



Walsall Council

Special Planning Committee

Thursday 20 July 2023 at 5.30 pm

Council Chamber, Walsall Council House

Public access to meeting via: [Walsall Council Webcasting Portal](#)

MEMBERSHIP:

Councillor M. Bird (Chair)
Councillor M. Statham (Vice-Chair)
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Councillor H. Bashir
Councillor P. Bott
Councillor M. Follows
Councillor N. Gandham
Councillor A. Garcha
Councillor A. Harris
Councillor C. Horton
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor R. Larden
Councillor R. Martin
Councillor J. Murray
Councillor S. Nasreen
Councillor A. Nawaz
Councillor S. Samra
Councillor V. Waters

QUORUM:

Seven Members

A G E N D A

Part I – Public Session

1. Apologies.
2. Declarations of interest.
3. Deputations and petitions.
4. **Local Government (Access to Information) Act 1985 (as amended):**

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.

5. Application list for permission to develop:
 - a) Items subject to public speaking;
 - b) Items 'called-in' by members
 - c) Items not subject to 'call-in'
- Copy **enclosed** (pp. 4 - 79)

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.



Development Management Planning Committee

Report of Head of Planning and Building Control on 20/07/2023

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Planning Committee

Report of Head of Planning and Building Control on 20 July 2023

Plans List Item Number: 1

Reason for bringing to committee

Major Application

Application Details

Location: METRO INN WALSALL, METRO INN WALSALL, BIRMINGHAM ROAD, WALSALL, WS5 3AB

Proposal: ERECTION OF A NEW DISCOUNT FOODSTORE (USE CLASS E) WITH ACCESS, CAR PARKING, LANDSCAPING AND OTHER ASSOCIATED WORKS.

Application Number: 22/0895

Case Officer: Sally Wagstaff

Applicant: Lidl Great Britain Limited

Ward: Paddock

Agent: Rapleys

Expired Date: 16-Oct-2022

Application Type: Full Application: Major Use Class E(b) (Sale of Food and Drink)

Time Extension Expiry:



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Recommendation

Delegate to the Head of Planning and Building Control to refuse subject to:

- Taking account of any additional material matters being raised as part of a current re-consultation
- Finalise and amend refusal reasons

Proposal

This application proposes the demolition of the existing building and erection of a Lidl discount store providing 1796sqm Gross Internal Area / 1217sqm Net Sales Area. The store would be sited hard up against the west site boundary and is of a standard Lidl design with mono-pitch roof, glazed front elevation and store entrance and modern grey and white aluminium cladding to exterior. Photovoltaic panels are proposed to be affixed to the roof along with an area serving plant equipment.

A revised vehicle access is proposed off Birmingham Road along with a total of 75 car park spaces including 5 disabled spaces, 6 parent & child spaces and 4 electric vehicle charging spaces situated to the east of the site. 12 covered bicycle parking spaces are proposed directly in front of the store entrance.

The submitted application form incorrectly states that there are no existing employees on the site. Furthermore, no details have been provided as to whether the proposed 'up to 40 jobs' would lead to a net increase in local jobs over and above the existing operating businesses.

Proposed opening hours are 08:00am to 22:00pm Monday to Saturday and 10:00am to 18:00pm Sunday and Bank Holidays.

The red line site boundary has recently been amended to exclude a small section of land adjacent to the tennis courts at rear.

A number of updated plans and documents have been submitted which are currently the subject of re-consultation. Any additional consultation responses received will be added to the supplementary paper, and the recommendation allows for consideration to be given to any new material planning matters arising.

Site and Surroundings

The application site is currently occupied by a modern three and four storey building of overall simple design. The building is currently used as a hotel (Metro Inns) and includes The Broadway bar and grill at ground floor. The site is served by car parking to the front, side and rear of the existing building. The site is accessed off the A34 Birmingham Road a busy part of the Borough's strategic highway network and in close proximity to the junction with Broadway and Broadway North.

The immediate surrounding area is predominantly a mix of traditional and modern two storey residential properties and includes a 4 storey modern block of flats to the north west of the site. Currently disused tennis courts directly adjoin the rear of the site, and the A34 Sprint bus route works are also underway along Birmingham Road, and immediately to the front of the site.

The site is in an out-of-centre location and located 1km outside of Pelsall Local Centre and South of Walsall Strategic Centre. A section of the south-west border is allocated as HO305 under Policy HC1 of the Site Allocation Document for housing.

A number of TPO trees are present along the front and rear of the site. The site falls within Flood Zone 1, defined as an area with the lowest probability of flooding and in the low-risk coal area.

Relevant Planning History

Application Site:

22/0975 - Environmental Impact Assessment (EIA) Screening Opinion for a proposed erection of a new discount foodstore (Use Class E) with access, car parking, landscaping and other associated works. EIA Screening Opinion Not Required 13/03/2023.

17/1206 - Change of use of part existing car park to jet car wash & car valeting. Refused 06/09/2017.

Surrounding area:

20/0522 - FORMER ALLOTMENTS REAR OF 1 TO 9, CRICKET CLOSE, WALSALL - Proposed erection of 29 dwellings (comprising 22 open market dwellings and 7 affordable units) with landscaping, access roads, car parking and associated infrastructure. Allowed at appeal 10/10/2022.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 56) says:

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

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

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

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

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

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

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

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

with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7 - Car Parking
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- EMP1: Providing for Economic Growth
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

EN1: Natural Environment Protection, Management and Enhancement

EN3: Flood Risk

T4: The Highway Network

Supplementary Planning Document

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Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Shop Front SPD

- SF2: Shop front proportions
- SF3: Materials in shop fronts
- SF4: Colour finishes
- SF5: Access to shops
- SF8: Shop front security

Consultation Replies

Archaeology Officer

No objection.

Ecology Officer

No objection but recommends amendments to proposed landscaping and lighting.

Environmental Protection

No objection subject to conditions regarding construction and demolition management, contaminated land, noise mitigation and air quality.

Fire Authority

Note to applicant suggested.

Highways England

No comments to make.

Lead Local Flood Authority

Objection due to insufficient submitted information.

Local Highways Authority

Objects due to:

- insufficient parking provided to support development
- failure to demonstrate how additional traffic would not result in unacceptable impacts to highways safety
- residual cumulative impact on the road network would be severe
- Insufficient Travel Plan

Police (Designing Out Crime)

Security measures recommended.

Severn Trent Water

No objection subject to drainage condition.

Sport England

No comments to make.

Strategic Planning Policy

No objection.

Transport for West Midlands

Concern around lane widths nearest Cricket Close.

Tree Preservation Officer

Objects - Locating a building and associated hard standing in close proximity to the protected trees does not accord with Chapters 12 and 15 of the NPPF, with saved policy ENV18 of the Walsall UDP, and policy NE8 of the SPD, Conserving Walsall's Natural Heritage. Their removal is unjustified, will have a detrimental effect on the amenity, aesthetic and landscape value of the locality, and runs counter to the thrust of the TPO system which makes provisions for the preservation of trees.

Representations (*Officer comments in italics*)

10 representations received in support for the following reasons:

- Creation of jobs
- Sufficient parking
- Improvement on appearance of current hotel
- Good use of the site
- Competitive retail resource (*not a material planning matter*)
- Meets local need
- Would reduce anti-social behaviour

111 representations received objecting on grounds of:

- Impact on property values (*not a material planning matter*)
- Impact on nearby centres and businesses
- Impacts on neighbour amenity
- Loss of hotel, bar and jobs
- Increased traffic congestion
- Increased highway safety issues
- Fails to take account of Sprint works
- Increased crime
- Likely closure of existing Walsall Lidl store
- Suitable alternative sites
- Reduction in air quality and increased health impacts
- Availability of other supermarkets in area
- Green space further along Birmingham Road should be saved from development (*not a material planning consideration for this application*)
- Displacement of residents staying at the hotel
- Loss of tennis courts (*not a material planning consideration for this application*)
- Council approval of housing development at Cricket Close will cause traffic issues (*this separate development was allowed by the Planning Inspectorate and was not a Council decision. This is also not a material planning consideration for this application*)
- Environmental and safety grounds (*no details provided so limited weight afforded*)
- Incorrect site boundary affecting third party land (*updated plans received showing updated site boundary*)
- Restricted emergency vehicle access to wider area
- Increased risk of rats and rodents (*not a material planning matter*)
- Site should be developed for housing instead (*Local Planning Authority can only determine the application placed before it*)
- Not an accessible location
- Some published documents are password protected and not accessible (*only sensitive information is redacted or password protected*)
- Unsightly and poor design and harm to locality
- Intrusive bright lighting
- Object to proposal (*no details provided so limited weight afforded*)
- Harm to wildlife
- Will deter investment and residents from wanting to come to the Borough (*not a material planning matter*)
- Walsall Council has made poor decisions and is corrupt (*no details provided to substantiate this allegation and it is not a material planning matter*)
- Increased litter (*not a material planning matter*)
- Disagree with Lidl published material that suggests the proposal has received positive support from local residents when 45% were against this proposal
- Lack of boundary treatment details

2 x anonymous objections were received which do not carry any weight.

Councillor Waheed Rasab and Councillor Singh Sohal object on grounds of:

- Traffic congestion
- Unsuitable location in housing estate
- Health and safety issues (*not a material planning matter*)

Determining Issues

- Principle of Development
- Design, Layout and Character
- Amenity of Neighbours
- Highways
- Ecology
- Flood Risk / Drainage
- Protected Trees

Assessment of the Proposal

Principle of Development

The applicant has carried out the necessary sequential test which has demonstrated that there are no suitable available alternative sites in nearby local centres, or in additional centres within a wider 7 minute drive time catchment. This position has been accepted by the Council's Planning Policy Team. There is no requirement to carry out a retail impact assessment for this scale of proposal.

The majority of the site is not allocated for any particular use with the exception of a small section of land along the south-west boundary which forms part of a wider housing allocation reference HO305 under SAD Policy HC1. However, it is considered that this is unlikely to prevent the wider housing allocation from coming forward. A revised location plan has been submitted which further reduces this section of land in an effort to correct the site boundary where it adjoins third party land falling outside of the applicant's ownership.

This proposal fails to clearly demonstrate whether any net increase in local jobs would occur as a direct result of this development and limited weight is therefore applied in this regard.

However, this development would make use of a previously developed site and is therefore acceptable in principle subject to all other material considerations.

Design, Layout and Character

The low-level mono-pitch roof and siting of the building directly adjacent the three-storey Keepers Gate flats which also sits forward of the established building line, fails to reflect the scale and pattern of development in the area. The proposed external materials fail to take account of the local vernacular which has a prevailing character of red bricks.

It is considered that the proposed design fails to respect the location of this prominent site and fails to take the opportunity to enhance the character of the area. This will form a reason for refusal.

The most recently received revised plans are currently out for re-consultation with the relevant consultee(s).

Amenity of Neighbours

The proposed building at a distance of only 4.7m and 16m to the nearest elevations of adjacent Keepers Gate flats fails to demonstrate whether the 45 degree code would be breached, or whether the proposal would result in unacceptable additional impacts to occupiers in regard to loss of outlook and light to any habitable windows. This will form a further reason for refusal.

On balance, it is considered that the proposal would not result in any significant additional noise, disturbance, or other amenity impacts to other surrounding residential occupiers over and above the existing use, layout and operations on the site against the backdrop of noise associated with the strategic highway network in this location. The Council's Environmental Protection Team do not object to this development and state that the proposed store will not significantly add to the existing air quality and noise pollution levels. A condition to include acoustic boundary treatment would be included on any approval as suggested.

The most recently received revised environmental reports are currently out for re-consultation with the relevant consultee(s).

Highways

The proposal fails to provide the policy required level of 135 parking spaces. The proposed 75 parking spaces falls significantly short and is insufficient to support the proposed development.

The submitted Transport Assessment dated 18/07/2022 fails to provide sufficient evidence to justify the number of vehicle trips put forward in the submission linked with the proposed development. The Local Highway Authority considers the trip generation has been significantly undercounted and is likely to attract an additional 103 two-way trips during weekday peak time and an additional 139 two-way trips during Saturday peak time over and above the figures provided by the applicant.

The submitted road safety audit cannot be relied upon as it includes a plan showing the vehicle access in the wrong location and changes are required to the submitted Travel Plan to make it acceptable.

The submitted Travel Plan fails to include appropriate measures to promote other modes of sustainable transport for customers, and requires other revisions to be deemed acceptable.

Overall, the proposal fails to provide a safe and suitable access due to a gross under-provision of parking spaces, and due to known existing accidents at this junction the proposal would have an unacceptable impact on highway safety and the residual cumulative impact on the road network will be severe. This will form a further reason for refusal.

The most recently received revised Travel Plan and Transport Assessment is currently out for re-consultation with the relevant consultee(s).

Ecology

The proposal is considered would not result in any harm to wildlife or protected species. The Council's Ecology Officer did not raise an objection to this proposal.

The most recently received revised biodiversity documents and ecological surveys are currently out for re-consultation with the relevant consultee(s).

Flood Risk / Drainage

The Lead Local Flood Authority object due to insufficient information submitted in relation to drainage. This will form a further reason for refusal.

The most recently received revised drainage documents are currently out for re-consultation with the relevant consultee(s).

Protected Trees

The site has several protected trees covered by Tree Preservation Order (TPO) No. 15/2004. There 3 individual trees to the front of the site and 2 groups to the rear.

The submitted Arboricultural Report surveyed 18 individual trees and 4 groups. 15 of the individual trees, and 3 of the groups of trees, have been assessed in accordance with BS 5837:2012¹ as 'B' class trees, indicating they are in good condition with reasonably long-life expectancy (20+ years). However, their reported condition suggests that some of the trees should be assessed as category 'A' trees (good condition with long life-expectancy, 40+ years).

To the front of the site, T5 Ash, T16 Lawson Cypress, T17 Lawson Cypress and T18 Ash are protected trees that have been marked from removal. Their removal has already been agreed, in principle, as part of the Sprint Bus Route subject to compensation and/or replacement planting. The Tree Officer does not object to their removal as part of the Lidl proposal subject to the same conditions.

T2, T3 and T4 are located immediately adjacent to the north corner of the existing building. Whilst providing some amenity value in this location, they are indicated for removal as part of the Lidl proposal, the Tree Officer has no objection to this.

T12, T13, T14 and T15 are off-site trees located in Keepers Gate. They are located 6-8m from the proposed building which is sufficient for future growth and maintenance. However, the existing ground between the Metro Inns building and Keepers Gate is hard standing which will be converted, in large part, to soft landscaping. No reference has been made to this and, should consent be granted, an Arboricultural Method Statement should be conditioned to ensure the long-term health and condition of these third party owned trees.

G1 is located in the west corner of the site, adjacent to the amended delivery area. They are protected within G3 of the TPO and have been assessed as 'B' class trees of reasonable condition with high amenity value. The layout and proximity of the delivery area, and associated works (retaining wall) will result in the removal of these trees, which the Tree Officer objects to.

T6 – T11 inclusive are located along the southwest boundary, which backs onto the tennis courts. Except for T7, all trees have been assessed as category 'B' trees in BS5837, although T7 has unfairly been downgraded for unknown reasons. They provide a useful amount of amenity value to the locality, being visible to the residents

of Keepers Gate, Cricket Close and the site itself. They have been marked on the Arb Plan for removal, likely due to the proximity of the proposal and associated works, which there is an objection to.

G2 is a row of conifer and laurel located on the southwest boundary, which backs onto properties in Cricket Close. They are of relatively low amenity value although do provide a high degree of screening between the sites. They have been marked on the Arb Plan for removal which the Tree Officer objects to.

G4 is a row of conifers located on the southwest boundary, which backs onto properties in Cricket Close. They are of reasonable amenity value and provide a high degree of screening between the sites. They have been marked on the Arboricultural Plan for removal which there is an objection to.

G3 is a row of conifers located on the southwest boundary, which backs onto properties in Cricket Close. They are of high amenity value and provide a high degree of screening between the sites. They have been marked on the Arb Plan for removal which there is an objection to.

The proposed Drainage Plan indicates surface water drains around the northwest and southwest sides of the site, at depths of between 1.5m to 1.8m. This will sever a significant amount of root material to T6, T7, T8, T9, T10, T11, G1, G2, G3 and G4 and would result on their removal regardless of any other development pressures.

The submitted lighting plan indicates 6m high lamp columns along the southwest boundary and in the car parking area. The existing trees along the southwest boundary, if being retained, would not provide light overspill to the adjacent properties. This cannot be mitigated through replacement planting as there is insufficient space.

The frontage layout on the amended landscaping plan is poor with only shrub species indicated. There are no replacement trees indicated that could have compensated for the loss of T17 and T18 which would be expected.

In addition, there are only 5 replacement trees indicated towards the rear of the site presumably to compensate of the loss of T6-T11, G1, G2, G3 and G4. The five trees are split into 2 small groups that are insufficient to return an acceptable level of amenity and screening to the locality.

Conclusions and Reasons for Decision

On balance, whilst the development would make use of a previously developed site and is acceptable in principle, the impacts arising in relation to highway safety, neighbour amenity, character of the area and impact upon trees on site are unacceptable and there are no material planning considerations in support of the proposals that would outweigh this harm. It is therefore concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal for the reasons set out in this report.

Recommendation

Refuse

Reasons for refusal

1. This application fails to provide sufficient parking spaces to support the development and fails to demonstrate how additional traffic would not result in unacceptable impacts to highways safety. The residual cumulative impact on the road network would be severe and the application is contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection) and T13 (Parking Provision for Cars, Cycles and Taxis), TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy, T4 (The Highway Network) of Walsall's Site Allocation Document and Paragraphs 110 and 111 of the National Planning Policy Framework.
2. This application fails to provide sufficient information to demonstrate that the development would not give rise to increased risk of flooding contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection) and ENV40 (Conservation, Protection and Use of Water Resources), ENV5 (Flood Risk, Sustainable Drainage Systems and Urban Heat Island) of the Black Country Core Strategy, EN3 (Flood Risk) of Walsall's Site Allocation Document and Paragraphs 167 and 169 of the National Planning Policy Framework.
3. Insufficient information has been submitted in support of this application to demonstrate whether the siting of the proposed building, and its proximity to Keepers Gate, would result in unacceptable additional impacts to occupiers of these adjoining flats in regard to loss of outlook and light to any nearest facing habitable windows. This application is contrary to Saved Unitary Development Plan Policy GP2 (Environmental Protection), Appendix D (Numerical Guidelines for Residential Development) of the Designing Walsall Supplementary Planning Document and Paragraph 130 of the National Planning Policy Framework.
4. The proposed design and siting of the building directly adjacent the three-storey Keepers Gate flats, and which would sit forward of the established building line fails to reflect the scale and pattern of development in the area. Furthermore, the proposed external materials fail to take account of the local vernacular which has a prevailing character of red bricks. The proposed design fails to respect the location of this prominent site and fails to take the opportunity to enhance the character of the area. This application is contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and CSP4 (Place Making) of the Black Country Core Strategy, DW3 (Character) of the Designing Walsall Supplementary Planning Document and Paragraphs 130 and 134 of the National Planning Policy Framework.
5. The location of the proposed building, and associated infrastructure, has an unacceptable relationship to eight individual trees (T6-T11 inclusive, T17 and T18 which are protected) and four groups of trees (G1 and G2 which are protected, G3 and G4 inclusive). These trees make a useful contribution to the amenity and screening of the locality, being visible from Birmingham Road, Keepers Gate, Cricket Close and the adjacent tennis courts. This application is contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection), ENV18 (Existing Woodlands, Trees, and Hedgerows) and ENV32 (Design and Development

Proposals). NE7, NE8, NE9 and NE10 of Walsall's Supplementary Planning Document and paragraphs 130, 131, 133, 134, and 174 of the National Planning Policy Framework.

6. The landscaping plan (R/2614/1 Rev B) does not offer an acceptable level of compensatory tree planting for proposed loss of the protected trees and there is insufficient space around the site to do so. This indicates an overdevelopment of the site. The application is contrary to Saved Unitary Development Plan Policies GP2 (Environmental Protection), ENV17 (New Planting) ENV18 (Existing Woodlands, Trees, and Hedgerows) and ENV32 (Design and Development Proposals). NE7, NE8, NE9 and NE10 of Walsall's Supplementary Planning Document and paragraphs 130, 131, 133, 134, and 174 of the National Planning Policy Framework.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 20 July 2023

Plans List Item Number: 2

Reason for bringing to committee

Council owned land with uplift in the value of the land

Application Details

Location: THE ALLENS CENTRE, HILTON ROAD, WILLENHALL, WV12 5XB

Proposal: OUTLINE: RESIDENTIAL DEVELOPMENT OF UP TO 59 DWELLINGS, WITH ALL MATTERS RESERVED (NEAR TO PROW NDA151)

Application Number: 23/0106

Case Officer: Peter Gittins

Applicant: C/O Agent

Ward: Willenhall North

Agent: Lauren McCullagh

Expired Date: 17-May-2023

Application Type: Outline Permission: Major Application

Time Extension Expiry:



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Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to Conditions and a S106 agreement to secure open space contributions, affordable housing, and mitigation payments towards the Cannock Chase SAC and subject to;

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed.

Proposal

This is an outline planning application for a residential development of up to 59 dwellings with all matters reserved. Whilst an indicative layout has been submitted with the application, it is the principle of the development for housing that is to be considered, with layout, scale, appearance, landscaping and access to be considered at the reserved matters stage.

Site and Surroundings

The site is located in Willenhall and is surrounded by residential houses and gardens. The current access point is situated to the east off Hilton Road. The site is some 3.27 acres in area and was previously occupied by the Allens Centre, a demolished community building and school. Some hardstanding remains after the site clearance.

In the vicinity of the site, there is a tree-covered mound known as "Allens Rough" to the south.

Various local services are available in the area, with Coppice Farm Local Centre offering a health centre, pharmacy, and supermarket within a seven-minute walk to the west. Additional amenities can be found at the Lichfield Road Local Centre to the south. Willenhall District Centre is approximately 3km away and provides further shopping options, while Walsall Town Centre is located approximately 5km southeast.

There are several schools in close proximity, including Beacon Primary School, Bloxwich Academy, and Coppice Performing Arts School. Recreational areas such as New Invention Community Green, Coppice Farm Park and Field, and Short Heath Park are all within walking distance.

The nearest bus stops are within 300m on Essington Road, Dorchester Road, and Hilton Road, with the half-hourly no. 41 bus service operating between Willenhall and Walsall. Bloxwich North railway station provides railway connections, and the anticipated opening of Willenhall Station in 2024 will further enhance rail accessibility to Birmingham, Walsall, and Wolverhampton.

The site comprises a single parcel of land, all of which is within the ownership of the applicant Walsall Council. The site is within the Zone of Influence of the Cannock Chase SAC.

Relevant Planning History

C50118P, School House, Hilton Road, Willenhall, Change of use to education and training centre including creche Granted Permission Subject to Conditions 10/11/1997

03/1841/FL/W1, Allens Rough School (including caretakers house), Hilton Road, Walsall, Willenhall, West Midlands, Change of use to community facility, council offices and employment training, Granted Permission Subject to Conditions 9/12/2003.

15/1404, The Allens Centre, Hilton Road, Willenhall, Prior Notification for demolition of the Allens Centre, Prior Approval: Granted 19/10/2015

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

On **planning conditions** the NPPF (para 56) says:

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

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

National Planning Policy Guidance

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On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People

- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H1: Renewal of Existing Residential Areas
- H4: Affordable Housing parts g, h, i and j
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- ENV1: Nature Conservation
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC1: Land allocated for New Housing Development
 HC2: Development of Other Land for Housing
 HC3: Affordable Housing and Housing for People with Special Needs
 OS1: Open Space, Sport and Recreation
 EN3: Flood Risk
 T4: The Highway Network
 T5: Highway Improvements
 EQ2 - Cannock Chase Special Area of Conservation

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Open space, sport and recreation

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

Affordable Housing

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

Air Quality SPD

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

- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Clean and Green – no comment

Coal Authority – no objections subject to conditions relating to address land instability arising from shallow coal mining legacy

Environmental Protection - no objections subject to conditions relating to a construction environmental management plan and contaminated land

Local Access Forum - Support

Local Highways Authority including Public Rights of Way – support , some noted queries regarding access arrangements, however these will be considered at reserved matters stage

Police – No objection, suggestions provided regarding security based on the submitted indicative layout

Public Health – No objection

Severn Trent Water – No objections subject to conditions relating to the submission of a drainage scheme

Strategic Planning Policy – support, the current and evolving Development Plan supports the principle of residential development on this site and this is despite the councils no longer proceeding with the Black Country Plan.

Local Flood Authority – no comment.

Representations

There have been 10 letters in objection from local neighbours in relation to this proposal and one letter of objection from a local councillor.

In summary the residents' object on the grounds that:

The proposed development does not include any designated green space, and to accommodate the new dwellings, the existing green space would need to be removed.

The area is known to be habitat for protected species such as bats and other wildlife, so an Ecological Impact Assessment should be conducted to assess the ecological impact of the development.

There are issues with the proposed layout, including potential dwellings being situated over public sewers and the possibility of old mine workings in the area, as well as a coal seam beneath the site. Proof drilling and grouting should be carried out to ensure the safety and viability of the development.

The surrounding areas experience flooding during heavy rainfall, and with a high-water table and no apparent provision for soakaways, there are concerns about how the water will be effectively drained from the proposed site without causing adverse effects on surrounding homes and streets. Photographic evidence of previous flooding incidents supports these concerns.

Overall, these objections raise concerns about the lack of designated green space, potential safety issues related to infrastructure and mining, and inadequate drainage plans for the proposed development.

In summary the local councillor objects on the grounds of:

The reliance on the scrapped "Black Country Plan" and the lack of clarity in informing residents about the removal of designated green space. The Councillor disputes the claim that the site is inaccessible, highlighting its regular use by the public and arguing that policies protecting open spaces should still apply. They express frustration at the absence of assessments on protected species and suggests a combination of residential development and the preservation of green space, considering the high population density in the area. There are also concerns about the proposed layout, potential issues with public sewers and mine workings, and the drainage of water from the site during heavy rain.

Determining Issues

- Principle of Development
- Highway safety
- Ecology
- Flood Risk / Drainage
- Ground Conditions and Environment
- Planning Obligations
- Cannock Chase SAC and HRA
- Local Finance Considerations
- Consideration of the local objections to the proposal

Assessment of the Proposal

Principle of Development

The site is divided into two areas in the adopted development plan: one for housing and the other as open space. The draft Black Country Plan suggests allocating both areas for housing. Although the council decided not to proceed with the draft plan, it carries some weight due to having undergone public consultation. Proposals affecting open space must adhere to relevant policies in the National Planning Policy Framework (NPPF), Black Country Core Strategy (BCCS), and Unitary Development Plan (UDP). Open space should only be developed if an assessment demonstrates surplus or equivalent replacement provision, as stated in NPPF paragraph 99.

However, the open land on the site was previously playing fields associated with a primary school and, whilst the buildings on the land have now been demolished, the area is secure and is not considered to be public open space. Given the weighting afforded to housing development as a result of the draft Black Country Plan and that the Council currently faces a shortage in 5-year housing land supply and has failed the Housing Delivery Test, there is a presumption in favour of sustainable

development, and it is considered that the whole site is suitable for a housing development. Nonetheless contributions for off-site public open space and affordable housing will be required.

Therefore, the proposal is considered acceptable in principle and accords with the development plan.

Highways

The outline application has received no objections from the local highway authority and a Transport Statement (TS) has been included with this planning application. Whilst details of the proposed access are reserved for a future reserved-matters planning application it is envisaged that the site access for both vehicles and pedestrians will be located on Hilton Road, south of the site. The access road will have a width of 5.5m, with footways of 2m on each side. Measures will be taken to ensure a maximum vehicle speed of 20mph within the development, including the use of road geometry and other features. It is also envisaged that the proposed main access junction will be relocated, improving access to the site, and providing 2m wide footways on both sides of the junction.

The site access would have adequate visibility splays in both directions, suitable for a 30mph speed limit on Hilton Road. The road layout of the development will be accessible to a refuse collection vehicle.

Regarding pedestrian and cycle connectivity, the proposal aims to maintain and enhance existing traffic-free pedestrian routes, which are also accessible to cyclists. It is envisaged that the route between Hilton Road and Sherringham Drive, passing through the site, will be retained and improved.

Ecology

The applicant conducted an ecological appraisal as part of their application, which involved a desk study and field surveys. The desk study identified important conservation sites and species records within specific radii. The field surveys, including an Extended Phase 1 Habitat Survey, assessed the existing habitats and potential presence of protected species. The significance of the site features was evaluated in relation to the geographical context, and species assessments followed best practice guidelines.

Based on the findings, the applicant is advised to perform Biodiversity Impact Calculations to demonstrate a net gain in biodiversity according to the NPPF. During the design phase, efforts should be made to avoid disturbing root protection zones of woodland and scattered broadleaved trees, while following British Standard guidelines near these zones during construction. Planting new trees and increasing native wildflower planting are recommended to replace lost vegetation and enhance invertebrate habitat. Nesting bird checks should be conducted before vegetation clearance during the breeding bird season. Species-specific bird boxes and bat boxes should be installed on retained trees and incorporated into the building design. Precautionary working methods and checks should be implemented to protect reptiles, amphibians, and invertebrates. A badger check is advised before construction begins.

Overall, the proposed works are not expected to impact any designated conservation sites within a 5 km radius. The site contains important ecological features such as

broadleaved woodland, scattered trees, scrub, hardstanding areas, and semi-improved grassland, supporting a variety of wildlife including birds, bats, badgers, reptiles, and invertebrates. To compensate for habitat loss in an urban area, the applicant will be required to enhance the site's ecological value after construction and achieve a net gain in biodiversity. This will be effectively controlled through the planning process and by condition on any reserved matters application when further details of the layout and landscaping are known. It should be noted that the applicant's preliminary ecological appraisal is to be conditioned as an approved document as part of this application and it specifically highlights the principle of achieving a net gain in biodiversity, in line with The Environment Act 2021 which is welcomed.

Flood Risk / Drainage

The applicant has submitted a flood risk assessment as part of their outline application, which complies with the National Planning Policy Framework (NPPF) and its accompanying Planning Practice Guidance. The NPPF outlines guidelines for development in flood-prone areas, emphasising the avoidance of inappropriate development in high-risk areas. If development is necessary, it should be conducted in a way that does not increase flood risk elsewhere. The flood risk assessment for the proposed development considers all potential sources of flooding.

The site is located in Flood Zone 1, an area designated as such by the Environment Agency (EA). According to the NPPF, a Sequential Test should be applied, giving preference to development within Flood Zone 1. The applicant's flood risk assessment demonstrates that the Sequential Test requirements have been satisfied, as the site is within Flood Zone 1. Consequently, the development of the site should not be restricted based on flood risk considerations.

It is noted that Severn Trent Water have no objections to the proposal. It will be necessary to condition that foul and surface water drainage details are submitted and approved prior to the commencement of the development.

Ground Conditions and Environment

The application site is located in a Development High Risk Area with coal mining features and hazards. Coal mining has occurred beneath the site at shallow depths, and there may be additional unrecorded mining activities, which can lead to ground instability and mine gas emissions.

The application includes a Geo-Environmental Desk Study Report and a Geo-Environmental Investigation Report. These reports recommend conducting a borehole investigation and implementing stabilisation works to address the land instability caused by coal mining and it is noted that the Coal Authority supports these recommendations.

Specific conditions will be proposed to ensure the site's safety and stability.

Planning Obligations

A planning legal agreement under Section 106 of the Act will be required to secure payments towards off site open space, which based on the indicative layout will be in the region of £83,000 to be spent in the local area; and the provision of affordable housing as part of the development, in line with the Supplementary Planning

Document for Affordable Housing with a 25% affordable element provided on the site. It is noted that the scheme should not differentiate between affordable and private houses in terms of design, location, or material specification.

No viability assessment has been submitted so assumed that the payment and provision of affordable housing will not be challenged.

Cannock Chase Special Area of Conservation (SAC)

Pursuant to the Habitats Directive (92/43/EEC), where a plan or project is not connected with the nature conservation management of a European designated site, the competent authority must determine whether the plan or project is likely to have a significant effect on the site, either alone or in combination with other plans or projects. This is reflected in national law in the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations"), which place a duty upon competent authorities to consider the potential for effects upon sites of European importance prior to granting consent. This is referred to as a screening assessment. If likely significant effects are identified by the screening assessment, the competent authority must then undertake an Appropriate Assessment of the implications.

Approximately 20% of Cannock Chase falls within the Cannock Chase Special Area of Conservation ("SAC"), allocated primarily for its dry heathland. Council areas in the vicinity of the SAC have formed a Partnership and commissioned reports to assess impacts upon the SAC and how they arise. The evidence indicates that development which would increase visitors within 15km of the SAC may have a significant impact.

Walsall Council joined the Cannock Chase SAC Partnership on 17th October 2022 and has implemented Black Country Core Strategy Policy EQ2 which enables the collection of payments to mitigate against impacts arising from new relevant development falling within the 15km Zone of Influence of the Cannock Chase SAC. The mitigation payment of £329.83 per each net new dwelling is non-negotiable. Permission must be refused where appropriate mitigation is not provided pursuant to the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations").

The applicant has submitted a Habitat Regulation Assessment (HRA). The Project has been screened to identify whether potential effect pathways between the Project and the SAC are present which are likely to result in significant effects upon the SAC. The screening exercise carried out on April 1st 2022 by the SAC Partnership authorities found likely significant effects on the SAC arising as a result of increased recreational activity from new residential development and related population growth that is likely to disturb the ground. A 21/12/12 Cannock Chase SAC Visitors Survey investigating visitor access patterns found that the majority (75%) of visitors originated from within a 15km distance of the SAC (also supported by 2018 visitor survey data) and The Cannock Chase SAC Planning Evidence Base Report Stage 2 (12/07/21) determined that within this 15km 'zone of influence', measures to reduce recreational pressure would be most effective.

The applicant's submitted HRA information stated that that indicated that the development is within the zone of influence of the Cannock Chase Special Area of Conservation (SAC) that the development will have an impact on the Cannock Chase SAC, and mitigation will be required.

The Habitat Regulation Assessment Stage 1: Screening Assessment has been undertaken using the available information associated with this planning application.

The screening assessment is designed to check if an application is likely to have a significant effect on Cannock Chase SAC's conservation objectives, based on available evidence. Should it be determined that no significant effects are likely, no further assessment in respect to the SAC is required. Please note as per guidance and CJEU ruling (case C323/17), mitigation measures cannot be taken into account at the screening stage of the HRA assessment.

The proposed application is situated 12km from Cannock Chase SAC and proposes a net increase of up to 59 dwellings. This development would result in an increase in recreational disturbance resulting in significant harm of the SAC and should progress directly to Stage 2 the undertaking of an Appropriate Assessment.

While Walsall Council, as the Competent Authority, will carry out HRA Stage 2: Appropriate Assessment, which will include the consultation of key stakeholders including Natural England, it will be the responsibility of the applicant to provide and secure suitable mitigation on which to base the Appropriate Assessment. Suitable mitigation should be in the form of the necessary mitigation payment of £ 329.83 per each net new dwelling which in this case will be secured within a Section 106 Agreement as other obligations are also required.

The applicant has agreed to provide the SAC mitigation payment via Unilateral Undertaking / S106 which will need to be completed prior to planning approval being granted.

Local Finance Considerations

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

This application proposes up to 59 new homes.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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

Consideration of the local objections to the proposal

While the proposed development may not include designated green space, it is important to note that the site is not classified as public open space and was previously used as playing fields associated with a school. The decision to allocate the area for housing is supported by the draft Black Country Plan, which carries weight due to public consultation. Contributions for off-site public open space will be required to compensate for the loss of green space.

Regarding the ecological impact, the applicant has conducted an ecological appraisal as part of the application. While further assessment, such as an Ecological Impact Assessment, may be necessary, the appraisal followed best practices and guidelines.

Measures such as Biodiversity Impact Calculations, precautionary working methods, and enhancements to support wildlife have been recommended to mitigate any potential ecological impacts.

The issues raised concerning the layout and potential safety hazards related to infrastructure and mining are valid concerns. It is crucial that the proposed development undergoes rigorous investigations, including proof drilling and grouting, to address any potential risks associated with old mine workings and public sewers. The safety and viability of the development will be ensured through appropriate planning conditions and at the reserved matters planning application stage. It should be noted that the layout submitted is indicative at this stage and that it is the principle of the development that is to be considered as all other matters are reserved.

Flooding is another valid concern, especially if the surrounding areas experience flooding during heavy rainfall. The proposed development should include adequate provisions for drainage and consideration of the high-water table. It is essential that the drainage plans address these concerns and ensure that the water is effectively managed without causing adverse effects on neighbouring properties and streets.

Overall, these objections raise significant considerations that will be thoroughly addressed through the planning process and at the reserved matters stage. Adequate measures will be implemented to mitigate potential safety issues, ensure ecological protection, and manage drainage effectively to address the concerns raised.

Conclusions and Reasons for Decision

In conclusion, the proposed development is in line with the development plan and suitable for housing. While the draft Black Country Plan is not proceeding, it still carries weight and supports housing development. The site's previous use as playing fields does not classify it as public open space. Given the housing shortage and failed Housing Delivery Test, there is a presumption in favour of sustainable development. Contributions for off-site public open space and affordable housing will be required.

The local highway authority has no objections to the proposed access, and a Transport Statement has been provided. The access for vehicles and pedestrians will be on Hilton Road, with measures to ensure a maximum vehicle speed of 20mph within the development. Visibility splays and road layouts suitable for refuse collection vehicles are planned. Pedestrian and cycle connectivity, particularly between Hilton Road and Sherringham Drive, will be maintained and improved.

The ecological appraisal follows best practices, and Biodiversity Impact Calculations are recommended to achieve a net gain in biodiversity. Precautionary measures should be taken to protect wildlife during construction, and enhancements like tree planting and habitat creation are advised. Such matters will be dealt with at the reserved matters stage by planning condition. The proposed development is not expected to impact nearby designated conservation sites.

The flood risk assessment complies with the National Planning Policy Framework, showing that the site is within Flood Zone 1 without increasing flood risk elsewhere. Severn Trent Water has no objections, but foul and surface water drainage details need approval before development starts.

Due to the site's location in a Development High Risk Area, coal mining features and hazards exist. The Geo-Environmental reports suggest a borehole investigation and

stabilisation works to address land instability caused by coal mining. The Coal Authority supports these recommendations and specific conditions will be attached to an approval to ensure site safety and stability.

Overall, the proposal is deemed acceptable in principle and aligns with planning policies and guidelines, with the inclusion of recommended conditions.

Taking into account the above factors it is considered that the application should be recommended for approval subject to the applicant entering into a Section 106 legal agreement for the provision of off-site open space, onsite affordable housing and mitigation in relation to the Cannock Chase Special Area of Conservation.

Positive and Proactive Working with the Applicant

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

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to Conditions and a S106 agreement to secure open space contributions, affordable housing, and mitigation payments towards the Cannock Chase SAC and subject to:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed.

Conditions and Reasons

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

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

1b. The development to which the permission relates must be begun not later than the expiration of two 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.

1c. This development shall not be commenced until details of the following, hereafter named 'the Reserved Matters', have been submitted to and approved by the Local Planning Authority:-

- i. Layout
- ii. Scale & appearance
- iii. Landscaping
- iv. Access

Reason: Pursuant to Town & Country Planning (Development Management Procedure) Order 2015.

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Site location plan SK05 revision A, dated 25/04/2023
- Special area of conservation, habitat regulation assessment, received 10/03/2023
- Air quality assessment, received 07/02/2023
- Arboricultural report, received 07/02/2023
- Design and access statement, received 07/02/2023
- Flood risk assessment and surface water drainage assessment, reference 680535 R1 (02) FRA dated January 2023.
- Geo environmental desk study report, received 07/02/2023
- Geo environmental investigation report, received 07/02/2023
- Planning statement, received 07/02/2023
- Preliminary ecological appraisal, received 07/02/2023
- Transport statement, received 07/02/2023

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 commencement of the development hereby approved a scheme of intrusive site investigations for past coal mining activity shall be submitted to and approved in writing by the Local Planning Authority;

3b. The approved intrusive site investigations shall be fully undertaken and a report of findings arising from the intrusive site investigations, including the results of any monitoring shall be submitted to the Local Planning Authority;

3c. A scheme of remedial works shall be submitted to and approved in writing by the Local Planning Authority;

3d. Prior to first occupation of the development the approved scheme of remedial works shall be carried out;

3e. The development hereby approved shall not be carried out otherwise than in accordance with the approved scheme.

Reason: To safeguard the amenities of occupants and to comply with saved policies GP2 and ENV10 of Walsall's Unitary Development Plan

4a. Prior to the commencement of the development hereby approved, drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

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 in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

5a. Prior to the commencement of development, including demolition, no works shall take place until a Construction Environmental Management Plan has been submitted for written approval of the Local Planning Authority. The plan shall include:

- i. Construction working hours
 - ii. Parking and turning facilities for vehicles of site operatives and visitors
 - iii. Loading and unloading of materials
 - iv. Storage of plant and materials used in constructing the development
 - v. A scheme for recycling/disposing of waste resulting from construction works
 - vi. Temporary portacabins and welfare facilities for site operatives
 - vii. Site security arrangements including hoardings
 - viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
 - ix. Measures to prevent flying debris
 - x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
 - xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
 - xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted)
- mitigation measures

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

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

6a. Prior to commencement of the development hereby permitted details of the proposed parking and vehicle manoeuvring areas serving each dwelling shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall demonstrate how the area will be consolidated, surfaced and drained so that surface water run-off from these areas does not discharge onto the public highway or into any public highway drain.

6b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the access, turning and parking areas shall thereafter be retained for the lifetime of the development for the use of the occupiers of the hereby permitted residential development and for no other purposes.

Reason: To reduce the need for on street parking in the interest of highway safety and ensure surface water does not run onto the highway and to avoid increased surface flooding to comply with Walsall's Unitary Development Plan saved policies GP2 and ENV40.

7a. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved a scheme setting out full details, including heights, extent of the boundary treatment, materials and finishes of the proposed boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of any internal site divisions.

7b. The development shall not be carried out otherwise than in accordance with the approved scheme and shall thereafter be retained.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

8. No boilers shall be installed and used in any of the units hereby approved, save for

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

9a. Prior to first occupation of the dwellings hereby approved details of an electric vehicle charging point, to be provided for each dwelling shall have first been submitted to and agreed in writing of the Local Planning Authority.

9b. Prior to first occupation of the development the approved electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the life of the development.

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

Notes for Applicant

Highway Authority

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 or any related works.

Any flatted elements shall have covered, secure and illuminated cycle shelter facilities and adequately sized and accessible Recycling / Refuse Bin Storage facilities.

Any flatted elements parking areas shall provide at least one disabled parking bay (10%).

Any 'Shared Space' elements shall have segregated footway linking all dwellings to the adoptable footway network.

The access road and associated footways and link footpath should be offered for adoption as Publicly Maintainable Highways via a S38/278 highways agreement.

Severn Trent Water

Severn Trent Water has identified several public sewers on the site, including a 150mm foul sewer, a 225mm foul sewer, a 375mm surface water sewer, and a 525mm surface water sewer. These public sewers have legal protection and cannot be built close to, directly over, or diverted without consent. It is recommended to contact Severn Trent Water to discuss the proposed development and find a solution that safeguards both the public sewers and the building.

When submitting a Building Regulations application, the building control officer must review the sewer maps provided by Severn Trent Water and inform them of any proposals located over or within 3 metres of a public sewer. Under the Building Regulations 2000 Part H4, Severn Trent Water can instruct the building control officer to refuse approval if necessary.

It's important to note that there is no guarantee that building near or over Severn Trent sewers will be allowed, and if diversion is required, there is no guarantee that self-lay works will be permitted. Each case is assessed individually based on the risk to the sewer asset and the surrounding area it serves. Therefore, it is crucial to contact Severn Trent Water as soon as possible to discuss the implications of their sewers crossing the site. Failure to do so may significantly impact the project's costs and timelines if diversionary works need to be carried out by Severn Trent Water.

Fire Officer

Building Control approval will be necessary to comply with Part B of the Building Regulations 2010. It is advised to have early communication and coordination with Building Control regarding fixed firefighting facilities, early fire suppression systems, and access requirements as outlined in ADB Vol 2, Section 8.

Police Comments

Recommend security using the principles of Secured By Design.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 20 July 2023

Plans List Item Number: 3

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 6, THE OAKS, BLOXWICH, WALSALL, WS3 2NY

Proposal: RETROSPECTIVE: PROPOSED CHANGE OF USE FROM DWELLING HOUSE (PLANNING USE CLASS C3 - DWELLINGHOUSES) TO CHILDRENS' CARE HOME (PLANNING USE CLASS C2 - RESIDENTIAL INSTITUTIONS) FOR UP TO 2 CHILDREN AGES 8 TO 17 ALONG WITH INTERIOR ALTERATIONS.

Application Number: 23/0495

Case Officer: Helen Smith

Applicant: Quintella Thompson

Ward: Bloxwich West

Agent: Indigo Architecture

Expired Date: 16-Jun-2023

Application Type: Full Application: Change of Use

Time Extension Expiry:



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Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;

Proposal

This planning application is for a change of use from a single dwelling house (planning use class C3 - dwellinghouses) to a children's care home (planning use class C2 - residential institutions) with interior alterations. It is understood that works have commenced, and children have been moved in at the applicants' own risk.

The submitted planning statement proposes no external changes to the property are proposed with minor internal refurbishment to bring the property in line with Building Regulations and/or Care Standards.

The proposed floor plans include the following facilities.

Ground Floor – Kitchen, living room, hall, W.C., storage room and staff room.
First Floor – 2 x residents' bedrooms, bathroom, en suite and staff office.

Off-street parking for 2 vehicles is available on the hard-surfaced frontage.

The planning statement provided in support of this application states that the proposed development would provide care and support for up to two children mixed gender, ages 8 to 17 with learning disabilities and a wide range of behavioural difficulties. The statement says that the providers have the knowledge and skills base to work with children/young people who are remanded into the care of the local authority. All staff would receive robust training. The planning statement lists the following types of placements and behaviour accepted subject to risk assessment as follows.

- Emergency placements
- Young people remanded into the care of the local authority.
- Young people who have emotional and behavioural difficulties
- Challenging behaviours resulting in young people having an educational statement.
- Young people with autism, ADHD, low functioning
- Young people on a Deprivation of Liberty Safeguards (DoLS) order

The planning statement advises that their aim is to ensure that every child/young person is safe and free from harm by providing individualised care to assist with future independence so that they can care for and support themselves and that they are emotionally resilient enough to cope with life's unexpected difficulties.

The proposal states that there would be 3 staff members present during the day and 2 during the night providing 24-hour care and supervision. The following shift system would apply which indicates that from 10pm there would be 1 member of staff;

2 x staff 8am to 10pm
1 x staff 9am to 5pm
1 x staff 10pm to 8am
1 x staff sleeping in 10pm to 8am

Site and Surroundings

The application property is a two storey, detached dwelling house located on a well-established housing estate. There is off street parking available for two cars on the frontage and a private rear garden. The Oaks is a cul-de-sac.

The Oaks is an unclassified residential cul-de-sac in a traditional layout with a standards carriageway and footway on either side.

The surrounding area is predominantly residential in character consisting of similar detached houses and pairs of semis. The houses to either side of the application property, no's 4 and 8 The Oaks, are in residential use.

The site lies within the Cannock Chase Special Area of Conservation (SAC) 15km Zone of influence.

The site is located within walking distance from Bloxwich District Centre and there is access to regular bus services from the application site. Bus route 70 (Walsall to Bloxwich) is available from Central Drive and from Bell Lane there is the no. 9 (Wolverhampton), 31 (Bloxwich to Walsall), 70 (Walsall to Bloxwich), and the X51 (Birmingham to Cannock) bus routes. Bloxwich Railway Station is within walking distances with regular train services between Rugeley, Cannock, Walsall and Birmingham City Centre.

Relevant Planning History

07/0622/FL/H3 - Change garage to living room – granted subject to conditions 22/5/07.

07/0076/FL/H3 - Change Garage to Living Room – refused permission 5/3/07.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

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

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

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- H6: Nursing Homes and Rest Homes for the Elderly
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- DEL1: Infrastructure Provision
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing
HC3: Affordable Housing and Housing for People with Special Needs
T4: The Highway Network

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW7 Diversity
- DW10 Well Designed Sustainable Buildings

Consultation Replies

Ecology - No objections

Environmental Health – No adverse comments received

Environmental Protection – No objections and are of the opinion there are no significant industrial/commercial noise impacts, or any concerns regarding air quality or contaminated land that are material planning considerations.

Fire Officer – No objections and comment that consideration of the functional requirements of Approved Document B

Local Highway Authority – No objection on highway grounds subject to the inclusion of a planning condition restricting the use to a maximum of 2 children (8 to 17 years old) at any one time.

OFSTED – No adverse comments received.

Police – No objection and recommend the principles of Secured by Design which can be included as an informative.

Social Services – No adverse comments received.

Strategic Planning Policy – No objections

The Coal Authority – No objections and recommend the inclusion of an informative note.

(Local Planning Authority comments in italics and brackets)

Councillor Allen has objected to the proposal on the following grounds;

- Works have already commenced and the property is already advertised on the providers website *(the planning agent has advised that their client previously incorrectly understood the operation of a small care home such as this would sit under Use Class C3 – dwelling houses and not require planning permission. The application has since been made and any development carried out without consent has been undertaken at the applicant's own risk)*
- Fear of crime and anti-social behaviour *(No evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Highway safety and inappropriate parking evidenced by neighbours

Councillor Harrison has objected to the proposal on the following grounds;

- Fear of crime due to the nature of clientele and the care provider support *(No evidence has been put forward to substantiate this claim regarding the future occupiers of the property. The Local Planning Authority is required to consider the proposed change of use class rather than the occupiers)*
- Noise
- Inadequate parking and already creating a traffic/parking problem

A public petition objecting to the proposal has been submitted with 172 signatories on the following grounds;

- Increased drug use, discarded needles, unsanitary conditions and potential outbreak of disease *(No evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Increased local crime rates, risk to safety, anti-social behaviour and property security *(No evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Expose young people in the area or visiting to illicit substances, criminal and anti-social behaviour *(the two future occupiers would have 24-hour care and support and no evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Anxiety for elderly local residents regarding the safety of their homes *(the two future occupiers would have 24-hour care and support; no evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- A transient population with little or no regard for the surrounding community, increasing risks to declining cleanliness and maintenance of the area *(No evidence has been put forward to substantiate this claim regarding the future occupiers of the property and transience is not a material planning consideration)*
- Increase in vehicles with limited parking causing access issues into a small cul-de-sac *(the Local Highway Authority have no objections to the proposal on highway grounds)*
- Increased Police, NHS and local authority activity that could occur due to missing children, crime and anti-social behaviour *(the two resident children*

- *would have 24-hour care and support and no evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Huge negative impact on property values of homes in the Oaks and the surrounding area (*property value is not a material consideration in this instance*)

Objections from 103 residents were received following the first notification of the proposal on the following grounds;

- Property deeds state the property should be used as a single dwelling (*Planning Use C2 would comply with this requirement however restrictive covenants are not a material planning consideration in this instance*)
- Unauthorised works have commenced before any consents have been granted and children and carers are already in situ (*any works carried out without consent are at the applicant's own risk*)
- Noise and disturbance
- Increased parking and traffic with staff coming and going
- Safety and fear of crime
- Problems at other New Era properties (*not a material planning consideration, no evidence has been put forward to substantiate this claim regarding the future occupiers of the property*)
- Unsuitable location and should be elsewhere (*The proposal is a form of residential use in a residential location*)
- Loss of property financial value (*not a material planning consideration in this instance*)
- Anti-social behaviour/vandalism/verbal abuse (*no evidence has been put forward to substantiate this claim regarding the future occupiers of the property*)
- Disgusting and unsafe for children
- Schools and nurseries nearby
- No confidence in the provider and concerns about the types of services they provide (*the Local Planning Authority can only consider the suitability of the proposed Land Use and not the competency of the service providers*)
- Challenging behaviour and mental health issues (*This is not a material planning matter to consider*)
- More council tax for fewer services (*This is not a material planning matter to consider*)
- High level of criminal activity in the area (*no evidence has been put forward to substantiate this claim regarding the future occupiers of the property*)
- Increased crime (*no evidence has been put forward to substantiate this claim regarding the future occupiers of the property*)
- Lack of information (*There is sufficient information submitted for the Council to process this planning application to change from one type of residential use to another residential use*)
- Removal of property from Bloxwich Housing stock (*the property would be in residential use under Planning Use Class C2*)
- Overlooking
- Sex offenders, gang members and people related to gun and knife crime would be housed after 6 months of holding a licence. (*No evidence has been put forward to substantiate this claim regarding the future occupiers of the property and if the provider wished to house these types of residents in the future, they would require planning permission*)

- Unable to secure a mortgage or rent as a result *(not a material planning consideration in this instance)*
- Light pollution from vehicles and security lighting
- Site notices not displayed *(not a statutory requirement for this location or type of application)*
- Impact on health and well-being *(not a material planning consideration in this instance)*
- Access for emergency vehicles and bin lorries
- Moving children to a deprived area that lacks facilities.
- Rehabilitation of sex offenders is not possible *(no evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Concerns about the type of children to be housed. *(This is not a material planning consideration and the planning application can only consider the land use planning matters)*
- Drugs and litter of associated paraphernalia *(no evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Anxiety, impact on health and increased stress especially for elderly residents *(not a material planning consideration in this instance)*
- Rear garden small and contains a mine shaft *(There is no building in the rear garden, so this is not a material planning consideration in assessing a change of use)*
- History of drug abuse in King Georges V Park which is nearby *(no evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Has the nod been given as works have commenced *(planning permission has not been granted at this stage and the applicants have been advised that any development is at their own risk)*
- Recently had an unsavoury character housed in the area causing problems *(not a material planning consideration)*
- Ownership certificate 21 day statement false as the previous owner moved out on 18/5/23 and the application was dated 19/4/23 *(an amended certificate of ownership has been requested from the planning agent who has advised they were not aware of the completion date on the property)*
- Similar applications to Stockton Council and Bolton Council were refused permission so how can this be supported *(all planning applications are determined on their individual merits and do not create precedents. Stockton and Bolton will have their own planning policies and guidance)*
- Litter *(no evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Single lady and will feel vulnerable. *(Not a material planning consideration)*
- No one has visited the cul de sac *(The site has been visited)*
- Burden on public resources *(comment noted however no evidence has been provided that this would be the case)*
- Walsall Council is driving decent people out *(the Local Planning Authority is required to determine planning applications in line with planning legislation, National and Local Planning Policies and guidance and Government guidance)*
- Some of the highest Council Tax bills in Walsall *(not a material planning consideration)*
- Already advertised as “Oak View” on the providers website and “Meadow View” on the additional information provided *(noted)*

- No details of room layout and number of bedrooms (*floor plans have since been provided and a re-consultation made*)
- Quiet family community with no other businesses on the cul de sac (*the proposed use falls within a residential planning use class*)
- Child heard in garden saying they wanted to go home, and the police were called. Child calmed down and there was a breach of confidentiality as the conversation was overheard (*not a material planning consideration*)

Following a re-notification of additional information received, objections from 29 residents were received which repeat what has been said before and include the following additional comments.

- Residents have raised the following concerns, that the type of clientele inappropriate including people with drug affiliation, bailed individuals, sexual offenders, criminals, kids with mental health issues and violent episodes (*The planning authority wishes to remind members and the public that this is not a material planning consideration. The Local Planning Authority is required to consider land use matters which in this application is for change from one form of residential use to another form of residential use in a residential location. Like with any residential property, the planning legislation does not have control over who may or may not live in that property*)
- Concerns for residents' mental well-being (*not a material planning consideration*)
- No bespoke management plan or monitoring (*this would be a matter for social services and associated services rather than the Local Planning Authority*)
- How will residents address complaints and concerns (*this would depend on the nature of the complaints and concerns however this is not a material planning consideration*)
- Nothing has been done to reassure residents (*the Local Planning Authority is required to assess the application put before them and the information provided is shared with residents as part of the public process*)
- Shift patterns do not align with the application (*this has been amended following officer query and the additional details are included in this report*)
- Bloxwich not a great place to live and when googled is one of the top 5 most dangerous places to live in the West Midlands and instead of housing troubled children/young adults in the area you need to work on making it safer for all (*comment noted however the Local Planning Authority can only consider the planning merits of a development put before them and in accordance with Planning Legislation and Policy*)
- Child almost run-over due to lack of care (*this would be a matter for social services and the applicants*)
- Commercial use is unsuitable (*Planning Use Class C2 relates to residential use rather than commercial use*)
- A strategy by WMBC to meet Government targets for this type of use (*comment noted however the Local Planning Authority are required to consider the planning merits of an individual planning application*)
- Renewed application is a result of information leaked to the applicant (*there is only one planning application where additional information requested has been provided. The planning process is public, and the information provided is in the public domain*)
- Resident running around the close screaming and very distressed on 23/6/23 before being rounded up and restrained by 3 staff members (*this would be a*

matter for social services and the applicants and not a material planning consideration)

- Concerns that there are safeguarding issues for residents *(this would be a matter for social services and the applicants and not a material planning consideration)*
- Business is operation without planning permission and their insurance must be void *(not a material planning consideration)*
- Police have visited twice, and the police helicopter could be called out if they abscond.
- Pallets dumped on frontage and weeds growing since the property was sold and rear garden looks a mess affecting the area *(not a material planning consideration)*
- DoLS (*Deprivation of Liberty Safeguards*) Orders can only be given to people over the age of 16 *(not a material planning consideration)*
- Floodlights and shouting are waking neighbours, and which is becoming a regular occurrence *(not a material planning consideration)*
- Bins are not being emptied which is an environmental issue *(not a material planning consideration)*
- Carers shout greetings, have loud conversations, bang car doors, and look in neighbours' windows when they walk along the close *(not a material planning consideration)*
- Verbal abuse from visitors over parking and threats to park across residents' drives *(not a material planning consideration and any highway obstruction could be reported to local police)*
- Parking on footpath *(residents need to refer parking on the footway to the Police to investigate in this instance as there are no parking restrictions in the street)*
- Why can the applicant change their description to retrospective when by law you are required to apply for planning permission first *(any development commenced without planning permission is carried out at the developers own risk and is not unlawful at this stage. The change of description is for accuracy as the use has commenced)*

Determining Issues

- Principle of Development
- Character of the Area
- Amenity of Neighbours and Amenity of Future Occupiers
- Safety and Security
- Cannock Chase Special Area of Conservation
- Access and Parking

Assessment of the Proposal

Principle of Development

There are no policies in the development plan specifically about children's care homes.

However saved UDP policy H6 refers to nursing homes and rest homes for the elderly but contains advice about parking and the types of property that will be suitable. Paragraph (b) VIII states that large, detached properties are the most obviously suitable for these uses. Paragraph (b) X states that the Council will take account of the accessibility of a property to local amenities and public transport.

SAD policy HC3 states that the Council will encourage the provision of housing for people with special needs, including single people, the elderly, people with disabilities and any other groups who require specialist accommodation, in locations that would be acceptable for general housing. Such housing will be particularly encouraged in and close to centres, provided the sites are not required for centre uses.

The minister of state for housing and planning made a written statement to Parliament on 23rd May about planning for accommodation for looked after children:

<https://questions-statements.parliament.uk/written-statements/detail/2023-05-23/hcws795>. This states:

"I ...wish to set out the Government's commitment to support the development of accommodation for looked after children, and its delivery through the planning system.

The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love.

Today we use this joint statement to remind Local Planning Authorities that, as set out in paragraph 62 of the National Planning Policy Framework, local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions.

Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country. It is important that prospective applicants talk to local planning authorities about whether their service is needed in that locality, using the location assessment (a regulatory requirement and part of the Ofsted registration process set out in paragraph 15.1 of the Guide to the Children's Homes Regulations) to demonstrate this."

The application property is a detached house close to Bloxwich district centre and Bloxwich Railway Station. The proposed use can therefore be supported on strategic planning policy grounds.

It should also be noted that, prior to the construction of the application property, the site lay within the grounds of Croxdene House, which was latterly used as a children's home.

Character of the Area

The character of the area is defined by residential uses, dominated by detached and semi-detached houses. The change of use from residential to another residential use, in a residential area is considered compatible with this character. The internal layout changes are considered would do not harm to the character of the surrounding area. The application property would continue to have the appearance as a dwelling house

and a safeguarding condition preventing any external advertisements to the property may be imposed.

Amenity of Neighbours and Amenity of Future Occupiers

The neighbouring properties are residential. The existing building is a house and would continue to be used for residential living accommodation with the same level of amenity and similar relationship to neighbouring houses as is already the case. The level of noise is anticipated to be no greater than would be expected than any other residential property in the locality.

No evidence has been provided to demonstrate that there would be safety issues as a result of this proposal. There would be staff support and supervision for the two residents on a 24 hour basis.

Residents have raised the following concerns, that the type of clientele would be inappropriate including people with drug affiliation, sexual offenders, criminals, kids with mental health issues. The planning authority wishes to remind members and the public that this is not a material planning consideration. The Local Planning Authority is required to consider land use matters which in this application is for change from one form of residential use to another form of residential use in a residential location. Like with any residential property, the planning legislation does not have control over who may or may not live in that property.

Safety and Security

Whilst the fear of crime is a material consideration in planning decisions, the weight that can be given, is often limited unless there is significant evidence to show that the increased fear of crime would actually occur in relation to this specific proposal.

The Police have no objections to the proposal and recommend the principles of Secured by Design are implemented which can be included as an informative note.

The parking issues, behaviour of people in the street and safeguarding are all matters outside the scope of the planning legislation to consider.

Cannock Chase Special Area of Conservation

The Council's Ecologist considers whilst the use of the building will be altered there will be no changes to the number of bedrooms and in so the number of residents utilising the building.

While the development has the potential to result in recreational impacts to Cannock Chase SAC. From the above it is determined that the application will not result in a net increase in residential units or recreational impacts to the protected site from the current building and its residential usage. In this instance no mitigation or further action is required in regard to this proposal.

Access and Parking

The Oaks is an unclassified residential cul-de-sac in a traditional layout with a standards carriageway and footway on either side.

The Local Highway Authority comments that the dwelling has parking space for two motor cars on the property frontage. No additional parking is proposed. The previous integral garage was converted to a habitable room under 07/0622/FL/H3 effectively removing a third parking space.

Additional information has been submitted setting out the way the proposed Care Home will operate. It states that there will be up to 2 residents (8 to 17 year old) at the site with 3 staff present during the daytime and two over night with a shift change over at 07:30 am and 10:00pm.

In terms of T13 Parking Policy a two-bedroom Care Home requires at least 1 parking space. The property has 2 spaces available on the property frontage so in context of the policy the requirement is met.

Also, for comparison the extant 4-bedroom dwelling requires 3 parking spaces in policy terms.

Therefore, in Parking Policy terms the extant and proposed uses have similar parking demands.

Taking into account the modest scale of the proposal, with only 2 children residing there who clearly will not be car owners and 5 staff over shifts, the Highway Authority considers that the vehicle movements, traffic and parking demand associated with the proposal would not be too dissimilar to that of a large family home but with vehicle movements mainly concentrated around the shift change over times in the am and pm.

In order to justify an objection of highway grounds the Highway Authority would have to demonstrate that the proposal will have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network. The Highway Authority considers, for the reasons above, the development is acceptable in accordance with the NPPF 2021 paragraph 111.

A planning condition restricting the care home occupancy to a maximum of 2 residents is recommended by the Local Highway Authority.

Residents have provided a number of photographs detailing parking in the street and a parked vehicle overhanging the footpath. There is no evidence provided to confirm that these vehicles parked on the street are linked to the application site. The proposal is compliant with parking policy and any blockages of the footpath would be a police matter.

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the proposal would be an acceptable use of this previously developed site within an existing residential area.

There is no significant evidence that the proposal would increase crime and anti-social behaviour in the area or give rise to an unacceptable level of noise and disturbance. The proposal is considered would not result in a significant loss of amenity for adjoining neighbours. The application has sufficient off-street parking to meet policy requirements and the inclusion of a planning condition to restrict occupancy of the care home to a maximum of two residents can be included.

Residents have raised the concerns that the type of clientele would be inappropriate including people with drug affiliation, sexual offenders, criminals, kids with mental health issues. The planning authority wishes to remind members and the public that

this is not a material planning consideration. The Local Planning Authority is required to consider land use matters which in this application is for change from one form of residential use to another form of residential use in a residential location. Like with any residential property, the planning legislation does not have control over who may or may not live in that property.

This proposal is therefore considered to be acceptable and in accordance with local and national planning policies and guidance set out in this report.

Taking into account the above factors it is considered that the application should be recommended for approval. The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding the limited information provided initially and a planning statement and existing and proposed floor plans have since been provided which enable support to be given to the scheme.

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

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

- 2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents: -

- Location Plan, drawing no. 0457_01-00_Rev PL1, deposited 21/04/23
- Existing GA Floor Plans, drawing no. 0457_03-00_Rev PL1, deposited 19/06/23
- Existing and Proposed Site Plan, GA Plans, drawing no. 0457_08-00_Rev PL1, deposited 21/04/23
- Proposed GA Floor Plans, drawing no. 0457_03-01_Rev PL1, deposited 19/06/23
- Planning Statement, deposited 16/6/23

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 development hereby permitted shall not be carried out otherwise than in accordance with the approved details of a residential care home for up to a maximum of up to two children between the ages of 8 and 17 years and for no other purpose (including any other purpose in Schedule 1, Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification and not to be subdivided or split into flats for the lifetime of the development hereby permitted.

Reason: To control the level of parking demand and vehicle movements at the property in accordance with UDP Policy T7 and T13 and in the interests of highway safety.

4. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and there shall at no time be any advertisement(s) displayed to the frontage of the property.

Reason: In the interests of maintaining the character of the area.

Notes for Applicant

The Coal Authority

The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for 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 a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

Informative Note valid from 1st January 2023 until 31st December 2024

Fire Officer Informative

Consideration should be given to the functional requirements of the Approved Document and the impact that this proposal has.

Police Informative

If young residents I recommend liaison with Walsall Children's Services. Children's homes require registration with Ofsted under The Care Standards Act 2000. Staff 24/7.

<https://www.gov.uk/government/publications/ofsted-and-cqc-joint-registration-guidance-childrens-homes-and-health-care/childrens-homes-and-health-care-registration-with-ofsted-or-cqc>

Applying to register a children's home: top tips - Ofsted: social care (blog.gov.uk)

The below information for the applicant should they be successful.

The applicant to refer to crime prevention and home security advice contained within SBD Homes.

Please see: HOMES_GUIDE_2023_web.pdf (securedbydesign.com)

External LED lights with daylight sensors to the external walls, by entrances and parking.

This to provide security for residents entering and leaving. (SBD Homes 2023 page 47, 27.2).

Advice on alarms and CCTV <https://www.policesecuritysystems.com/>

Alarm and cctv installers should be approved by NSI, SSAIB or both

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

Dwelling entrance door-sets (SBD Homes 2023 page 36, 23, 1-9).

PAS 24: 2022 standard doors for houses and apartments.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

Petitions

Example of petition letter submitted by 172 people on next page

Date: 30 5 23

Name: [REDACTED]

Ref: **23/0495**

Address: 20 Mossley Close

Development Management
Walsall Council
The Civic Centre
Zone 2B
Darwell Street
Walsall
WS1 1DG

Bloxwich

Post Code: WS3 2UT

Telephone: [REDACTED]

For the attention of Helen Smith

Dear Sirs

Change of Use from dwelling house (C3) to Children's Care Home (C2) at 6 The Oaks, Bloxwich, WS3 2NY

I would like to register my formal objection to the above change of use application submitted by New Era Residence in regard to 6 The Oaks, Bloxwich, WS3 2NY.

The application states that the premises could be used as a temporary home for people with gang affiliation and criminal involvement, challenging behaviours, mental health issues, drug and alcohol misuse/abuse or low level sexual behaviour.

My concerns are:

- An increase in drug use. This would also have an impact on local services, with discarded needles, unsanitary conditions and potential outbreak of diseases
- Research has shown that these properties have a significant effect on the local crime rates, thereby causing:
 - Significant risk to the safety and security of my property.
 - Significant risk to my personal safety
 - A serious risk of increased anti social behaviour
- This would also expose young people living in the area, and visiting the neighbourhood to illicit substances, criminal and anti social behaviour
- I have concerns for the elderly local residents, as this would cause extreme anxiety for them, not knowing if it is safe for them to leave their homes
- A transient population with little or no regard to the surrounding community, increasing the risks of declining cleanliness and maintenance of the area
- An increase in vehicles. Parking is very limited as it is, and this would cause additional access issues to a small Cul de Sac.
- I also have concerns about the increase in police, NHS and Local Authority activity that could occur due to missing children, crime and anti social behaviour reporting
- This will also have a huge negative impact to the value of our homes in The Oaks and the surrounding neighbourhood.

I hope that the above concerns will be taken seriously and thoroughly addressed.

Yours faithfully,

[REDACTED]

c.c. Cllrs Harrison, Allen and Follow.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 20 July 2023

Plans List Item Number: 4

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 56, THE CRESCENT, WALSALL, WS1 2BZ

Proposal: CHANGE OF USE OF A FOUR-BEDROOM RESIDENTIAL DWELLING (USE CLASS C3(A)) TO A SMALL CARE HOME (USE CLASS C2) TO CARE FOR UP TO TWO CHILDREN.

Application Number: 23/0372

Case Officer: Jeff Penfold

Applicant: Walsall Council

Ward: Paddock

Agent: Lambert Smith Hampton

Expired Date: 18-May-2023

Application Type: Full Application: Change of Use

Time Extension Expiry: 01-Aug-2023



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Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed.

Proposal

This planning application is for a proposed change of use from a single dwelling house (planning use class C3 - dwellinghouses) to a small care home (planning use class C2 - residential institutions) for up to two children.

The application property consists of four bedrooms, a kitchen/diner, a lounge, a utility room, water-closet, bathroom, integral garage and rear garden. Each resident would have their own bedroom and the remaining two bedrooms would be occupied by the carers. The kitchen/diner, lounge and rear garden will be used communally, and the existing garage would be converted to use as a staff office.

The planning application states that the home would be operated by Walsall Children's Services, with all referrals of residents to come from the same department. The care home would be registered with Ofsted (as the relevant regulator).

The children will be cared for by up to three staff between the hours of 07:30 and 22:00 and two staff between 22:00 and 07:30 each day, providing round-the-clock care. The submission states that staff will be suitably trained, experienced, qualified and supervised. The handover period between shifts would generally last between 15 to 30 minutes.

The submission states that a Registered Manager for the home will generally be based at the property between 09:00 and 17:00 on weekdays, although these hours may vary. The role of a Registered Manager is required by Ofsted with the purpose being to oversee the operations and safeguarding responsibilities, as well as deal with the relevant administration. In addition, families and friends may visit the home from time to time on pre-arranged basis.

The application states that the proposal would provide medium to long term accommodation for up to two children, between the ages of 6 to 18 with social, emotional and behavioural difficulties. The submission confirms that the proposal is not a 'half-way' house or a facility that would provide overnight lodgings. Rather, the operation is designed to ensure that the property functions as close as possible to a standard Class C3(a) use and has a layout typical to that of most dwelling houses. The covering letter advises that the aim of the home is for the children to attend schools locally in the catchment area and to also use services and facilities in the surrounding area.

The existing access point from The Crescent would be used and a separate planning application would be submitted to drop the kerb and widen the vehicular access to provide parking for four vehicles once the front wall is removed.

The submission states that no internal or external works requiring planning permission are proposed and the garage conversion would replace the existing garage door with a window.

Site and Surroundings

The application property is four-bedroom, two storey detached dwelling house with off-street parking for two vehicles on the front driveway. The house has a private rear garden and includes an integral garage.

The application site is accessed from The Crescent, which links to Broadway North (A4148) to the east and Sutton Road to the south via Princes Avenue.

The application site is located approximately 1 mile from Walsall Town Centre which is located to the north-west. The application site is located within a largely residential area and is bounded by residential properties to the south, west, east and north. The houses to either side, no's 54 and 58 are residential properties.

The site does not lie within the Cannock Chase Special Area of Conservation (SAC) 15km Zone of influence.

There are regular bus services from The Crescent (bus routes 77 (Walsall to Erdington), 77A (Walsall to Erdington) and 935 (Birmingham to Walsall), Sutton Road (bus routes 934) and Birmingham Road (51 and X51 between Walsall and Birmingham, and Birmingham and Cannock)

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

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

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

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- H6: Nursing Homes and Rest Homes for the Elderly
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- DEL1: Infrastructure Provision
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing
HC3: Affordable Housing and Housing for People with Special Needs
T4: The Highway Network

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW7 Diversity
- DW10 Well Designed Sustainable Buildings

Consultation Replies

Environmental Protection – No objections

Fire Officer – No objections subject to compliance with B5, Access & Facilities for the fire service

Local Highway Authority – No objections subject to retention of existing dropped kerb, wall and planting and replacement of existing loose gravel material drive surfacing

Police – No objections and recommend the principles of Secured by Design which can be included as an informative.

Strategic Planning Policy – No objections

Severn Trent Water – No objections

Representations

(Local Planning Authority comments in italics and brackets)

A petition with 68 signatures has been received objecting to the proposal on the following grounds;

- Unsuitable location
- Likely to attract undesirable elements to the area *(No evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Only space for one vehicle when cars are parked at busy times and buses no's 77, 77A and the 935 are held up frequently by congestion
- Traffic congestion especially at school times
- One less parking space on the road if the front garden is converted for parking
- Constant stream of vehicles visit these homes and they will attempt to park on The Crescent
- Not suitable for commercial use as overlooking of neighbouring properties from the rear garden *(The proposal is a form of residential use in a residential location)*

A second petition with 5 signatures has been provided objecting on the following grounds;

- Restrictive covenant that the property could not be used for any trade or business (*the presence of a restrictive covenant is not a consideration material to the grant of planning permission*).

Two further objections from residents have been received on the following grounds;

- Removing front hedge will allow views into the property (*The hedge is not protected and can be removed without planning approval*)
- Hard-surfaced drive will look industrial
- Unsuitable location
- Transient residents (*No evidence has been put forward to substantiate this claim regarding the future occupiers of the property and transience is not a material planning consideration*)
- More like a business than a home (*The proposal is a form of residential use in a residential location*)
- Car headlights
- Anti-social behaviour (*No evidence has been put forward to substantiate this claim regarding the future occupiers of the property*)
- Risk of exploitation (*No evidence has been put forward to substantiate this claim regarding the future occupiers of the property and transience is not a material planning consideration*)
- Increased traffic
- Behavioural problems (*This is not a material planning consideration*)
- House bought by Council without consultation with neighbours and a full public enquiry is required (*This is not a material planning consideration*)
- Spending £100,000 on renovation which is a waste of money (*This is not a material planning consideration*)
- May be sold to a private service provider (*This is not a material planning consideration*).

The Agent's response to the above petitions can be found via the following link:
[75477-387164.pdf \(walsall.gov.uk\)](#).

No changes have been made to this report nor the officer's recommendation following this submission.

Determining Issues

- Principle of Development
- Character of the Area
- Amenity of Neighbours and Amenity of Future Occupiers
- Safety and Security
- Access and Parking

Assessment of the Proposal

Principle of Development

Saved UDP policy H6 refers to nursing homes and rest homes for the elderly but contains advice about parking and the types of property that will be suitable.

Paragraph (b) VIII states that large, detached properties are the most obviously

suitable for these uses. Paragraph (b) X states that the Council will take account of the accessibility of a property to local amenities and public transport.

SAD policy HC3 states that the Council will encourage the provision of housing for people with special needs, including single people, the elderly, people with disabilities and any other groups who require specialist accommodation, in locations that would be acceptable for general housing. Such housing will be particularly encouraged in and close to centres, provided the sites are not required for centre uses.

The minister of state for housing and planning made a written statement to Parliament on 23rd May about planning for accommodation for looked after children: <https://questions-statements.parliament.uk/written-statements/detail/2023-05-23/hcws795>. This states:

“I ...wish to set out the Government’s commitment to support the development of accommodation for looked after children, and its delivery through the planning system.

The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children’s communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love.

Today we use this joint statement to remind Local Planning Authorities that, as set out in paragraph 62 of the National Planning Policy Framework, local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions.

Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country. It is important that prospective applicants talk to local planning authorities about whether their service is needed in that locality, using the location assessment (a regulatory requirement and part of the Ofsted registration process set out in paragraph 15.1 of the Guide to the Children’s Homes Regulations) to demonstrate this.”

The application property is a detached house in a residential location with access to local amenities and regular bus services. The proposed use can therefore be supported on strategic planning policy grounds.

Character of the Area

The application property is located within a residential area consisting of detached, terraced and semi-detached properties. The change of use from residential to another residential use, in a residential area is considered compatible for this location.

The internal layout changes are considered would do not harm to the character of the surrounding area. The application property would continue to have the appearance as a dwellinghouse and a safeguarding condition preventing any external advertisements to the property may be imposed to retain this residential character.

Amenity of Neighbours and Amenity of Future Occupiers

The neighbouring properties are residential. The existing building is a house and would continue to be used for residential living accommodation with the same level of amenity and similar relationship to neighbouring houses as is already the case. The level of noise is anticipated to be no greater than would be expected than any other residential property in the locality.

No evidence has been provided to demonstrate that there would be safety issues as a result of this proposal. There would be staff support and supervision for the two residents on a 24-hour basis.

Safety and Security

Whilst the fear of crime is a material consideration in planning decisions, the weight that can be given, is often limited unless there is significant evidence to show that the increased fear of crime would actually occur in relation to this specific proposal and the specific future occupiers.

The police have no objections to the proposal and have recommended security considerations for the application property which can be included as an informative note.

Access and Parking

The Local Highway Authority has no objections to the proposal and comments that access to the property is directly from The Crescent with off street parking to the front of the property and a single garage.

The Crescent allows two-way traffic movements. There are no restrictions to car parking along The Crescent close to the application site. Most properties have off street parking in this area. There are footways either side of The Crescent and the surrounding road network. The nearest bus stops to the east and west of the application site on The Crescent.

The only material change will be conversion of the existing garage to office space. Losing a single car parking space. The UDP Policy T13 requires that for a four-bedroom property a minimum of three car parking spaces are provided. The drawings provided show that it is intended to remove the existing low wall and vegetation screening to provide additional spaces to the front of the property which is acceptable. This will require the widening of the existing dropped vehicle crossing and the submission states that an application for a widened dropped kerb would be submitted and this requirement can be conditioned by means of a Grampian condition as the dropped kerb sits outside the application site.

The highways authority has updated their comments which have been taken into account as part of this decision.

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the proposal would be an acceptable use of this previously developed site within an existing residential area.

There is no evidence that the proposal would increase crime and anti-social behaviour in the area or give rise to an unacceptable level of noise and disturbance. The proposal would not result in a significant loss of amenity for adjoining neighbours. The

application has demonstrated sufficient off-street parking to serve the needs of the development and the inclusion of a planning condition to restrict occupancy of the care home to a maximum of two residents can be included.

This proposal is therefore considered to be acceptable and in accordance with local and national planning policies and guidance set out in this report.

Taking into account the above factors it is considered that the application should be recommended for approval. The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding the limited information provided initially and a planning statement and existing and proposed floor plans have since been provided which enable support to be given to the scheme.

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

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

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents: -

- Location Plan, drawing no. EPMS 4989/4, deposited 23/03/23.
- Existing Site Plan, drawing no. EPMS 4989/5, deposited 23/03/23.
- Proposed Site Plan, drawing no. EPMS 4989/3, deposited 23/03/23.
- Existing Floor Plans, deposited 23/03/23.
- Proposed Floor Plans, deposited 23/03/23
- Covering letter from Lambert, Smith Hampton dated 15/03/23 and deposited 23/03/23

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. Prior to occupation of the development hereby permitted shall not be implemented otherwise than in accordance with a minimum of 3no. off road vehicular parking spaces each measuring a minimum of 2.4m by 4.8m shall be provided on the drive within the curtilage of the application dwelling. The parking spaces shall be consolidated hard surfaced and drained to prevent surface water from the driveway running on to the public highway or into any highway drain. The off-road vehicular parking spaces shall thereafter be retained for the purposes of parking vehicles and for no other purpose for the lifetime of the development.

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

4. Notwithstanding the details as submitted, the development hereby permitted shall not be carried out otherwise than in accordance with the new crossing not exceeding five 900mm flat kerbs and two 900mm taper kerbs and shall thereafter be retained for the lifetime of the development

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2 and in the interests of highway safety.

5. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details of a residential care home for up to a maximum of up to two children between the ages of 6 and 18 years and for no other purpose (including any other purpose in Schedule 1, Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To control the level of parking demand and vehicle movements at the property in accordance with UDP Policy T7 and T13 and in the interests of highway safety.

6. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and there shall at no time be any advertisement(s) displayed to the frontage of the property.

Reason: In the interests of maintaining the character of the area.

Notes for Applicant

Highway

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

2. The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the extended dropped kerb footway crossing within the public highway. For further information and application forms

please visit the Council's webpage under Transport and Streets - Parking Roads and Vehicles.

Police

If young residents I recommend liaison with Walsall Children's Services. Children's homes require registration with Ofsted under The Care Standards Act 2000. Staff 24/7.

<https://www.gov.uk/government/publications/ofsted-and-cqc-joint-registration-guidance-childrens-homes-and-health-care/childrens-homes-and-health-care-registration-with-ofsted-or-cqc>

[Applying to register a children's home: top tips - Ofsted: social care \(blog.gov.uk\)](#)

The below information for the applicant

The applicant to refer to crime prevention and home security advice contained within SBD Homes.

Please see: [HOMES GUIDE 2023 web.pdf \(securedbydesign.com\)](#)

External LED lights with daylight sensors to the external walls, by entrances and parking.

This to provide security for residents entering and leaving. (SBD Homes 2023 page 47, 27.2).

Alarm and cctv installers should be approved by NSI, SSAIB or both.

Please see <https://www.nsi.org.uk/> and <https://ssaib.org/>

Dwelling entrance door-sets (SBD Homes 2023 page 36, 23, 1-9).

PAS 24: 2022 standard doors for houses and apartments.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

Petitions Received

Petitions on following pages

Development Management
The Civic Centre Walsall.
Application Number 23/0372

Mr David Wilkinson
58 The Crescent
Walsall
WS12BZ
19th April 2023



Objection To Change Of Use For 56 The Crescent

We wish to object to this application on the grounds of it being an unsuitable development in such a built up residential area and is likely to attract undesirable elements to the area.

Parking is a continual problem and with the parked cars and at busy times it only gives enough space for one vehicle to pass down the centre of the road. It is also the bus route for the 77, 77A and the 935 which are frequently held up by congestion in this very narrow part of these routes.

The Crescent is used most days by parents dropping off and collecting children for the two schools on the Sutton Road and at exam times parking wardens have to patrol the road to keep it open.

At 56 they intend to convert the front garden to parking for the 3 members of staff, which then results in one less parking space in the road that is used by residents that have no parking.

I am advised that a constant stream of vehicles visit these homes, Managerial checks and meetings, Maintenance and checks of all types and Deliveries, all of which will attempt to park in The Crescent.

56 is not suitable for commercial use as anyone using the back garden can see into 54 and 58 because of the lay out of the properties.

Continues on to 2nd page.

58 THE CRESCENT	
60 THE CRESCENT	
73 PRINCE AVE	
79 THE CRESCENT	
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87 THE CRESCENT	
97 THE CRESCENT	
103 THE CRESCENT	
105 THE CRESCENT	
62 THE CRESCENT	
101 THE CRESCENT	

Continues on to page 3



To Development Management

Mr David Wilkinson

The Civic Centre Walsall

58 The Crescent

Application Number 23/0372

Walsall

19th April 2023

WS1 2BZ

Re- Application for Business Use At 56 The Crescent And Restrictive Covenants

At a recent consultation meeting with the residents of The Crescent and Princes Avenue , Council Officer Mr Alan Davies, Group Manager, stated that the proposed residential home at 56 The Crescent, would be run as a business and he intended on behalf of Children's Services to apply for a change of use from Residential to Business Use.

On 16th March I sent a letter to Sally Rowe, The Executive Director of Children's Services saying that It is my understanding that 56, 58, 60, 62 The Crescent and 21, 23 Princes Avenue all of similar construction, were all built on former Church Land about 1957 and Restrictive Covenants had been placed on the land.

When we purchased our individual properties we all, including the Council purchasing 56 agreed and signed to accept the Restrictive Covenants as stated on the Land Registry, Property Register.

Included within the Restrictive Covenants 3 pages...

1a Not to carry on or permit or suffer to be carried on upon said land or any part thereof or in or upon any building erected or to be erected thereon or any part thereof any trade or business whatsoever but to use permit or suffer same to be used as a private dwellinghouses only.

I then pointed out, I realise that some things have changed since 1957 but this is still a legal document that all of us owners have signed accepting the

Covenants saying we will only use them as a private dwellinghouses and as a joint legal agreement it gives each of us owners protection from anyone who would apply to change the use of the above properties.

We residents expected them to cancel the change of use and yet they are still proceeding with the application in full knowledge of the Restrictive Covenants.

We ask The Planning Committee to respect the Restrictive Covenants and turn down the application.

We are the other 5 owners of properties on the former Church Land that signed to accept the Restrictive Covenants when purchasing their property.

58 The Crescent

60 The Crescent

62 The Crescent

21 Princes Avenue

23 Princes Avenue



End of Officer Report



Planning Committee

Report of Head of Planning and Building Control on 20 July 2023

Plans List Item Number: 5

Reason for bringing to committee

Resubmission of previous application that was called into committee by Head Of Planning Department.

Application Details

Location: 58, REEDSWOOD LANE, WALSALL, WS2 8QP

Proposal: RESUBMISSION OF APPLICATION 22/1376: PROPOSED GROUND FLOOR EXTENSION TO REAR OF EXISTING DWELLING.

Application Number: 23/0393

Case Officer: Claire Woodcock

Applicant: Aamer Waheed

Ward: Birchills Leamore

Agent:

Expired Date: 20-Jun-2023

Application Type: Full Application:
Householder

Time Extension Expiry:



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Recommendation

Grant Planning Permission Subject to Conditions

Page 71 of 80

Proposal

The proposal is for a single storey rear extension. The proposed development will provide a larger rear kitchen and store.

The proposal includes two windows on the side elevation facing towards number 60 and patio doors with windows either side on the rear elevation facing towards the applicant rear garden.

The single storey rear extension dimensions are:

5.8 metres deep, measured from an existing 4.2 metres deep two storey rear extension

4.6 metres wide

Having a flat roof with two roof lanterns

2.5 metres high to the eaves

3.2 metres high overall

Site and Surroundings

The applicant property is a two-storey semi-detached dwelling, with hipped roof and porch extension with canopy above the front bay window at ground floor and is located on a mainly residential area. The prevailing hipped roof design is a consistent character of the surrounding area, where the properties are of a variety of designs, although mainly hipped, and balanced semi-detached 1930's dwellings.

A number of the surrounding properties have rear extensions, with some being large, although to the only changes to the front elevations are modest front extensions.

Number 58 has an existing two storey rear extension plus a single storey rear conservatory, to which the proposed single storey extension will replace and extend the area of the present conservatory.

Relevant Planning History

BC58658P 2-storey rear extension. GSC 25-Feb-2002

16/0711 Part double, part single storey rear extension. Refuse 26-Oct-2016

Refused for the following reasons:

1. The proposed two and single storey extensions would have an overbearing and unacceptable impact upon the adjacent property, in particular to the habitable room windows on the rear elevation and the garden area of number 56 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window at first floor and the quarter point of the nearest habitable room window on the ground floor at number 56 Reedswood Lane. For these reasons the proposals are contrary to Black Country Core Strategy policy ENV3, Walsall Unitary Development Plan saved policies GP2 and ENV32 and to Supplementary Planning Guidance: Designing Walsall.

2. The proposed side facing first floor windows of the proposed extension would have their outlook towards the blank rear wall of the neighbouring dwelling at 60 Reedswood Lane, but would be unduly close to this, so that the outlook would have an oppressive quality and the occupiers of the house as extended would experience a low level of amenity. The extension would therefore conflict with policy ENV3 the Black Country Core Strategy; 'saved' policies GP2 and ENV32 in the Walsall Unitary Development Plan; and policy DW3, together with guidance on separation distances in Appendix D, of the supplementary planning guidance, Designing Walsall.

3. The proposal to increase the number of bedrooms whilst only having two parking spaces would not comply with policy as three parking spaces are required for a house with four or more bedrooms. The proposed development is considered contrary to the aims and objectives of the National Planning Policy Framework including paragraphs 56, 57, 58, and 64, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV32, T7 and T13, and the Supplementary Planning Document "Designing Walsall".

22/1388 Proposed loft conversion with rear dormer and hip to gable roof change.
Refused 17-Feb-2023

Reasons for refusal:

1. The proposed design would not integrate with the original house and would unbalance the pair of semi-detached houses, creating an overbearing, bulky, incongruous feature within the street scene which is particularly prominent at first floor level and would be harmful to visual amenity and overall character of the area. The proposal is therefore contrary to policies ENV32 in Walsall's Unitary Development Plan and DW3 of the Designing Walsall SPD.

2. The application has failed to include conclusive evidence about the possible presence of bats, which are a protected species, or the impact on their roosts or habitats. The application is therefore contrary to Black Country Core Strategy Policy ENV1: Nature Conservation, Paragraphs 179-182 of the NPPF and the Supplementary Planning Document "Conserving Walsall's Natural Environment".

3. The proposed loft conversion with rear dormer and hip to gable roof alteration would have an overbearing and unacceptable impact on the light and outlook to the ground floor windows of number 60 Reedswood Lane due to its excessive height in relation to this neighbouring property and it is contrary to NPPF12 Para. 127, BCCS Policies CSP4, ENV2 & ENV3, Saved UDP Policy ENV32, and Appendix D of the Designing Walsall SPD.

22/1376 Proposed single storey rear extension. Refused 29-Mar-2023.

Reasons:

1. The proposed single storey extensions would have an overbearing and unacceptable impact upon the adjacent properties, in particular to the habitable room windows on the rear elevation and the garden area of number 56 and 60 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56 and 60. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window on the ground floor at number 56

and 60 Reedswood Lane. The proposal would therefore be contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

2. The proposed single storey rear extension would give a separation distance of 3.5 metres to the side facing habitable windows of number 58 and number 60. It is considered that this proposal would lead to an increased level of overlooking between the two dwellings, which would be detrimental to the existing amenity enjoyed at number 60. This application is thus contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 56) says:

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

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

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

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

protected by the Equality Act 2010 are:

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV3: Design Quality

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPDs are consistent with the NPPF.

Consultation Replies

Environmental Protection – Concerns Raised

The property is located in an area previously identified on historic mapping as a “heap of unknown constituent”. This may have resulted in hotspots of contaminated soils that could present Health and Safety implications for persons undertaking ground works. Therefore, a note can be attached to any planning approval issued.

Concerns were also raised that the application does not state whether a solid fuel heating application (e.g. stove, open grate, multi-fuel burner) will be installed within the proposed development, and a request for a condition to be added should any planning be approved, however this is subject to separate legislation.

Representations

None received.

Determining Issues

- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways

Assessment of the Proposal

Design, Layout and Character

A number of the surrounding properties have larger extensions at the rear, although to the only changes to the front elevations are modest front extensions. Whilst number 54 has a large single storey rear extension, there does not appear to have been a planning application for this development. However, from the LPA's historical maps, appears to have been present since 2013 and therefore is considered lawful with the passage of time, but does not create a precedent in this location. The design of the rear extension will not be prominent from the street scene of Reedswood Lane due to the narrow separation distances between adjoining properties. Although the extension would be visible from public vantage points of Reedswood Close.

On balance, it is considered that the amended proposed single storey rear extension will be proportional to the host house, and neighbouring houses within the area and surrounding character.

Amenity of Neighbours and Amenity of Future Occupiers

58 Reedswood Lane is a semi-detached dwelling paired with number 56, which has the benefit of a two-storey flat roof extension at the rear, which is in line with the applicant's existing two storey extension at number 58.

Previous applications 16/0711, as detailed in the planning history was submitted, which included a single storey rear extension that measured 8.1 metres. This was refused for the following reason:

'The proposed two and single storey extensions would have an overbearing and unacceptable impact upon the adjacent property, in particular to the habitable room windows on the rear elevation and the garden area of number 56 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window at first floor and the quarter point of the nearest habitable room window on the ground floor at number 56 Reedswood Lane'.

Previous application 22/1376 (as detailed in the planning history above), was deferred from committee to enable the applicant to negotiate an acceptable amended proposal. However, no amendments were received by the Local Planning Authority and therefore the proposal was assessed using the existing detail received.

The proposal was refused for the following reasons:

1: The proposed single storey extensions would have an overbearing and unacceptable impact upon the adjacent properties, in particular to the habitable room windows on the rear elevation and the garden area of number 56 and 60 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56 and 60. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window on the ground floor at number 56 and Reedswood Lane. The proposal would therefore be contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

2: The proposed single storey rear extension would give a separation distance of 3.5 metres to the side facing habitable windows of number 58 and number 60. It is considered that this proposal would lead to an increased level of overlooking between the two dwellings, which would be detrimental to the existing amenity enjoyed at number 60. This application is thus contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

The existing conservatory of number 58 breaches the 45-degree guidelines by 2.9 metres in relation to number 56. The proposed extension will replace and extend the area of the existing conservatory the depth would be increased from 4.9 metres to 5.8 metres and joined onto the existing 4.2 metre two-storey extension. Whilst the current proposal does not include a two-storey rear extension, the proposed single storey extension would be joined onto an existing two storey extension.

Concerns were raised by the Local Planning Authority that the proposal would breach the 45-degree guidelines and with an apex roof, and was considered that the proposal would not have overcome the previous reasons for refusal in relation to having an

overbearing and unacceptable negative impact upon the amenities by way of shading, overshadowing and overbearing outlook of the habitable room windows on the rear elevation and the garden area of number 56.

Following these concerns amended plans have been received reducing the depth of the proposed extension to 5.8 metres deep and having a flat roof with two roof lanterns.

Number 60 Reedswood Lane has a single storey rear extension which is approximately 5.4 metres deep. The applicants existing conservatory complies with the 45-degree guidelines when measured against number 60's rear extension. The current proposed extension would appear to breach the 45-degree code, when measured from the rear patio doors of number 60. However, Patio / French doors are not usually considered as part of 45-degree code considerations, and this would be at a distance of 4.4 metres and would be set back from the rear elevation of the single storey extension of number 60. The proposal would adhere to the 45-degree guidelines in relation to the window set on the rear elevation of the single storey rear extension of number 60.

Number 56 Reedswood Lane is set to the east of number 58, whilst the proposed extension would appear to breach the 45-degree code, the existing conservatory also breaches this code. With the amended design of a flat roof and reduced depth of the proposed extension it is considered that the proposed extension would not significantly worsen the existing situation with regards to amenity to the neighbouring dwelling of number 56 Reedswood Lane, as this already exists from the present conservatory. It is therefore considered that the first reason for refusal has been overcome.

Reason for refusal number 2 relating to the previous application related to overlooking between number 58 and number 60. There are a number of side facing windows on the single storey extension of number 60, which would face towards the windows of the proposed extension, the gap between the windows would be 3.5 metres. However, it is considered that the amended design of a flat roof when coupled with the existing boundary treatment between the two properties would mitigate some of the harm that would be created. Furthermore, the proposed windows in the new extension will be conditioned to be high level obscure glazing, to protect the amenities of the neighbouring properties. It is therefore considered that the second reason for refusal has been overcome.

Therefore, in the circumstances it is considered the proposed extension has overcome previous reasons for refusal and is considered would have no greater impact on the outlook or to the privacy from the rear facing windows of number 56 and 60 Reedswood Lane above that of the present conservatory sufficient to warrant a refusal.

Highways

The proposals would increase the number of bedrooms to the property. Therefore, will not have a detrimental impact on highway safety.

Conclusions and Reasons for Decision

This application has demonstrated that these proposals would not result in detrimental harm to the neighbouring amenity thus complies with the policies and guidance set out in this report.

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

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding the depth and overall height of the proposed extension, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Grant Subject to Conditions.

Conditions

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

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

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Existing Plans and Elevations drawing number AW-02-01 received 30-03-2023
- Location Plan drawing number AW-02-09 received 30-03-2023
- Proposed Plans and Elevations drawing number AW-02-03 Rev C received 12-06-2023

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 development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in the existing building and the facing materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

4: Notwithstanding the details submitted of the development hereby permitted and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, the proposed west facing windows serving the proposed kitchen room as shown on plan AW-02-03 Rev C submitted on

the 12-06-2023 shall be obscure glazed to Pilkington (or equivalent) privacy level 4 and there shall be no opening parts lower than 1.7metres from the floor level of the rooms they serve and the window[s] shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the neighbours and to comply with saved policy GP2 of the Walsall Unitary Development Plan

Notes for Applicant

The area of this proposed development has been identified on historic mapping as a 'heap of unknown constituent', which may have resulted in contaminated soil which could present Health and Safety implications. No specific details of ground conditions in the area are available other than those obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder(s) or contractor(s) undertaking the development in order that they may implement any Health and Safety at Work precautions appropriate when undertaking work at the site of the proposed development.

END OF OFFICERS REPORT