge Street through an existing communal entrance which is used by a number of other occupiers of Bridge House, this will remain unaltered and

monitoring of that entrance will be paramount to the way people feel about that part of the building. However it is not anticipated that this will require any external alterations which will impact on the character of the area.

The reuse of this part of the building will bring additional footfall to this part of the town centre where there are several vacant units. This will bring benefits to the area by increased activity and bringing part of a vacant building back into use will increase vitality and add to the range of facilities in the town centre generally.

### **Conservation Area**

This development falls within the Bridge Street (Walsall) Conservation Area and accordingly should meet the higher standards required in such an area. The application does not require any external alterations to the frontage.

The character of this frontage in this location is that of a three storey 1960's commercial block, in a commercial street where the buildings are at the back of the footpath. All are in a general state of repair and reasonable appearance.

The proposed change of use will not have any impact on the appearance of the conservation area.

### **Parking and Highway Safety**

The application looks to change the use from B1 office use to a D1: non residential services. The site is located within the Town Centre which is a highly sustainable location in terms of access to bus and rail services and is close to public car parks. The site has parking at the rear for about 18 cars (shared) and there are TRO restrictions on Bridge Street to control any indiscriminate parking.

There are public pay and display car parks within easy walking distance from the site. It will not have any detrimental impact on highway safety.

Transportation have raised no objections to the proposals.

### **Positive and proactive working with the applicant**

The nature of the application has not required proactive working with the applicant to enable full support to be given to the scheme.

### **Summary of Reasons for Granting Planning Permission**

#### **Recommendation:** Grant Permission Subject to Conditions

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 plans and documents: -

- Amended Application Form 27-01-2015
- Amended Block Plan - 27-01-2015
- Amended First Floor Plan and Floor Plans 21-01-15
- Amended Location Plan With Parking 21-01-15

- Amended Site Plan With Parking 21-01-15
- Parking and Access Plan 12-12-14
- Planning statement received 12-12-14

*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 the development, full details of a secure, covered and illuminated cycle shelter for the use of staff and attendees shall be submitted to and approved in writing by the Local Planning Authority.

3b. The cycle shelter facility shall be fully implemented in accordance with the approved details prior to the development first coming into operation.

*Reason:* To encourage sustainable travel modes in accordance with UDP T13 and BCCS TRAN4.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 11.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/1577/FL

**Application Type:** Full application

**Applicant:** Mr Umbi

**Proposal:** Single storey side and rear extension and new flue extraction system

**Location:** THE ALMA P.H, BENTLEY LANE, WALSALL, WS2 8SP

**Ward:** Pleck

**Case Officer:** Stuart Crossen

**Telephone Number:** 01922 652608

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

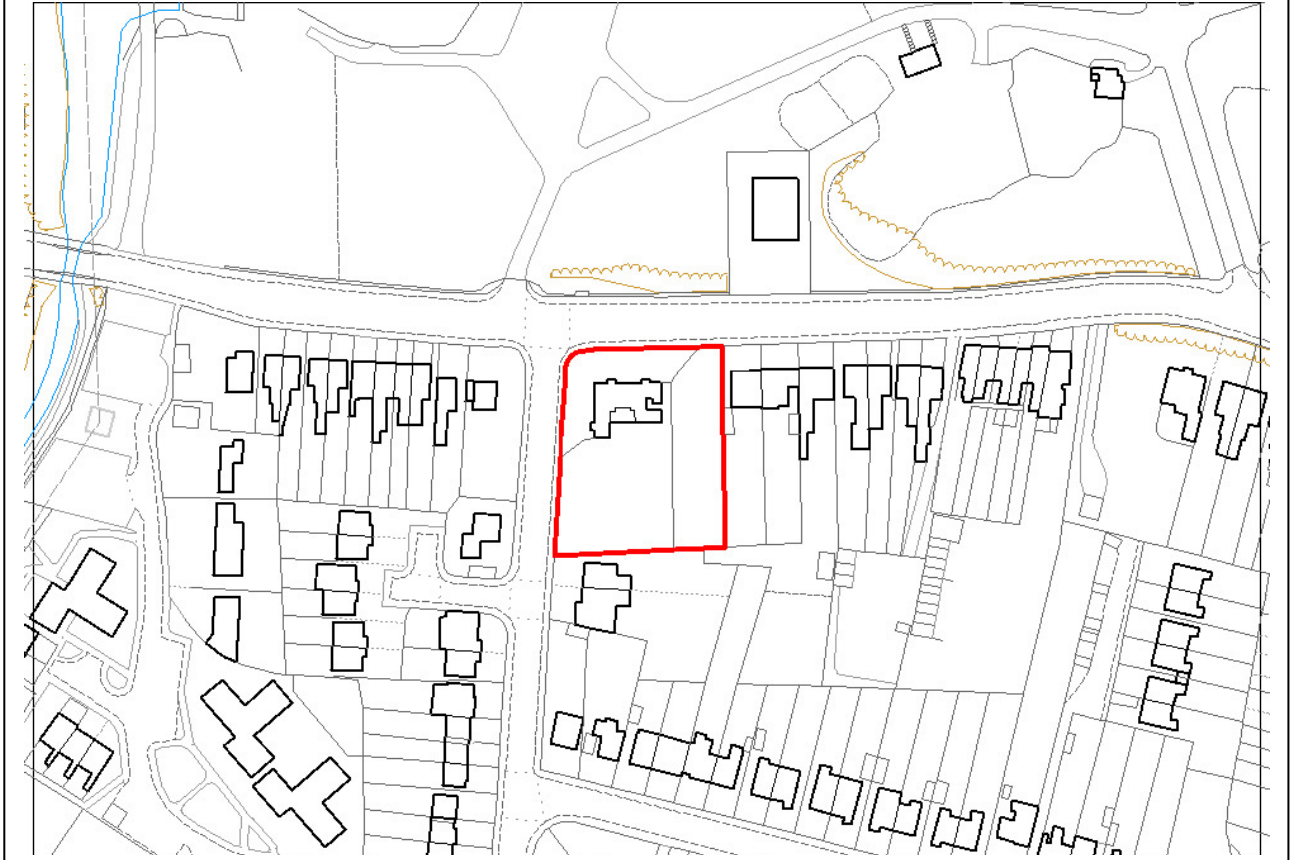
**Agent:** RMS Designs

**Expired Date:** 10/12/2014

**Extension of Time Target Date:**

**Recommendation Summary:** Grant Permission Subject to Conditions

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Page 151 of 187

### **Application and Site Details**

The application follows a previous refusal 14/0608/FL for a change of use of the Public House to a sui generis mixed A3/A4 use.

The design and access statement explains that this application is for an extension to the existing public house. The difference between this application and the previous refusal is that the use would be unchanged and the extension now only serves the public house use and does not create a separate restaurant.

This application proposes a single storey flat roof side extension to allow for a new kitchen area, enlarged lounge and new toilets and storage facilities. The development would extend the existing public house by about 130sqm GFA.

The public house is a traditional design with hipped main roof and existing single storey flat roof extensions. It is located on the corner of Bentley Lane and Lane Avenue facing Reed Wood Park, all other elevations face houses which define the character of the area and are also traditional designs. Bentley Lane is part of the strategic highway network.

The extension would have a rear access door to an existing covered area and a front access door to a lobby and would measure:

- 10 metres wide
- 11 metres deep
- 3.3 metres high

The nearest house to the proposal is 213 Bentley Lane, the boundary of which would be 5 metres away and which is on higher ground approximately the height of the first floor of the Public House.

Amended plans and details have been submitted for the flue system which now includes a stack 1 metre higher than the roof ridge to the rear of the building, the ducting is illustrated to be hidden behind the front canopy.

### **Relevant Planning History**

14/0608/FL - Alma Inn, Bentley Lane, Walsall, WS2 8SP - Extension and alterations to create a kitchen area, additional seating and new toilet block and change of use from A4 to sui generis A3/A4 use. Refused 02/07/15:

The proposal fails to provide design details for the proposed flue and the proposed flat roof design of the extension with plain brick front elevation would not integrate well with the original public house and its location on a strategic highway would be an incongruous addition to the street scene due to its poor design having a significant impact on the character of the area.

The proposal fails to demonstrate that a local need for the proposed restaurant exists to justify this use in an out of centre location. There is no justification why this investment could not be better met in an established centre. The applicant has not provided any evidence to show that the proposal, as a result the proposal would not have an adverse economic impact upon the vitality and viability of Walsall Town Centre through the diversion of trade and deterrence of investment which would otherwise help sustain the centre.

The application has failed to demonstrate that the proposed development would not have an adverse impact on the amenities of the surrounding residential occupiers in terms of drainage waste, cooking odours, noise and disturbance due to a lack of the following details:

- Details of a system to control grease, oil and fat discharge to drainage/sewerage.
- Drainage details for the disposal of surface water and foul sewage
- Details of extractions systems with suitable filtration and odour mitigation systems
- design and specification of the proposed flue,
- Ventilation details including details of vibration isolation mounting systems where attached to buildings and with ductwork de-coupled from fan and motor units,
- Details of the opening hours and delivery hours,

## **Relevant Planning Policy Summary**

### **National Planning Policy**

#### **National Planning Policy Framework (NPPF)**

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*".

All the core planning principles have been reviewed and those relevant in this case are:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Positively drive and support sustainable economic development to deliver business, taking account of the needs of the residential and business communities.

**Key provisions** of the NPPF relevant in this case:

#### **1: Building a Strong, Competitive Economy**

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth

#### **7: Requiring Good Design**

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

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.

### **Other Relevant National Policy**

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

ENV2 states that development proposals will be expected to preserve and, where appropriate, enhance local character.

CSP4 - develops the need for high quality place making and design

ENV3: Design Quality

Development should deliver an urban renaissance through high quality design that stimulates economic, social and environmental benefits.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

### **Walsall’s Unitary Development Plan (2005)**

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

II. The creation of or susceptibility to pollution of any kind

Policy 3.7 proposals for development the council will seek to protect people from unacceptable noise, pollution, and other environmental problems.

VI. Overlooking, loss of privacy, and the effect on daylight and

sunlight received by nearby property.

#### ENV10: Pollution

Development of a facility which may cause pollution will only be permitted if it would not:  
ii Cause unacceptable adverse effect in terms of ...lights, vibration, smell, noise, or other polluting emissions.

#### ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development
- The integration and co-ordination of buildings and external space.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

#### T4: The Highway Network

(a) The Strategic Highway Network for long distance and strategic traffic.

#### T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

#### Policy T13: Parking Provision for Cars, Cycles and Taxis

Developers must, however, still demonstrate in all cases (including developments below the size thresholds) that the development will provide adequate on-site car parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

#### **Supplementary Planning Document "Designing Walsall" (Feb 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW3 – Character - all new development must be designed to respect and enhance local identity

DW9 – High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

'It is considered in this case that the relevant provisions of Designing Walsall policies are consistent with the NPPF.'

#### **Consultations**

**Transportation** – No objections

**Environmental Health** – No objections

**Ecology** – No objections

**Pollution Control** – No objections

**Transportation** – No objections

**Severn Trent** – No objections subject to conditions

## **Police Architectural Liaison Officer – No objections**

### **Public Participation Responses**

8 objections have been received from 6 people following two consultations on the following grounds:

- Parking
- The design and access statement refers to a restaurant, the previous application was for an Indian restaurant (*the previous proposal was to sub-divide the building and the end user operator is not a material consideration*)
- Dangerous junction
- Smell
- Not close to the town centre as stated in Design and Access statement. (*Officers do not solely rely on the submitted information*)
- The application states that the applicant needs the extension to stay afloat which should be ignored as no evidence has been submitted to verify.
- Behaviour of customers late at night
- Litter (*could be controlled through other legislation not a determining issue of this application*)
- How will the flue extraction and filters be maintained
- On street parking issues
- The owner is intimidating local people (*not a material planning consideration*)
- Noise
- Fear of crime
- Smoke

### **Determining issues**

Whether the application overcomes the previous reasons for refusal:

- Design details for the proposed flue and the proposed flat roof design of the extension with plain brick front elevation being poor design having a significant impact on the character of the area.
- The proposal fails to demonstrate that a local need for the proposed restaurant exists to justify this use in an out of centre location.
- The application has failed to demonstrate that the proposed development would not have an adverse impact on the amenities of the surrounding residential occupiers.

Which are considered under the following headings:

- Principle of development
- Design and Character of the Area
- Impact on the Amenities of the Surrounding Occupiers
- Highway Safety

### **Observations**

#### **Principle of development**

The previous application included proposals to subdivide the public house and create a separate restaurant. This application is amended to extend the public house to provide an enlarged lounge and improve the kitchen facilities to the Public House and overcomes the previous second refusal reason.

Environmental Health Officers have advised that no system can eradicate 100% of cooking smells. The intensification of cooking at this site in a residential area could have some impact on neighbouring amenity, the agent has submitted an acceptable flue extraction system and it is recognised that the Public House in its entirety could be converted into a restaurant without planning permission under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and the (Use Classes

Order) 1987 (as amended). The proposed extension being around 130m<sup>2</sup> and the existing bar area being 140m<sup>2</sup>, means that the expansion of the food element is less than can be achieved if the owner utilised their permitted development rights. The Local Planning Authority has control over the proposed changes and can ensure that there would be less impact from the restaurant than if permitted development rights were utilised.

### **Design and Character of the Area**

The proposed extensions and roof would be single storey and similar to existing would not alter the style of the buildings appearance in the street scene whilst being compatible with the traditional housing in the area. It is considered that overall the changes would respect existing identity of the area in accordance with the key provision 7 of the NPPF, ENV2 and ENV3 of the BCCS and DW3 and DW9 of Designing Walsall. The proposal is considered would not have a detrimental impact on the character of the area in accordance with ENV32 of the UDP subject to the flue being painted in a colour to match the brick work of the Public House which can be conditioned.

### **Impact on amenity of surrounding occupiers**

This application has been submitted with details of extraction which overcomes the previous refusal reason. The revised extraction details include the stack height increased to 1 metre above the roof ridge is considered acceptable with no objections from Environmental Health or Pollution Control. For this reason and taking account of the existing use and owners fall back position to utilise permitted development uses, the extension and extraction system design would ensure there are no additional unacceptable adverse effect in terms of noise, smoke or smell in relation to the occupiers of the neighbouring houses in accordance with GP2 and ENV10 of the UDP.

The flue extraction and filters can be conditioned, to be maintained in accordance with the manufacturers recommendations.

### **Highway Safety**

The extension is mainly to provide improved kitchen and food preparation facilities and increased capacity for seating ancillary to the existing pub. There is un-demarcated on-site parking to the front and side. The development itself in UDP T13 parking policy terms requires a maximum of 5/6 additional parking spaces. No additional parking is proposed.

Taking into account the Traffic Regulation Order (TRO) junction and bus stop protection measures which have recently been installed at the junction of Lane Avenue and Bentley Lane to control indiscriminate parking and that there is unrestricted on-street parking further along Lane Avenue and Bentley Lane close the site, on balance the Highway Authority considers that the development will not have severe transportation implications and is acceptable in accordance with NPPF Paragraph 32.

### **Crime**

The Police Architectural Liaison Officer has no objections, it is considered that the extension itself is unlikely to result in any additional crime or that by improving hot food facilities would not significantly raise the fear of crime to warrant refusal in this instance.

### **Positive and Proactive working with the applicant**

Amended plans and details have been received to update the layout of the extension on the block plan and no other amendments are required to fully support this proposal.

**Recommendation:** Grant Permission Subject to Conditions

**Summary of Reasons for Granting Planning Permission**

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.

2: This development shall not be carried out other than in conformity with the following approved plans: -

- Plasma Clean filter details deposited 09/03/15
- Existing Location Plan Block Plan Elevations and Floor Plan (639-2014 1 of 3) deposited 15/01/15
- Proposed Location Plan Block Plan Elevations and Floor Plan (639-2014 2 of 3) deposited 15/01/15
- Street Scene and Canopy details (639-2014 3 of 3) deposited 09/03/15
- Design and Access Statement deposited 15/01/15
- Proposed Canopy Design deposited 19/03/15

*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. Prior to commencement drainage plans for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning authority.

3b. The approved scheme shall be fully implemented and retained thereafter

*Reason:* To ensure that the development is provided with a 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. Prior to the installation of any external extraction system, details of the flue colour to be powder coated shall be submitted to and approved in writing by the Local Planning Authority.

4b. The approved powder coated colour of the external extraction system shall be fully implemented and retained thereafter.

*Reason:* To ensure the satisfactory appearance, to safeguard neighbouring amenity and to comply with policies GP2 and ENV32 of Walsall's Unitary Development Plan.

5a: Notwithstanding the details provided, details of the proposed front canopy including its profile shall be submitted and agreed in writing by the Local Planning Authority.

5b: The approved details shall be fully implemented and retained thereafter.

*Reason:* To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

6a: Notwithstanding the details provided, the colour, size and texture of bricks, render and roof tiles to be used in the development shall be submitted and agreed in writing by the Local Planning Authority.

6b: The approved details shall be fully implemented and retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

7: Notwithstanding the submitted details the side elevation windows of the extension shall be obscurely glazed to Pilkington level 4 or equivalent and be hinged from the bottom, and be retained thereafter.

Reason: To safeguard neighbouring amenity and to comply with policy GP2 of Walsall's Unitary Development Plan.

8: Notwithstanding the provisions of class AA of part 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and the (Use Classes Order) 1987 (as amended) the extension hereby approved shall be used only ancillary to the existing public house.

Reason: To safeguard neighbouring amenity and to comply with policy GP2 of Walsall's Unitary Development Plan.

9a: Windows to kitchens and serving areas shall be kept closed when food is being prepared or served.

9b: Doors to kitchens and serving areas shall be kept closed except when used for ingress and egress.

Reason: to ensure noise and fumes do not affect nearby residential premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

10: The plant, associated filters and motors hereby approved shall be maintained and serviced in accordance with the manufacturer's and supplier's recommendations.

Reason: to ensure noise and fumes do not affect nearby residential premises and to comply with policy GP2 of Walsall's Unitary Development Plan.





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 12.**

**Reason for bringing to committee: Community interest**

**Application Number:** 14/1896/FL

**Application Type:** Full application

**Applicant:** Mr Amarjit Singh

**Proposal:** Part two, part first floor side extension and replacement sloping roof at ground floor to existing garages (which are to be converted to habitable rooms).

**Location:** 107 COPPICE FARM WAY, WILLENHALL, WV12 5YQ

**Ward:** Willenhall North

**Case Officer:** Jenny Townsend

**Telephone Number:** 01922 652610

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

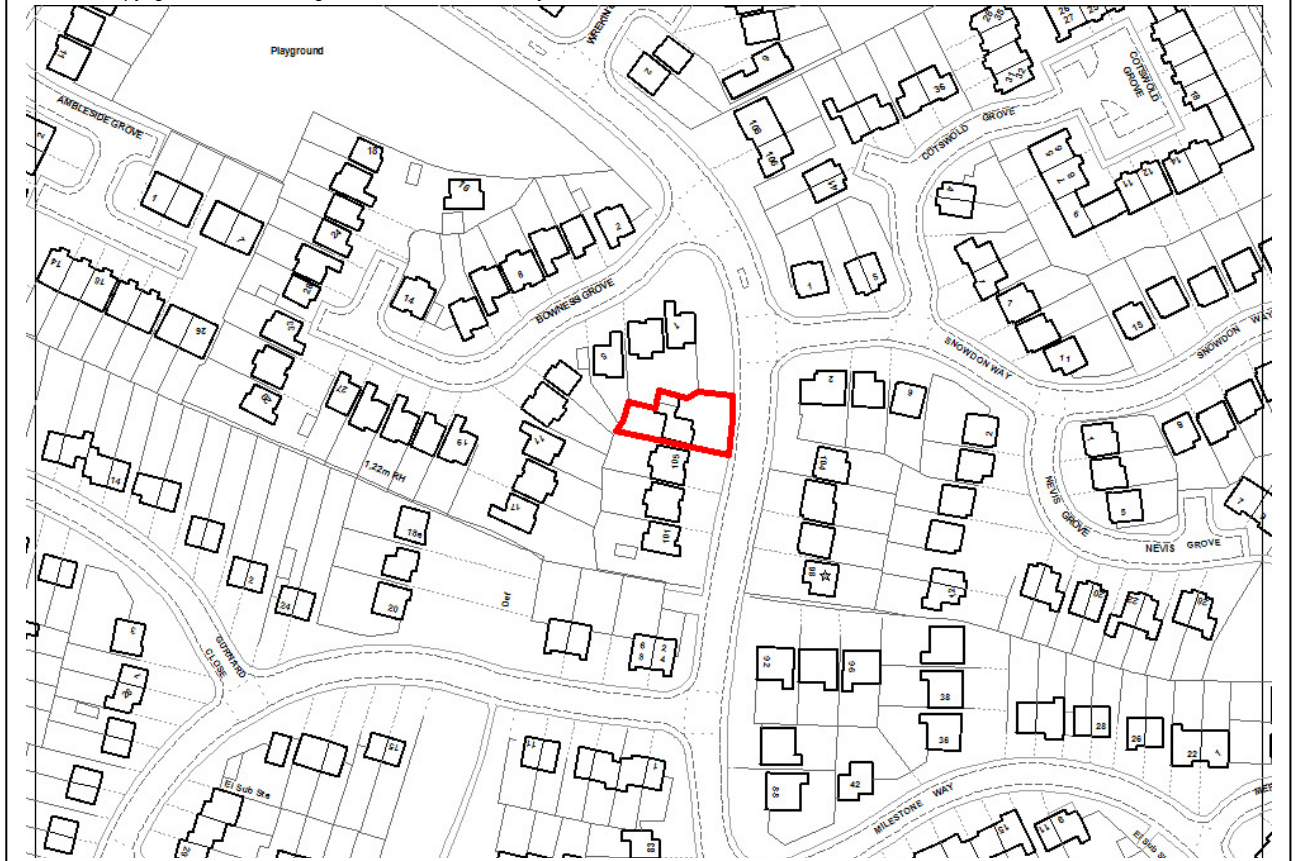
**Agent:** BSP Design

**Expired Date:** 12/02/2015

**Extension of Time Target Date:**

**Recommendation Summary:** Grant Permission Subject to Conditions

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## **Current Status**

This application was deferred at the last meeting (05/03/15) for officers to negotiate an improved scheme. The applicant's agents have advised that they do not intend to amend the plans as they believe that the scheme is compliant with policy.

The agent's have supplied some photographs of nearby houses to illustrate that if extended the application property would be similar in terms of mass and size to neighbouring houses and as such would be in keeping with the character of the immediate area.

The original report now follows unchanged.

This is a revised application for a two storey extension to the side of a modern detached house that would add two new bedrooms with en-suite shower rooms (one at ground and one at first floor level) and enlarge an existing bedroom and add an en-suite shower room. The number of bedrooms would be increased from 3 to 5. The plans show the existing layout reconfigured at ground and first floor level with the existing double garages being converted to create a lounge and the main first floor bathroom incorporated into one of the existing bedrooms. The proposed extension has been reduced in width and only one window is proposed on the rear at first floor level.

A narrow new window is proposed in the original rear wall of the garages to serve the new lounge and two velux windows are proposed in the rear roofslope. Whilst the original planning permission for the estate development has permitted development restrictions this does not apply to rear facing or velux windows so this part of the proposal would not require planning permission from the Local Planning Authority and does not form part of the proposal.

The application house is a modern plain design with a front gable projection, a main gable roof and a pair of garages with a matching gable roof to the right-hand side set back from the front of the house. The application house is at the end of a line of 4 detached houses which are similar in style but wider at two storey than the application house, although none have double garages. The 4 houses on the opposite side of the road are also wider than the two storey part of the application house. Bowness Grove is a cul-de-sac off Coppice Farm Way which curves around to the west and the houses in Bowness Grove numbers 1,3,5,7 and 9 back onto the rear garden of the application house.

The proposed extension would be set back 0.9 metres from the front gable of the house, in line at the rear with the existing two storey part of the house and have a gable roof the same height as the existing roof. The existing two storey part of the house is 6.2 metres wide and the reduced width of the extension would be 4 metres wide. Two windows are proposed at first floor level in the side elevation facing the rear of numbers 1 and 3 Bowness Grove that would both serve en-suite shower rooms. On the rear elevation an obscurely glazed window to the enlarged bedroom is proposed which would face down the rear garden.

On the front elevation there are windows to the ground floor and first floor bedrooms which would face across Coppice Farm Way towards number 104.

The existing tarmac driveway would provide 3 off road parking spaces.

Number 1 Bowness Grove faces the side of the application house and has a conservatory on the rear. Number 3 Bowness Grove has recently added a ground floor extension

approximately 4 metres deep from the rear wall of the house that has velux windows in each of the three roof slopes.

## Relevant Policies

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

## National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design**

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.

## Local Policy

### Black Country Core Strategy

- ENV3: Design Quality

### 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

- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

BC49282P Outline: Residential Development. Granted subject to conditions 01/12/97.

BC52658P Erection of 17 no. Bungalows and 34 no. Detached dwellings. Approves reserved matters 06/01/99.

14/1114/FL Two storey side extension and internal alterations. Refused 02/10/14 on the grounds that the scale and mass of the proposed extension would not be in keeping with the existing house or the character of the area and the height of the side wall facing the rear of number 1 Bowness Grove and the lack of separation is considered would have an overbearing impact which would be detrimental to the amenity of the occupiers of this house., and the separation between the rear windows of the extension and the windows and doors in the rear of number 3 Bowness Grove would be less than the 24 metres separation required by policy between habitable room windows and the angle between the first floor windows is considered would lead to overlooking and a loss of privacy for the occupiers of both houses.

### **Consultation Replies**

**Transportation** – No objection subject to a condition relating to parking.

### **Representations**

Five letters of objection and a presentation (three and the presentation from the same address) objecting to the proposal on the grounds of:

- Loss of privacy as garden would be directly overlooked;
- Overshadowing/loss of daylight, sunlight and outlook;
- Increase in property size;
- Layout and density of buildings;
- Design and would not fit in with theme created when houses were built;
- Noise and disturbance;
- Infringement on the Privacy and Human Rights Act 1998;
- Loss of existing pitched roof would remove the restricted view from existing rear first floor windows;
- New proposal doesn't overcome previous refusal reasons;
- Children wouldn't be able to play in garden because of fear of being watched within such close proximity;
- Although window is obscured, they could be opened allowing direct views to the rear garden and into the children's bedrooms;
- How long before the obscure glazing is removed;
- House will look strange as extension is too large and if OK for a property of that size to be located there then would have been built like that by the builders;
- Overbearing impact on rear of their house;
- Scale and mass is overpowering and together with extension added at number 3 would 'pen' them in;
- Doubles size of house and not in keeping with rest of properties;
- Close proximity of converted garage to their decking means conversion is inappropriate;
- Proposed skylights will allow their children a view into the house when they use their trampoline which they do not consider to be morally correct;
- Bush/tree adjacent to the garage will be damaged during the build.

## **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

## **Observations**

### **Design of Extension and Character of Area**

The design of the extension would be compatible with the plain design of the existing house. The reduced width of the extension, at 4 metres and set back from the main front gable is considered would be subservient to the existing house and a resulting width similar to the other 3 houses in the line on this side of the road and the houses opposite.

The 1.5 metres reduction in the width of the proposed extension overcomes part of the previous reasons for refusal as the extension is now considered in proportion with the original house and the neighbouring properties on Coppice Farm Way.

### **Amenity of Nearby Residents**

The proposed extension would not project beyond the existing two storey part of the house at either the front or rear. The side wall of the extension would be approximately 12 metres from the rear of the conservatory belonging to number 1 Bowness Grove and approximately 14 metres from the first floor habitable room windows in the rear of number 1. Whilst the ground floor separation would be 1.0 metre less than policy (13 metres separation between habitable room windows and walls over 3 metres high) in this instance, taking into account that the conservatory belonging to number 1 is also an addition to the original house, on balance this modest shortfall is considered would not unduly harm the living conditions of the occupiers of number 1 sufficient to warrant a refusal for this reason alone.

The extension would be to the south of number 1 but as it would lie against the outline of the existing two storey house, it is considered that there would be little additional shading or loss of light to the rear of number 1 as a result of the extension.

The two windows proposed in the side elevation would serve non habitable rooms and be obscurely glazed. A condition is recommended for the windows to have high level top openings only in line with permitted development allowances for first floor windows. This would prevent overlooking to the rear gardens of the houses in Bowness Grove from these windows.

The separation between the rear windows of the extension and the windows and doors in the extension at number 3 Bowness Grove would be approximately 10 metres at ground floor and 17.5 metres to the first floor habitable room windows. The angle between the first floor windows is considered sufficient to allow a regular view between them however the new window in the extension would be positioned only 0.2 metres from the original part of the application house and would be a secondary window to the enlarged room. A condition for the window to be obscurely glazed and fixed so that it would be non opening has been added and this is considered would prevent any increase to the existing overlooking potential between the windows and to the rear gardens of the neighbouring houses and visa versa and would preserve the existing level of privacy for both the neighbours and the applicants. It must be noted that there is already overlooking between the rear windows and to the rear gardens of the houses due to the layout of the development and on balance, taking into account the above it is considered that the proposed extension would not significantly worsen the existing situation.

The acute angle between the rear first floor windows of number 5 Bowness Grove and the new rear first floor window would be very acute and whilst it is acknowledged that the separation would be less than 24 metres, the acute angle, obscure glazing and fixed nature of the new window is considered would not worsen the existing situation with regards to overlooking to the rear garden of number 5 sufficient to warrant a refusal for this reason alone.

The separation between the rear windows of the extension and the rear windows of numbers 7 and 9 Bowness Grove would comply with policy to prevent impact on the amenity of the occupiers of these houses and the application house.

The new windows in the front of the extension would face across Coppice Farm Way towards the front of number 104. This would comply with policy as the front windows of the houses do not enjoy the same level of privacy as windows on the rear because of the road between them.

The reduction in width of the extension, repositioning and reduction to a single first floor window on rear, obscure glazing and condition for this window to be fixed is considered on balance and in this context overcomes the previous reasons for refusal.

### **Parking**

The development looks to extend the property including removing the existing double garage and adding an additional bedroom from 3 bedroom to 4. There is sufficient frontage parking space retained to accommodate 3 vehicles which accords with UDP T13 parking policy for a 4 bedroom dwelling. A condition to retain the frontage for parking only is recommended.

### **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.

### **Summary of Reasons for Granting Planning Permission**

#### **Recommendation:** Grant Permission Subject to Conditions

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: -

Location and block plan drawing 2104\_127 deposited 18 December 2014;  
Existing elevations and floor layout plans drawing 2104\_127 deposited 18 December 2014;  
Proposed elevations and floor layout plans drawing 2104\_127 Rev A deposited 18 December 2014.

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: Before the development is brought into use, the rear first floor window to the enlarged bedroom and the two side first floor windows shall be obscurely glazed to at least Pilkington Privacy Level 4 and once installed shall be retained as such thereafter. The side windows are to be top opening only (at least 1.7 metres above the floor level of the room) and the rear window shall be fixed (as there is an existing window in the room which could be use as a means of escape).

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 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 policy ENV32 of Walsall's Unitary Development Plan.

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, 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.

6: The frontage parking hard standing area shall thereafter be retained and used for no other purpose.

Reason: To ensure sufficient off street parking is retained in accordance with UDP Policy GP2, T7 and T13.

## **Notes for Applicant**

### **Referral note**

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at: [www.groundstability.com](http://www.groundstability.com)





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 13.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 15/0005/FL

**Application Type:** Full application

**Applicant:** Mrs D Bray

**Proposal:** Alteration from bungalow to two storey dwelling including first floor and porch extensions, new pitched roof to main house and external alterations.

**Location:** 3 STAFFORD CLOSE, WALSALL, WS3 3NW

**Ward:** Bloxwich East

**Case Officer:** Devinder Matharu

**Telephone Number:** 01922 652602

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

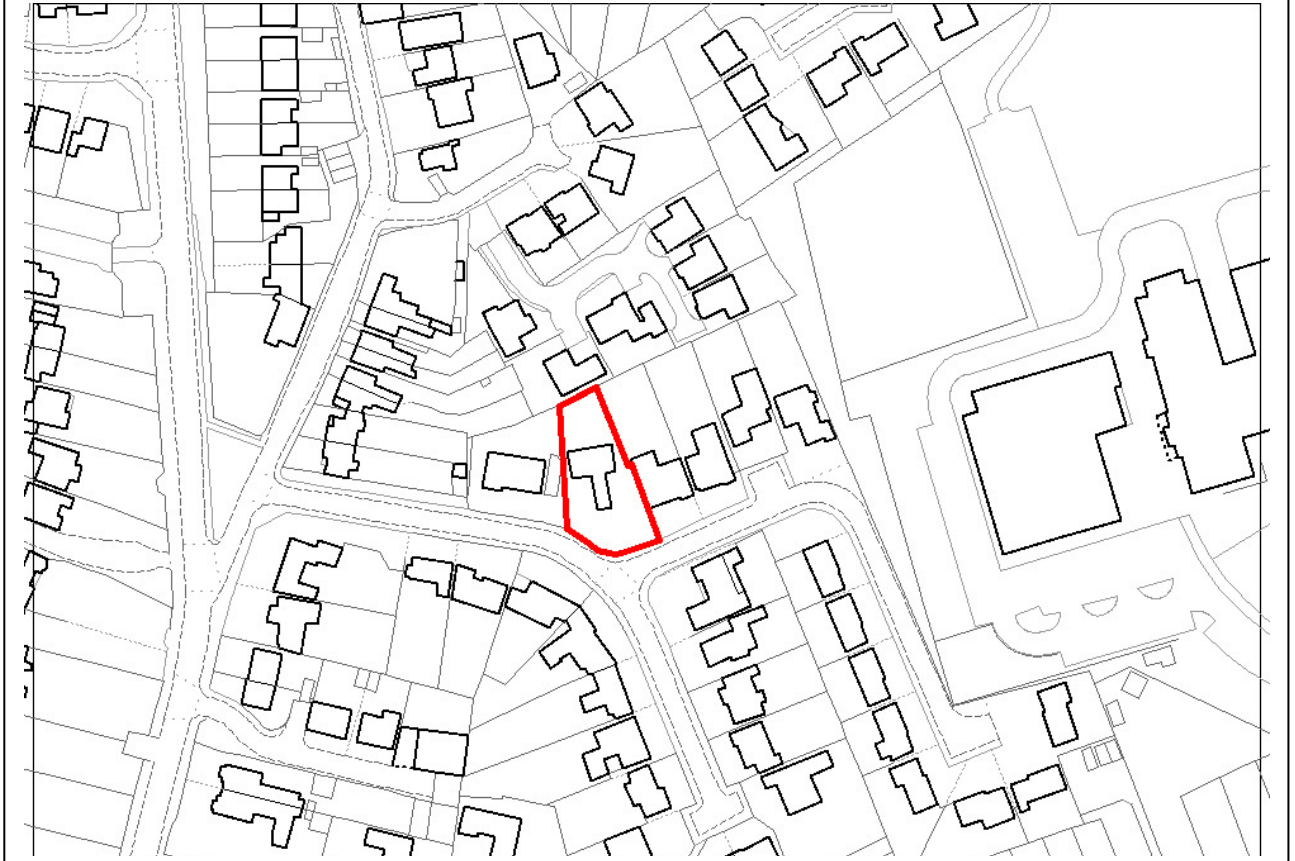
**Agent:** Stoneleigh Architectural Services

**Expired Date:** 05/03/2015

**Extension of Time Target Date:**

**Recommendation Summary:** Grant Permission Subject to Conditions

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### **Application and Site Details**

Number 3 Stafford Close is located on the northern side of Stafford Close. The bungalow is "T" shaped with a long projecting section at the front of the house, approximately 9.5m, which consists of a single storey flat roof garage, hallway, utility, porch and WC. The main house is set back with the front door being located on the eastern side of the projecting part of the bungalow. The bungalow has a flat roof.

The front garden of the site is open with a one and two brick course boundary wall around the perimeter of the site with the highway boundary. A trellis fence 1.8m high has been erected across the western part of the front of the site from the garage to provide privacy for the occupiers. The site has a gravel drive and there are a number of vehicles including a caravan parked within the curtilage of the site. The rear garden of the site is approximately 14.6m in length.

To the east and west of the site are pitched roofed bungalows, numbers 1 and 5. Number 1 is positioned 2.6m further back into the site from number 3. This property has a flat roof outbuilding located adjacent the boundary with number 3. This building sits almost in line with the rear elevation of number 3. Number 5 sits approximately 2.3m further forward of number 3 and has a side facing obscurely glazed window that belongs to a bathroom.

The positioning of the bungalows along the northern side of Stafford Close follow the natural curve of the road. Number 3 sits at the prominent corner point along this part of Stafford Close.

The style of houses and bungalows along Stafford Close vary with pitched roof dormers, dormer bungalows (opposite side of the road), two storey houses (opposite side of the road) and a modern designed two storey house that is a box shape at first floor with a flat roof and vertical timber cladding that sits on top of the ground floor.

Towards the rear of the site is Heathcote Drive a cul de sac serving six bungalows with number 2 being located immediately behind number 3 Stafford Close. Number 3 Stafford Close is positioned at an angle to number 2 Heathcote Drive. The rear elevation of number 2 has a secondary kitchen window a WC obscurely glazed window and a kitchen and garage door. Number 2 is positioned approximately 1.6m from the boundary with number 3 Stafford Close. The main habitable room windows on this bungalow are to the north, east and west.

Number 3 Stafford Close is located to the east of number 2 and faces towards the rear of number 5 Stafford Close. From the rear habitable room windows of number 3, the existing bungalow at number 3 can be seen at an angle.

The application proposes the alteration from bungalow to two storey dwelling including first floor and porch extension including new pitched roof to main house and external alterations.

The porch would measure 2.5m by 2m with a pitch roof that would extend over the garage and roof and would have a pitch of 4.5m. The eaves would be 3.3m on the garage side and 2.9m on the porch side.

The new pitched roof would be a cat slide roof that would be lower adjacent number 1 and would rise up towards number 5. The eaves of the roof adjacent number 1 would be 2.9m which would slope lengthways up to 9m to a pitch of 6.5m before sloping down to an eaves height of 5.3m adjacent number 5.

The new pitched roof would allow for a first floor to provide a bedroom, ensuite and walk in wardrobe creating a two storey house. Windows on the rear and side elevation to the walk-in wardrobe would be included with windows on the front and side elevation to bedroom one to be included. The proposal would also include roof lights. The external alterations would include cladding and render.

The ground floor would remain as existing.

### **Relevant Planning History**

None at the application site.

#### **Site to the rear**

13/0603/FL - Amendments to plot 3. Granted subject to conditions June 2013.

12/1547/FL - Development comprising 6 no. bungalows. Granted 14/1/13

11/1222/OL - Demolition of bungalow and outline erection of 6 bungalows. Granted 12/11/11.

13/1319/FL- Variation of planning condition 14 of planning permission 12/1547/fl to plot 3 to include a link to the garage, repositioning of the garage and rear extension to accommodate a utility & WC. Grant permission subject to conditions 23/12/2013.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

The NPPF was published on Tuesday 27<sup>th</sup> March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- contribute to conserving and enhancing the natural environment and reducing pollution
- Encourage effective use of land by reusing land that has been previously developed
- conserve heritage assets in a manner appropriate to their significance.

#### **Key provisions** of the NPPF relevant in this case:

1. Building a strong, Competitive economy
  18. committed to securing economic growth in order to create jobs.
  19. support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.
4. Promoting sustainable transport.
  29. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.

32. opportunities for sustainable transport modes should be taken up depending on nature and location of site and safe and suitable access to the site can be achieved for all people.
6. Delivering a wide choice of high quality homes.
49. Housing applications should be considered in the context of the presumption in favour of sustainable development
53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.
7. Requiring good design
56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
57. Important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.
58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.
- Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.
63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
11. Conserving and enhancing the natural environment
109. contribute to and enhance the natural and local environment
118. opportunities to incorporate biodiversity in and around developments should be encouraged.
120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.
121. Planning policies and decisions should ensure the site is suitable for its new use taking account of ground conditions and land instability, including natural hazards or former activities such as mining.
123. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.
125. Planning policies and decisions should limit the impact of light pollution from artificial light on local amenity and nature conservation.

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.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a

material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The key planning policies include

HOU2: Housing Density, Type and Accessibility

States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

TRAN2 – Managing transport impacts of new development

permission would not be granted for development that is likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of the development including walking, cycling and public transport.

ENV1 – Nature Conservation

Safeguarding species that are legally protected.

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this*

*framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.*

### **Saved policies of the Unitary Development Plan**

Policies GP2, 3.6, 3.7 seeks to make a positive contribution to the quality of the environment, whilst protecting people and not permitting development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

ENV18 and 3.64: Seeks to protect, manage and enhance existing trees.

ENV17 new planting will be encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV23 – nature conservation opportunities provided by buildings by designing in features which provide roosting, nesting places for bats and birds and other species. Require all development to take into account existing features of values for wildlife and ecology. Where loss or damage of existing features is unavoidable mitigation measures to compensate for the features lost. Require habitat creation to encourage conservation of wildlife.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

H3 encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

T4 – District distributors are important routes connecting the main residential and employment areas of the Borough. Street parking and direct frontage access will be strictly regulated.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T10: Accessibility Standards – General

(b) Standards will apply to all development proposals with the exception of:

i small residential developments within existing residential areas including infill plots

7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.

T13: Parking Provision

3 bedroom houses and above, 2 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

### **Designing Walsall (Feb 2013)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW3 – Character -design to respect and enhance local identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **Consultations**

**Transportation** – No objection

### **Public Participation Responses**

Four letters have been received objecting to the proposal on the following grounds:

- Stipulation that houses would always be bungalows
- Builder who built estate at the rear advised only bungalows would be supported due to proximity to bungalows on Stafford Close
- Height out of character with the bungalows in the area
- Zinc metal roof out of keeping with tiled properties in the area
- Support pitched roof that is higher than adjacent properties
- No mention of two storey house
- Close proximity of two storey to neighbours at the rear
- Overbearing impact
- Overlooking
- Site looks like a garage with four cars, two caravans and trailers
- Deeds state no caravans or noise
- Concerns over where vehicles will be parked during construction works

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Design
- Impact upon the Amenities of surrounding occupiers
- Parking and Access

### **Observations**

#### **Design**

The design of the existing bungalow is one where the bungalow has a flat roof and already stands out as a standalone bungalow at this prominent corner location along this part of

Stafford Close. The bungalow cannot be seen from the main frontage, as the projecting garage is the only focal point that can be seen.

The new pitched roof would be a cat slide roof that would be lower adjacent number 1 and would rise up towards number 5. The eaves of the roof adjacent number 1 would be 2.9m which would slope lengthways up to 9m to a pitch of 6.5m before sloping down to an eaves height of 5.3m adjacent number 5.

The new pitched roof would allow for a first floor to provide a bedroom, ensuite and walk in wardrobe creating a two storey house. Windows on the rear and side elevation to the walk-in wardrobe would be included with windows on the front and side elevation to bedroom one to be included. The proposal would also include roof lights.

It is considered that the design of the proposed bungalow would not unduly be out of character with the street scene, as the existing bungalow has a flat roof and the neighbouring bungalows have pitched roofs. The pitch of the roof would be lower adjacent number 1 and would slope up towards number 5; this would create a focal point at this prominent location on Stafford Close.

The proposed design is no more usual or modern than the design of the bungalows and two storey houses on the opposite side of Stafford Close. There is a square shaped house further along Stafford Close that has a vertical clad flat roof and this was considered acceptable and modern to sit within Stafford Close.

The height of the proposed new pitched roof would be similar to that of other house designs within Stafford Close and whilst the roof would be a grey metal zinc roof, the material and design would not unduly detract from the character of Stafford Close. It is considered this modern aspect would enhance the appearance and character of the existing flat roof bungalow. The proposed roof would be seen from the western side of Stafford Close as you enter the close from Wallington Heath, however, as the roof slopes away, the roof would be seen against the skyline view and would not unduly stand out as a prominent feature that would unduly detract from the character of the street.

The proposed new pitched roof, first floor extension, porch extension and external alterations are considered acceptable and would not detract from the character or setting of Stafford Close to warrant refusal of the application.

Objectors have stated that there are stipulations that the bungalows shall remain as bungalows and advice given by a builder that only bungalows would be supported at the rear of the application site due to proximity to bungalows on Stafford Close. The proposed alterations to the bungalow are considered under this current planning application. To the rear of 3 Stafford Close bungalows are appropriate due to the constraints of that site and the relationship with surrounding residential properties.

Objectors have stated that there is no mention that the proposal is for a two storey house, the description of development was altered to include all works to be undertaken on site and all neighbours were re-consulted on the amended description.

### **Impact upon amenities of surrounding occupiers**

The proposed alterations would not unduly impact upon the amenities of the occupiers of number 2 Heathcote Drive as the window in the rear elevation is a high level window and would serve a walk in wardrobe. This walk in wardrobe also has high level side facing windows looking towards number 5, to protect the amenities of both the occupiers of both

number 2 Heathcote Drive and 5 Stafford Close, it can be conditioned that these windows are obscurely glazed and non opening.

The proposed bedroom in the first floor has side facing windows facing towards number 5; again these are high level windows with the main bedroom window facing towards Stafford Close. It can be conditioned that these windows are also obscurely glazed and non opening. The room also benefits from a window to the front overlooking the street.

The ground floor of the bungalow would remain as existing without any alterations to windows or inclusion of new windows. It is considered that the proposed alterations would not unduly result in any overlooking or loss of privacy to the occupiers of both number 2 Heathcote Drive and 5 Stafford Close to warrant refusal of the scheme.

The occupiers of number 3 Heathcote Drive have raised concerns of overlooking of the house and garden and loss of privacy. The windows on the rear and side elevation would be conditioned to be obscurely glazed, so as not to result in overlooking, furthermore, these windows are high level and would not give the opportunity of allowing views out of them. Furthermore, the windows on the rear elevation of number 2 Heathcote Drive belong to a WC and a secondary kitchen window.

Objectors have raised concerns about the close proximity of the proposal to number 2 Heathcote Drive. The first floor would sit on the existing footprint of the bungalow and would not be any closer to this bungalow at the rear.

With regards to shading and loss of sunlight, the proposed alterations would not unduly result in loss of light or shading to number 2 Heathcote Drive any shadows from the new pitched roof would fall within the rear garden of the application site.

Whilst the proposal may have some impact upon the neighbouring occupiers both number 1 and 5 Stafford Close in terms of loss of sunlight during the early morning and late afternoon, both of these properties have large rear gardens so if any shade is cast during the early morning or late evening, it would be towards the boundaries of the site and the side part of the gardens. It is considered that the proposed new pitched roof and first floor would not unduly result in loss of light or shading to these neighbouring properties to warrant refusal of the scheme.

Both number 1 and 5 Stafford Close are positioned at an angle, so that they look towards the rear of the site. Whilst number 3 sits further back into the site from these neighbouring properties, it is considered these neighbouring properties whilst they would see the proposed property, would not unduly be impacted upon by the works so that their visual amenities would be sufficiently harmed to warrant refusal of the scheme.

Any construction works on site can be controlled through a condition restricting working hours.

Objectors refer to deeds referring to no caravans or noise. The issue regarding about caravans and deeds is a civil matter and not a material planning consideration. Any issues with noise can be dealt with through Environmental Health legislation. There reference to only single storey properties being allowed is also a civil matter and is understood relates to the covenants appertaining to the property which the applicant will need to address outside of the planning system.

## **Parking and Access**



Policy T13 requires 3 bedroom houses to provide 2 off road parking facilities. The site has ample space to accommodate 2 off road parking spaces, as the garage will be retained and so will the driveway to the property. A plan has been submitted which shows there is parking for more than 2 vehicles within the curtilage of the site.

Objectors have raised concerns that the site looks like a garage with four cars, two caravans and trailers parked on there. There is no limitations as to the number of vehicles that can be parked within the cartilage of a property. Any stipulations on the deeds preventing caravans being parked on there are matters outside of the planning system and need to be dealt with as a civil matter.

Objectors are concerns over where vehicles will be parked during the construction works. There are no parking restrictions along Stafford Close plus the site has a large driveway, it is considered any vehicles parked within Stafford Close during the construction works would be short term and not permanent to impact upon the amenities of the surrounding residential occupiers to warrant refusal of the scheme.

### **Positive and proactive working with the applicant**

The agent was been advised to alter the front elevation above the porch to align the house with the main pitched roof.

The design of the proposed alterations to create the two storey house is considered to be visually acceptable and would enhance the character and appearance of the existing flat roof bungalow.

### **Summary of Reasons for Granting Planning Permission**

#### **Recommendation:** Grant Permission Subject to Conditions

1. The 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.

2. The development shall be completed in accordance with:

- plan number 707/03/C entitled "proposals C" submitted on 5<sup>th</sup> February 2015.
- plan number 707/06a entitled "block plan" submitted on 12<sup>th</sup> March 2015.
- plan number 707/05 entitled "location plan" submitted on 5<sup>th</sup> January 2015.

*Reason:* To define the permission

- 3a. Prior to the commencement of this permission samples of all facing materials and roofing materials shall be submitted to and approved in writing by the Local Planning Authority.

- 3b. The development shall be fully completed with the approved details and retained as such.

*Reason:* To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

4. The high level walk in wardrobe window on the rear elevation and the high level side walk in wardrobe and secondary high level bedroom one windows as shown on drawing number plan number 707/03/C entitled "proposals C" submitted on 5<sup>th</sup> February 2015 shall comprise

of obscure glazing which meet Pilkington level 4 or equivalent, shall be non opening and be retained thereafter.

*Reason:* To safeguard the amenities of the occupiers of both 2 Heathcote Drive and 5 Stafford Close and to comply with policy GP2 of Walsall's Unitary Development Plan.

5. No 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 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:* To protect the amenities of potential occupiers.





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 02/04/2015

**Plans list item no: 14.**

**Reason for bringing to committee: Called in by Councillor Russell due to Community Interest in Support**

**Application Number:** 14/1895/FL  
**Application Type:** Full application

**Applicant:** Soho Solutions

**Proposal:** Proposed loft conversion to form 1 no. 1 person 1 bed flat.

**Location:** 1-3 West Bromwich Road, Walsall, WS1 3HS

**Ward:** St. Matthews

**Case Officer:** Stuart Crossen

**Telephone Number:** 01922 652608

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Reade Buray Associates

**Expired Date:** 10/02/2015

**Extension of Time Target Date:**

**Recommendation Summary:** Refuse

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### **Status**

The 5<sup>th</sup> March Planning Committee, deferred the planning application asking planning officers to negotiate a more traditional dormer design. The case officer spoke with the agent who provided a revised plan. The applicant states they are unable to scale down the dormer to provide a traditional design and achieve the floor space in the roof that they would like to achieve.

The submitted revised design is a mono-pitch roof, extending from the roof ridge of the building. The report is updated to include reference to the new roof design, with the recommendation and conclusions remain the same as the 5<sup>th</sup> March Planning Committee as planning officers consider the revised design has not improved the appearance of the dormer.

### **Application and Site Details**

This amended application is to include a mono-pitch roof dormer in the front roof slope of 1-3 West Bromwich Road to provide a 1 bedroom flat, increasing the total number of flats to 3. This application follows previous permission granted the last of which (14/0006/MA) was to increase the roof pitch of a rear two storey extension in line with the main roof a metre higher than the original permission for this extension (13/0671/FL).

The site visit has confirmed that previous planning permission permissions are already part implemented. These previous permissions allowed for the following changes to the property:

- New shop fronts,
- A covered walkway to the side of no. 3 West Bromwich Road
- The installation of a filtered odour extraction system to be concealed within an existing chimney stack.
- A new access to the first floor flat provided from Vincent Street.
- The proposed roller shutters would be housed behind the new fascia signs.
- Sub divide an existing large four bedroom first floor flat into two smaller self contained two, two bedroom flats,
- For the subdivision of a ground floor single large unit into two smaller units and for a change of use from the existing vacant dance studio D1 (Non-Residential institutions) to A1 use (Shop) in one unit and A3 use (Restaurants and cafes) in the other at no. 1-3 West Bromwich Road,
- The erection of a ground floor side extension to provide a utility / meter room and disabled toilet for use by the approved restaurant unit,
- The fascia signage to be erected above the two shop fronts will continue around and along the new side extension facing onto Vincent Street to provide continuity in the appearance of the building,
- At first floor it is proposed to extend the rear wing width ways in both directions towards no 5 West Bromwich Road and towards Vincent Street,

The site is surrounded by existing two storey houses, small shops and convenience store with on-street parking. The site is at the junction of West Bromwich Road, West Bromwich Street, Vincent Street and Sandwell Street which is controlled by a traffic roundabout. Opposite the site are two retail shops, one convenience store and one home furnishing (blinds) shop. Number 8, West Bromwich Street on the opposite side and further down is an existing fish and chip shop takeaway (closes at midnight each day).

This application replicates the fume extraction equipment and chimney stack.

Caldmore Local Centre is 350 metres away to the northwest, along West Bromwich Road.

### **Relevant Planning History**

BC57862P – Change of Use from shop & living accommodation to dance studio & living accommodation. Refuse 14/8/2001

BC58648P – Change of use of premises for shop and residential to dance studio and residential. Refuse 21/2/2002

02/0785/FL/W6 – After Representations Hearing: Change of Use of premises for shop and residential to dance studio and residential. Granted 8/6/2002

12/1002/FL - Change of use from D1 to A1 (retail) and A3 (restaurant/cafe) use class. Granted Subject to Conditions 23/10/12

13/0671/FL for Single storey infill extension, single storey side extension, first floor rear extension. Granted Subject to Conditions 25/07/13

14/0006/MA for Non Material Amendment to planning application 13/0671/FL to alter roof pitch. Granted Subject to Conditions 29/01/14

### **Relevant Planning Policy Summary**

#### **National Planning Policy**

##### **National Planning Policy Framework (NPPF)**

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*".

##### **6: Delivering a wide choice of high quality homes**

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

##### **7: Requiring Good Design**

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. states permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of the area and the way it functions.

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. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

### **The Spatial Objectives** include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment

The above are supported by the following policies:

#### **ENV2: Historic Character and Local Distinctiveness**

States that development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality.

#### **ENV3: Design Quality**

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV32: Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

#### **T7 – Car Parking**

All development should satisfy the car parking standards set out in Policy T13.

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)

(b) Residential Development (Use Class C3)

I. The walking distance should be no more than 400 metres to a bus stop

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

4 bed houses and above – 3 spaces per unit

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

### **Designing Walsall SPD**

DW3 – Character -design to respect and enhance local identity;



DW 10 – new development should make a positive contribution to creating a sustainable environment.

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

### **Consultations**

**Transportation** – No objections.

**Pollution Control** – No objections.

**Fire Officer** – No objections.

### **Public Participation Responses**

None

### **Determining issues**

- Design and character of the area
- Highway safety

### **Observations**

#### **Design and character of the area**

The building is on a prominent corner in an area of traditional Victorian houses with sloping roof designs. The proposed mono-pitch roof dormer design and choice of materials would result in an alien feature at odds with the existing house, representing poor quality design which fails to properly take account of the context, surroundings and identity which defines the local character of the area (contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58 and 64, the Black Country Core Strategy policy ENV2 and Walsall's saved Unitary Development Plan, in particular policy ENV32, and the Supplementary Planning Document, Designing Walsall DW3 and DW10), in a prominent location at the junction with Sandwell Street, Vincent Street and West Bromwich Road and as such would have a significant detrimental impact on the character of the area.

#### **Parking, Access and highway safety**

The development would create a 1 bedroom flat on the second floor above the existing shops and first floor flats. The site is in a predominantly terraced style residential area where typically dwellings are reliant on on-street parking. The addition of a 1 bedroom flat at this locality is unlikely to have severe transportation implications and no objection is raised by Transportation Officers. UDP policy T10 states that the parking policy requirements under T13 should be seen as neither maximum nor minimum but typical and hence it could be considered that a flat with no parking in this locality accords with the policy. The location is also within 400 metres of a bus stop which accords with policy T12 of the UDP

**Recommendation:** Refuse

The building is on a prominent corner in an area of traditional Victorian houses with sloping roof designs. The proposed mono-pitch roof dormer design and choice of materials would result in an alien feature at odds with the existing house, representing poor quality design which fails to properly take account of the context, surroundings, and identity which defines the local character of the area, in a prominent location at the junction with Sandwell Street, Vincent Street and West Bromwich Road and as such would have a significant detrimental impact on the character of the area contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58 and 64, the Black Country Core Strategy policy ENV2 and Walsall's saved Unitary Development Plan, in particular policy ENV32, and the Supplementary Planning Document, Designing Walsall DW3 and DW10.