



Planning Committee

Thursday 27 April 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)
Councillor B. Allen
Councillor B. Bains
Councillor H. Bashir
Councillor P. Bott
Councillor S. Cheema
Councillor S. Cooper
Councillor N. Gandham
Councillor A. Harris
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. Minutes of the previous meetings – 9 March 2023 – **enclosed** (pp.5 - 14)
5. **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.

6. 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.15 - 105)

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.

Planning Committee

Thursday 9 March 2023 at 5.30pm

In the Council Chamber, the Council House, Walsall.

Present:

Councillor M. Bird (Chair)
Councillor M. Statham (Vice-Chair)
Councillor B Bains
Councillor P. Bott
Councillor S. Cheema
Councillor S Cooper
Councillor N. Gandham
Councillor A. Harris
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor R. Larden
Councillor J Murray
Councillor S Nasreen
Councillor A. Nawaz
Councillor S. Samra
Councillor V. Waters

In attendance:

A. Ives	Head of Planning and Building Control
M. Brereton	Group Manager, Planning.
N. Ball	Principal Planning Policy Officer
S. Hollands	Principal Planning Officer
S. Wagstaff	Principal Planning Officer
T. Morris	Senior Planning Officer
C. Gibson	Regeneration Officer – Trees
K. Gannon	Development Control and Public Rights of Way Manager
I. Rathbone	Principal Environmental Protection Officer
A. Sargent	Principal Solicitor
H. Owen	Democratic Services Officer
J. Thompson	Democratic Services Officer

173/22 Apologies

Apologies for absence were submitted on behalf of Councillor Allen, Councillor Bashir and Councillor Martin.

174/22 **Declarations of Interest**

Councillor Gandham declared an interest in item 4 on the Application List for Permission to Develop relating to a change of use of the ground floor of The Crown Public House, Leamore Lane, Walsall to four flats (minute number 182/22).

175/22 **Deputations and Petitions**

There were no deputations or petitions submitted.

176/22 **Minutes of previous meeting**

Resolved

That the minutes of the meeting held on 9 February 2023, a copy having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record.

177/22 **Local Government(Access to Information) Act 1985 (as amended)**

There were no items for consideration in private session.

178/22 **Response to Sandwell Local Plan Consultation**

The Principal Planning Policy Officer, Mr N. Ball, presented a report which sought consideration of the Sandwell Local Plan Issues and Options Review to make appropriate recommendations to Cabinet.

(see annexed)

Resolved

- 1) That the response set out in the appendix to the report be agreed and referred to Cabinet for endorsement.
- 2) That the Head of Planning and Building Control be authorised to add additional comments to the response as necessary and to submit an initial officer response to the authorities in advance of endorsement by Cabinet.

179/22

Application List for Permission to Develop

The application list for permission to develop (the Plans List) was submitted, together with a supplementary report which provided additional information on items already on the plans list.

(see annexed)

The Committee agreed to deal first with those items on the plans list where members of the public had previously indicated that they wished to address the Committee. At the commencement of each of those items, the Chair advised speakers that they should restrict their address to no more than two minutes.

At this point, the Chair advised members that items 1 and 7 on the plans list had been withdrawn at the request of the respective applicants.

180/22

Plans List item 2 – 22/0548 Horse and Jockey, 146 Walsall Road, Walsall Wood. WS9 9AJ

Speaker in attendance: Mr D. Wheelwright, Agent – in support.

The Principal Planning Officer, Ms S. Wagstaff, presented a report of the Head of Planning and Building Control which sought a decision regarding the erection of a new discount food store (Use Class E) with access, car parking, landscaping, biodiversity improvements and other associated works.

(see annexed)

In presenting the report, Ms. Wagstaff highlighted the reasons for the recommendation to refuse the application and also advised that should members decide to go against the recommendations and to approve the application, it should be subject to an acceptable travel plan and s.106 monies.

Mr Wheelwright addressed the committee. He said that Lidl had committed to introducing a further four discount stores in Walsall and that this would be the first which he said would deliver numerous benefits including helping out with the cost of living, improving ecology and biodiversity on the site, providing electric vehicle charging points and contributing to the local economy. He considered that the trees on the site were currently of low to moderate quality and that any lost trees would be replaced by mature trees. In addition, he said that he recognised that the Local Planning Policy was to limit development but felt that the benefits outweighed the disadvantages to the green belt. Mr Wheelwright considered that the objections relating the trees on the site could be dealt with via conditions on the permission and concluded by urging the committee to give the application positive consideration.

Mr Wheelwright then responded to questions from members during which time he confirmed that there were no trees on the site which were the subject of Tree Preservation Orders, that it had been a previously developed site and that the extension section showing green on the plan was open land with planned ecological enhancements as explained in the application which would be actively managed. He confirmed the size of the site, the immediate site being 0.84 hectares totalling 2.6 hectares for the full site; how the intended 30 year habitat plan would be managed; and gave assurances regarding the effectiveness of the tree planting in the management surface water to prevent flooding. With regard to the proposed solar panels, Mr Wheelwright confirmed that the resulting power generated from these would be for the exclusive use of the store and would significantly reduce the environmental impact.

Members discussed the application and its impact on the surrounding area, particularly regarding the impact of the removal and replacement of mature trees, and on balance considered that the benefits to the area outweighed the incursion into what they considered to be a minimal extent of green belt land.

It was **Moved** by Councillor Bird, **Seconded** by Councillor Harris and upon being put to the vote was:

Resolved (unanimously)

That the Head of Planning and Building Control be delegated authority to grant planning permission for application approve application 22/0548, for the following reason:

The development had passed the sequential test and would :

- 1) create a regeneration scheme in the locality which would benefit the surrounding areas;
- 2) create over 40 jobs in a much needed area;
- 3) contribute to reducing carbon emission by including the use of solar panels and renewable energies in the design of the building.

Subject to all standard conditions and specific conditions to secure:

- 1) Replacement tree planting including the replacement of any removed, dead or dying trees being replaced with mature trees within five years;
- 2) Materials;
- 3) The hours of construction operations being limited to 8am to 5pm on Mondays to Saturdays and 8am to 1pm on Sundays, no working on public or bank holidays;
- 4) Section 106 Agreement to secure Travel Plan and transport Emission Plan to satisfy Highway Concerns;
- 5) The making of a Tree Preservation Order for all remaining trees on site
- 6) The referral of the application to the Secretary of state if necessary.

Plans List item 3 – 21/1686: Morris Car and Commercial Vehicle Repairs, Rollingmill Street, Walsall. WS2 9EG

Speakers in attendance: Mr O. Dhilwayo, Applicant
Mr S. F. Ravat, Neighbour – against
Councillor Ditta – against

The Principal Planning Officer, Ms S. Hollands, presented a report of the Head of Planning and Building Control which sought a decision regarding an outline application for the demolition of existing car garage and front boundary wall and erection of a three storey block of flats, car parking and associated works.

(see annexed)

Mr Ravat addressed the Committee objecting to the application. He said that his business was situated directly opposite the proposed development and that his business was vehicle recovery which operated seven days a week often 24 hours a day, using large heavy goods vehicles and JCBs, beacons strobe lighting and loud claxons. He said that his business not only worked with the RAC and the AA on vehicle recovery, but that those organisations also used his site for storage. Mr Ravat contended that the siting of a high density residential development would lead to a curtailment of his business activities because the effect of the noise associated with his business would inevitably lead to complaints from residents.

Councillor Ditta addressed the Committee and said that the area was in industrial area and supported Mr Ravat's contention that such a development would lead to noise complaints in the future and would impact on the surrounding industries. In addition, she said that the proximity of the development to Mr Ravat's business would mean that he would struggle to manoeuvre his vehicles.

Mr Dilwayo addressed the committee. He highlighted what he considered to be the benefits of the proposal which was to breathe life into a secluded zone with a sense of insecurity, to be a deterrent to antisocial activity and to contribute to local regeneration, injecting the area with a community sense.

In response to a question from members regarding the reason for the recommendation being poor design, Mr Dilwayo said that this application was presently an outline application for change of use and that the full planning application would address those concerns. He added that that noise nuisance from the surrounding industry would be addressed within the structure of the building and would be part of the Environmental Impact Assessment.

Members noted that the nearby temple was not residential use and not in the line of view but was well used.

Mr Ravat responded to questions from members and explained in more detail, the practicalities of his business operations, stressing the noise created and the close proximity of the development to the movements of his vehicles.

There then followed a period of questioning by members to officers during which time it was noted that should the development go ahead, the council would be duty bound to investigate any noise complaints from occupiers which could result in an abatement notice on the company which could, in turn, result in the company ceasing to operate. In addition, a Section 106 agreement would be required but had not yet been agreed.

A lengthy discussion took place on the exact location of the adjacent Public Right of Way, and its ownership status, which members felt was an important consideration impacting on the ability to deliver the development. In addition, members were concerned about the lack of clarity regarding the condition of the subsoil and that the correct ownership notice (Certificate D) had not been issued.

Members discussed therefore whether the application should be refused or deferred to enable the applicant to address the areas of concern. During the discussion, the Head of Planning and Building Control advised that the key issue for consideration was the principle of the development and that together with other reasons set out in the report, it was considered that there was sufficient reason to determine a refusal.

It was then **Moved** by Councillor Nawaz, **Seconded** by Councillor K. Hussain and, upon being put to the vote, was:

Resolved

That application number 21/1686 be deferred to enable the applicant to:

- 1) confirm the ownership of the land and adjacent public Right of Way;
- 2) confirm ownership of the public right of way needed to enable the development
- 3) serve the correct ownership notices (Certificate D)
- 4) address other concerns raised during the discussion and in the report regarding the ability to develop the site.

182/22

Plans List item 5 – application number 21/0278 The Crown Public House, 6, Leamore Lane, Walsall. WS3 2BH

At this point in the meeting, Councillor Gandham, having declared an interest as a relative of the applicant, withdrew from the committee for the duration of the item in order to speak on this item as a member of the public.

The Senior Planning Officer, Mr T. Morris, presented a report of the Head of Planning and Building Control which sought a decision regarding a change of use of ground floor public house to four flats.

(see annexed)

Speakers in attendance: Mr A. Hope - Agent
Councillor N. Gandham

Mr Hope addressed the committee and opened by referring to the information contained in the supplemental information tabled at the meeting. Of particular note, Mr Hope's comments included:

- *Noise Reduction* – the pre-spec work regarding noise insulation was the best possible.
- *Cannock Chase Special Area of Conservation (SAC)* - he had never refused to make the relevant payments
- *Ground Conditions Survey* – this had only been raised very recently and would ensure that this was done and was content for this to be a condition.
- *Housing Standards* – he had asked for a copy of the report so that he could consider mitigating actions however, he had not received this.

Councillor Gandham addressed the committee. He said that the property had been owned since 2010 with the intention of bringing life back into the area as a licensed premises however, after the Covid pandemic it became unviable and therefore alternative uses were considered, with housing being the only viable option. Councillor Gandham confirmed that the required reports would be submitted as required and that and payment of the SAC contribution would be made.

Mr Hope and Councillor Gandham then responded to questions from members, during which time members were advised that the pub had been the subject of arson and criminal damage as the property had been empty. In addition, the ground survey had only recently been raised and therefore it had not been possible to arrange this in advance of the meeting and that the noise survey had been submitted but no response had been received regarding its acceptability. Members heard that the storage unit next door was currently being used as storage, however, should this use change then the noise impact assessment would mitigate any nuisance.

At this point, the committee's legal advisor, Ms Sargent, advised that the Cannock Chase SAC provision prevented the committee from making a decision to grant however, a decision could be delegated to the Head of Planning and Building Control to grant subject to this issue being resolved beforehand. The Head of Planning and Building Control, Ms Ives, also advised that the Council had implemented a "one amendment" policy to take a stricter approach to submission of applications. She said that the applicant had been asked for further information previously however, the concerns had not been addressed and therefore, it required a decision by committee.

With regard to the requirement for a land contamination survey, members were advised that there had previously been coal mining in the area and in addition, there appeared to be some industrial use to the rear of the property and so the survey would be a precautionary measure.

Members discussed the report, the representations made and the advice received, during which time a number of views were expressed regarding the merits or otherwise of the application which included a recognition that options for the use of such a property were limited but also that there was concern regarding the standard of design and the impact of noise nuisance on the residents.

Councillor K Hussain was of the view that the proposed development would have a detrimental impact on the area by way of noise and disturbance, outlook and amenity.

It was **Moved** by Councillor K. Hussain and **seconded** by Councillor Nawaz

That the application be refused.

The motion was put to the vote and declared **Lost** with 6 members voting in favour and 8 against.

It was **Moved** by Councillor Samra and duly seconded:

That authority be delegated to the Head of Planning and Building Control to grant application number 21/0278 subject to a Section 106 undertaking/Agreement to secure the necessary Special Area of Conservation mitigation; and all standard conditions and specific conditions to secure

- 1) Noise survey
- 2) Ground survey (contamination)

Reason - That the proposal would be bringing a redundant building back into good use, providing much needed housing in the area at an affordable rent or sale in line with surrounding properties; and would lead to the diversification of the use of pubs which were in decline.

The motion was put to the vote and declared **carried**, 8 members voting in favour and 5 against.

Resolved

That authority be delegated to the Head of Planning and Building Control to grant application number 21/0278 subject to a Section 106 undertaking/Agreement to secure the necessary Special Area of Conservation mitigation; and all standard conditions and specific conditions to secure

- 1) Noise survey
- 2) Ground survey (contamination)

Reason - That the proposal would be bringing a redundant building back into good use, providing much needed housing in the area at an affordable rent or sale in line with surrounding properties; and would lead to the diversification of the use of pubs which were in decline.

At this point, the time being 7.22pm, the Chair adjourned the meeting for a short break

The meeting reconvened at 7.27pm.

Councillor Gandham returned to the Committee.

183/22 **Plans List item 4 – application number 22/0729. 32, Hart Street, Walsall. WS1 3PE**

The Principal Planning Officer, Ms S. Hollands, presented a report of the Head of Planning and Building Control which sought a decision regarding a temporary change of use of residential (C3) property to place of worship (F1) Mosque.

(see annexed)

Members discussed the application during which time, it was noted that the temporary length of time required had not been specified. It was suggested that the period of use should be for three years which aligned to the timescale for use to commence. Members also commented that there would be no impact on numbers as the same or fewer people would be using the temporary arrangements with minimal noise arising from the use as numbers would disperse home.

It was **Moved** by Councillor Nawaz, **seconded** by Councillor K Hussain and upon being put to the vote was:

Resolved (unanimously)

That application number 22/0729 be granted for a temporary period of 3 years.

Reason - as the congregation had relocated from a nearby mosque, which was being rebuilt, most attendees would visit on foot and a public car park was located within a few yards meaning that the increased numbers would not have an impact on the amenity in the area and highways objections would be overcome. Also that the noise element was not evident as the congregation would be reduced in number.

184/22 **Plans List item 6 – application number 23/0036. 124, Great Charles Street, Brownhills, Walsall. WS8 6AF**

A report of the Head of Planning and Building Control was submitted which sought a decision regarding a change of use from Planning Use Class C3 (dwelling houses) to Planning Use Class C2 (Residential Institutions) for use as a Children's Home.

(see annexed)

It was **Moved** by Councillor Bird, duly **Seconded** and upon being put to the vote was:

Resolved

That the Head of Planning and Building Control be delegated authority to grant application number 23/0036 subject to the amendment and finalising of conditions and that no further comments from a statutory consultee raising material planning considerations not previously addressed.

Termination of meeting

The meeting terminated at 8.06pm

Signed.....
Chair

Date.....

Development Management Planning Committee

Report of Head of Planning and Building Control on 27/04/2023

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Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 27 April 2023

Plans List Item Number: 1

Reason for bringing to committee

Called-in by Head of Planning: Major Application with significant impacts including cross boundary implications

Application Details

Location: UNIT 3, WALSALL ROAD, WALSALL, WS5 4AN

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

Application Number: 22/0287

Case Officer: Sally Wagstaff

Applicant: Lidl Great Britain Limited

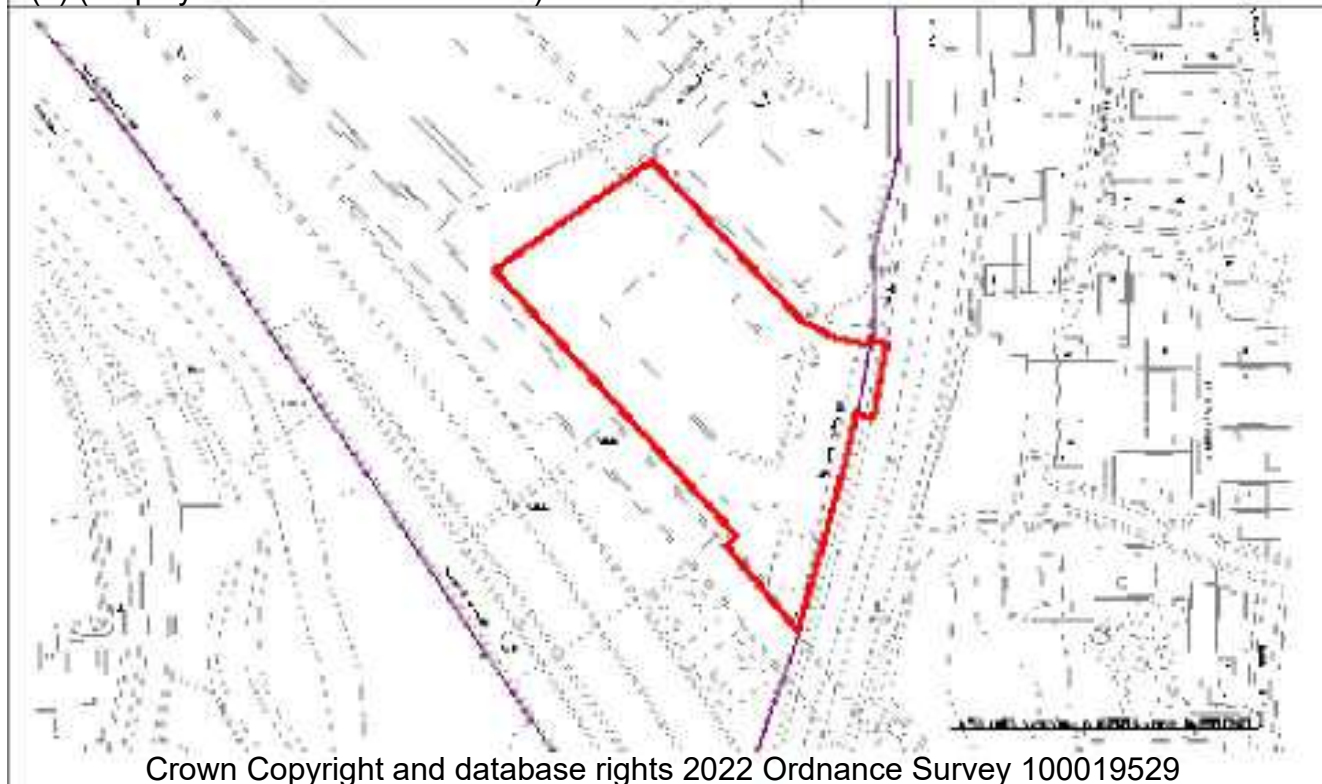
Ward: Palfrey

Agent: Rapleys

Expired Date: 31-May-2022

Application Type: Full Application: Major Use Class E(a) (Display or Retail Sale of Goods)

Time Extension Expiry: 28-Apr-2023



Recommendation:

1.Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure a Travel Plan and subject to:

- The amendment and finalising of conditions
- Overcoming the outstanding concerns raised by Lead Local Flood Authority

Proposal

The proposal relates to the erection of a foodstore (Use Class E) with access, car parking, landscaping and other associated works.

The proposal includes a new vehicular access from Walsall Road, 100 car parking spaces including 6 disabled spaces, 8 parent and child spaces, 2 Electric Vehicle Charging spaces and 12 secure cycle parking spaces.

The proposed new vehicular access is within the borough of Sandwell. The applicant has submitted a planning application to the borough of Sandwell Council relating to the access. At the time of writing the application has not been determined, determination date is targeted for 8th May.

Pedestrian access would be provided from Walsall Road, it would take customers through the store car park to the store entrance which is on the eastern corner of the building.

The proposal also includes an area of servicing to the south-west of the site which is also accessed from Walsall Road. The existing Walsall Road access which runs to the rear of the site serving the units will not be in use for access to the Lidl site.

A small area of landscaping is proposed around the car parking perimeter to the west and to east of the site including a mixture of shrubs, trees, hedge planting and grass seeding.

The proposed development includes the demolition of the unit which is a two storey, primarily rectangular shaped building of cladding with a front elevation facing Walsall Road. It is understood the front of the building is currently in use by G.D Memorials, a memorials and stonework services showroom and Granite Worktops Ltd, a granite worktop showroom. The rear of the site is understood to be in use as a scaffolding contracting business known as Central Scaffold Hire.

The proposed site area is approximately 0.8 ha with the total store being 2,275 sqm gross internal floor space.

The proposed building is single storey and includes a sloping mono pitched roof. The height being approx. 7 metres at the highest point. The building is approx. 70 metres in width and approx. 39 metres in depth. The proposed design is modern with cladding and glazing as primary materials.

The proposed store opening times are 08:00-22:00 Monday to Saturday and 10:00-16:00 Sundays and bank holidays.

Site and Surroundings

The application site is located to the west of Walsall on Walsall Road approximately 3.0 km from Walsall Town Centre and 1.3 km to the south of Fullbrook local centre.

Currently the site hosts commercial units which are proposed to be demolished as described above. The site is the end of a row of commercial units which are set back from Walsall Road.

Majority of the site is allocated as retained local quality industry (IND3). The site-specific reference is IN204 (part of Walsall Road, The Delves, Walsall site).

To the east and west of the site are residential properties.

To the south of the site is the M6 motorway, the southern part of the site is located in the Green Belt. At present, this part of the site is hardstanding and stores paraphernalia related to the use of units including scaffold poles, pallet wood and tyres. There is also an area of car parking and a building.

Relevant Planning History

22/0913 - 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 - Screening Opinion EIA Not Required -13/03/2023.

16/1346 - screening opinion as to whether an environmental statement is required for waste processing/recovery/recycling facility. Screening Opinion EIA Not Required - 07/10/2016.

14/1311/FL - sub-division of existing unit into 3 smaller units. GSC 02/09/14.

11/1402/FL - Create new rear vehicle access from Walsall Road. GSC 15/02/2012.

10/1542/FL - Change of Use to Display & Sales of Conservatories, Kitchens and Bathrooms (at front) plus Change of Use to B2, B8 and Renting and Refurbishment of Scaffolding plus Insertion of 1 x Roller Shutter Door in proposed N/E elevation – GSC - 25/02/11

03/0403/FL/W3 - Proposed storage extension to existing factory and change of use of road – GSC 12/06/03.

02/0120/FL/W5 – Erection of new showroom and workshop – GSC 03/04/02.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**

- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**

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

- 5.4 to 5.8. The sequential approach
- Policy S7. Out-of-centre and edge-of-centre developments
- ENV10: Pollution
- Policy GP2. Environmental Protection
- Policy GP6. Disabled People
- Policy ENV10: Pollution
- Policy ENV11. Light pollution
- Policy ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- Policy ENV32. Design and Development Proposals
- Policy ENV33. Landscape Design
- Policy ENV35. Appearance of Commercial Buildings
- Policy T1. Helping People to Get Around
- Policy T7. Car Parking
- Policy T13. Parking Provision

Black Country Core Strategy

- CSP4: Place Making
- CSP5: Transport Strategy
- EMP5: Improving Access to the Labour Market
- CEN7: Controlling Out-of-Centre Development
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

SLC1: Local Centres

SLC2: Local Centres Development Opportunities

EN1: Natural Environment Protection, Management and Enhancement

T4: The Highway Network

T5: Highway Improvements

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

Designing Walsall

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

Air Quality SPD

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

Consultation Replies

Ecology Officer

No objection subject to conditions

Environmental Health

No comment

Environment Agency

No objection subject to conditions relating to prevention of water pollution from contaminants.

Environmental Protection

No objection subject to conditions relating to a CEMP, Air Quality and Ground Contamination.

Fire Officer

Concerns raised as it appears the requirements of ADB Vol 2, 16.8 have not been met. The nearest hydrant appears to be in excess of 260m. A fire Hydrant should be position within 100 metres (*this would be dealt with at Building Regulations Stage*).

National Highways

No objection subject to a condition in relation to a 4m easement to allow for the ongoing inspection and maintenance of the M6/M5 off slip.

Local Highways Authority

No objection

Local Lead Flood Authority

Still some information required to fully demonstrate that an acceptable drainage strategy is proposed. Issues to be resolved prior to planning permission being granted.

Public Lighting

No objection - any alteration to the existing lighting installation to accommodate the new access with need to be discussed with Sandwell Council.

Sandwell Council

Highways have no objections to the proposed, agreed through Walsall MBC application a section 278 agreement will need to be entered into to complete the proposed works as previously discussed with applicant.

Police Architectural Liaison Officer

No objections. Secured by design principles a recommended in relation to security.

Severn Trent Water

No Objection subject to a condition relating to the disposal of foul and surface water flows

Strategic Planning Policy

No objection

Representations

One letter of support has been received by a resident living adjacent to the site. The support is in relation to the closeness of the site to the resident's property which will making shopping more convenient for their family.

One objection has been received by a local resident in relation to the following concerns (officer's comments are provided in italics):

- Existing industrial units create increased traffic to Walsall Road (*The additional impact on the road network due to the proposal is considered as part of the application*)
- HGVS relating to the existing industrial uses park overnight – noise from these vehicles can be heard from inside property (*this is not a material planning consideration in the determination of the application. Any noise concerns should be reported to Community Protection*)
- Existing units create noise early mornings and afternoon (*this is not a material planning consideration in the determination of the application. Any noise concerns should be reported to Community Protection*)
- Narcotics being dealt behind the property (*not a material consideration in the determination of this application. This is a police matter*)

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- Proposal will increase noise levels, traffic, and pollution.

Determining Issues

- Principle of Development
- Impact on the Green Belt
- Design, Layout and Character
- Amenity of Neighbours
- Highways
- Ecology
- Flood Risk / Drainage
- Ground Conditions and Environment
- Planning Obligations/S106 Agreement

Assessment of the Proposal

Principle of Development

The Sequential Test

The isolated nature of the current site, surrounding non-employment uses and internal non-employment uses, means that the site can only be considered as local quality employment land. This is reflected in its scoring in the Black Country Employment Areas Review (BEAR) and its proposed allocation in the Draft Black Country Plan (BCP). However, it still forms part of the overall supply of employment land for which there is an emerging shortfall.

The proposal is below the 2,500sqm threshold for requiring a Retail Impact Assessment under UDP Policy S7.

The applicants claim that the expanded sequential test to Pleck, Park Hall and Caldmore finds only one candidate site which is not in fact within the identified Local Centre, while no other available or suitable sites are identified. We recognise that this Local Centre, and the others enveloped by the expanded sequential test, are likely to have limited space to accommodate a store of this size when compared with Tier 2 District Centres, none of which in the borough are taken in within the expanded catchment. In local policy, SAD Policy SLC2 identifies Development Opportunity LC10A in Pleck as acceptable for retail and an argument could be made to its inclusion in the test, though on a site area of only 0.24ha it would also fail on suitability grounds. Despite the lack of available sites being found, the expansion of the test by the agent in response to our assertion of a potentially wider catchment into those areas in which existing discounter store provision is limited is welcome. The LPA accept that the sequential test has been satisfied in this instance.

Employment

In terms of overall impact on employment, and loss of employment land, the applicants argue that existing food stores in the vicinity will have a greater selection than a limited assortment discounter, and typically will need to operate with a full complement of staff, otherwise they cannot operate normal operations. Therefore, this proposal will have little effect on job loss specifically. In addition, it is suggested that due to a portion of the existing unit being in retail use, this offsets the overall loss on the employment use.

A letter from the applicant seeks to assuage concerns over job losses with the promise of rehoming the current operators off-site in the event of permission being granted.

However, the applicants are not seeking a personal permission so there is no guarantee that they or any future operator will continue to provide the same number of jobs. No details have been provided about where the current occupier will be relocated to. Given the current

shortfall of available employment land and premises in Walsall, it is not certain that it will be possible to relocate them or that they will not simply displace another business elsewhere. Food retail in general employs more staff for a given floor area than class E1/B2 industry. However, unlike industry, retail does not create new jobs or boost the local economy. There is only limited spending power available in the area, so the opening of a new food store will displace spending and jobs from other existing retailers. Industry, in contrast, involves adding value to products which are sold outside the area thus bring in additional income. It is also unclear how intensive is the current employment use. Other E1/B2 occupiers could employ more staff. However, whilst the site forms part of a local quality employment area that is safeguarded both by the adopted Site Allocation Document and the emerging Black Country Plan, evidence prepared for the BCP the BEAR gives the site a relatively low scoring due to the somewhat isolated nature of the site, little critical mass of employment uses and nearby housing. As such, the loss of the site for employment use would not be itself sufficient to justify opposition to the current proposal.

Conclusion

The expanded sequential test satisfies the LPAs initial concerns over the extent of likely catchment for this proposal and the need to test the existence of potentially available sites in the identified Local Centres. While disagreement remains over the overall likely net loss or gain of jobs based on the current allocation for employment use, we consider on balance that strategic planning policy objections to the proposal have been addressed. On balance the principle of development is supported.

Impact on the Green Belt

As part of application site is located within the Green Belt therefore the main considerations are:

- Whether the proposal would be inappropriate development in the Green Belt;
- The effect of the proposal on the openness of the Green Belt and,
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal

The revised National Planning Policy Framework in section 13 and paragraphs 147 to 150 states inappropriate development is harmful to the Green Belt and would not be approved except in very special circumstances. These very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The Green Belt area covering a portion of the site can be considered as previously developed land, which is an exception highlighted within the NPPF as appropriate in the Green Belt subject to the impact on openness. The proposed use represents a continuation of the existing use of most of the area (as a car park) and would have no greater impact on openness. The proposal would therefore be acceptable under national and local policy in terms of impact on the Green Belt.

Design, Layout and Character

The application site comprises the Lidl Store set within the middle of the site with car parking to southwest of the site fronting Walsall Road and to the east of the site including bicycle storage and electric vehicle charging points. A new access is proposed from Walsall Road.

The pedestrian entrance to the store is located on the corner of the building fronting Walsall Road with pedestrian entrance to the site directly from Walsall Road.

Servicing and deliveries are to the western elevation adjacent to the M6 Slip Road.

The proposed store will sit as the start of a row of warehouse/industrial style single and double storey buildings. The proposed store is low level to reflect the height of surroundings units. The palette of materials shown in elevation plans indicate a modern approach which fit with the 'Lidl' design brief. The proposed facing materials to construct the proposed development are considered acceptable, however further details regarding these materials and finishes will be sought by way of planning condition.

The glazing in the elevations provides an active frontage around the site as well as providing visual surveillance of the site and adjacent surrounding areas.

Submitted drawings include details of boundary treatments as part of the proposed development. Further details regarding the boundary treatments, heights and finishes will be sought by condition.

The Landscape Strategy provided gives details of soft and hard landscaping including replacement planting proposals. The strategy is considered acceptable in relation to the design of the site however the Ecology Officer requests minor amendments to include native planting and wildflower rich grassland to be incorporated into the landscape planting.

Amenity of Neighbours

There are residential properties are located on the opposite side of Walsall Road accessed from Greenside Way leading to Woodruff Way. The properties are located approximately 104 metres from the application site. There are also residential properties to the east of the site on Segundo Road which is approximately 37 metres from the site.

A Noise Impact Assessment has been submitted in support of the application. The report provides an assessment of activities associated with the foodstore, specifically plant and delivery noise in relation to the residential properties around the site. The report concludes the plant is considered acceptable during the day and night and deliveries proposed are acceptable 24 hours a day, 7 days a week.

It is considered noise impacts are unlikely to be significant however, details of external plant equipment to the northwest of the site, and the parapet wall to the equipment, will be required through condition to protect the amenity of local residents.

The development would be seen in context of the existing retail/ industrial development in the area. It is considered the scale, mass and design would have a limited impact upon neighbouring amenity.

On balance, it is considered the proposed development would not unduly harm the amenities of the neighbouring occupiers.

Highways

National Highways have been consulted on this application due to proximity to the M6 southbound motorway to the application site which forms part of the Strategic Road Network. No objection was received, but conditions are recommended in relation to an easement to allow for continued inspections of the M5/M6 Slip Road, and further details to be submitted should there be works undertaken to the southwest boundary of the M6. These conditions are to ensure the continued safe and efficient operation of the M6/M5 off slip and structural integrity of the existing carriageway retaining wall.

The development proposes a new access directly from the A4031 Walsall Road. The access works fall outside Walsall Borough boundary and is in Sandwell Borough, and also onto a section of A4031 Walsall Road for which Sandwell Council are the Local Highway Authority therefore Walsall Highways are not able to comment on access. In terms of on-site parking, the applicant has provided predicted parking accumulation data that demonstrates that the 100 parking spaces proposed is sufficient for their operational needs. The Local Highway Authority considered the proposed parking provision is acceptable.

The applicant has provided a Travel Plan and Transport Assessment as part of the application. Any comments from The Local Highway Authority in relation to these documents will be submitted as part of the supplementary paper accompanying this report. A S106 will be required in relation to the Travel Plan due to monitoring.

Access into the site

The access into the site is located within the borough of Sandwell. A planning application has been submitted to Sandwell Council. Their Local Highway Authority have advised *'Highways have no objections to the proposed, agreed through Walsall MBC application a section 278 agreement will need to be entered into to complete the proposed works as previously discussed with applicant'*. The planning application is yet to be determined by Sandwell Council, determination date is 8th May 2023. A Grampian condition will be necessary to ensure that the highway works to be carried out within the Borough of Sandwell are completed prior to the implementation of the rest of the scheme.

Ecology

The applicant submitted an Ecological Impact Assessment dated January 2022 which identified that building B1 was found to hold low bat roosting potential during the preliminary roost assessment for bats as such as per Bat Trust Conservation Trust (BCT) Good Practice Guidelines a minimum of one dusk emergence / dawn re-entry survey to determine presence or likely absence of a bat roost was required.

The Ecological Impact Assessment also stated Production of the DEFRA Metric Biodiversity Net Gain Calculations to minimise impacts on biodiversity and provide net gains in biodiversity was necessary.

The applicant has subsequently submitted a Bat Nocturnal Survey report dated May 2022 and Biodiversity Net Gain Metric spreadsheet and condition assessment sheet dated February 2023 to read in conjunction with an update Ecological Impact Assessment dated May 2022.

The Council's Ecologist has indicated that the findings of the Ecological reports satisfactory are, with no further surveys required. Conditions are required as per the recommendation with the Ecological Impact Assessment.

The development achieves 'net gain' as per NPPF para 174 and 180. Whilst it was recommended by the Council's Ecologist that further native planting and wildflower species rich grassland was to be incorporated into the landscape planting, after correspondence between the planning agent and the Council's Ecologist, it is confirmed this will not be necessary as this type of planting would not be appropriate in customer facing areas of the store. This is because native plating does not require the same level of management as other types of planting which can lead to visual amenity concerns, die back in the winter;

and the potential for pedestrians to walk across the panting undermining the purpose of the planting and harming the visual amenity of the site.

Flood Risk/Drainage

The site is located within Flood Zone 1, the Environment Agency identifies the land having between 1 in 100 and 1 in 1,000 annual probability of river flooding within Flood Zone 1.

The Flood Risk Assessment confirms the site is not at risk of Sea (Tidal) Flooding and low risk of River (Fluvial Flooding). The report also concludes the site is not at risk of other sources of flooding including surface water, ground water and artificial sources of flooding. The applicant has provided a Flood Risk Assessment, Drainage Strategy and a number of revisions/additional information to satisfy the Lead Local Flood Authority (LLFA) in relation to flood risk on site. The latest information was submitted to the Council by the applicant on 14th April 2023, following comments from the LLFA that there was still some information required to demonstrate an acceptable drainage Strategy. This information is considered to relate to the finite detail of the scheme which can be finalised and agreed prior to determination of the application. The recommendation above reflects this.

Ground Contamination and Environment

The application site is currently and has historically been used for industrial/commercial activities. The applicant has provided a contaminated land investigation – ‘Geo-Environmental Investigation Report’, Ref: 21-1501-P-R2, April 2022, by Obsidian Geo-Consulting Limited.

The investigation identifies that while there is some contamination present within the ground, given that the intention is for a commercial development, the levels are not excessive, and no treatment will be required.

The investigation has identified the presence of elevated ground gas levels, albeit with very little flow. Based on the levels and the guidance provided by contaminated land guidance documents, CIRIA 665, the consultants are advising that the building foundation design needs to incorporate ground gas protection measures. Environmental Protection agrees with this recommendation.

Given that part of the site is still occupied and will require investigation, a condition is recommended in relation to further site investigations and an agreed remediation statement to be implemented.

The Environment Agency have advised, *‘the development site is located on the Coalbrookdale Mudstone formation, which are designated a Secondary B Aquifer by the Environment Agency. Superficial River Terrace deposits, designated a Secondary A Aquifer, are also indicated to be present. These deposits may be in hydraulic connectivity with the River Tame, which is located in proximity to the site. The site is not within a groundwater Source Protection Zone.*

We have reviewed the information submitted in support of this application: ‘Geo-environmental Investigation Report – Land to the west of Walsall Road, Walsall WS5 4AN’ Obsidian Geo-consulting (April 2022). A site investigation scheme has been carried, involving sampling and analysis of soils against an appropriate contamination suite. Significant concentrations of contaminants were not identified during the investigation and concentrations of hazardous contaminants were predominantly below laboratory limits of detection. It should be noted that groundwater was not identified or sampled during the site

investigation, and therefore the information submitted to date can be considered limited in its assessment of risk to controlled waters.

Given the historical uses of the site, the Environment Agency recommend that a condition be included on any planning permission granted in order to deal with any unsuspected contamination subsequently identified during the re-development of this site. This is to ensure that any contamination identified during re-development that may represent a risk to controlled waters is appropriately dealt with'. A condition will be attached which covers both the request of Environmental Protection and the Environment Agency is relation to ground contamination investigations.

Air Quality

The Applicant has submitted an updated air quality survey, 'Air Quality Assessment', by NALO, Tetra Tech, Ref. 784-B031433, 21st June 2022. The report confirms that the predicted contributions from the use of the store is only going to have a minor contribution to air quality levels. Given the proposed store is located very near to the M6 motorway, as expected that the main contribution in this area will continue to be vehicles using the M6 motorway.

The Assessment considers the tighter air quality limits prescribed within the Environment Act 2021, which is recommended by Environmental Protection for all air quality assessments. The Assessment has however not considered the World Health Organisation Global Air Quality Guidelines 2021.

The application site is below/close-by to the M6 motorway, therefore levels of air pollution and noise are already at high levels. Having reviewed the environmental reports submitted with the application, Environmental Protection are of the opinion that the proposed store will not significantly add to the existing air quality and noise pollution levels.

The Black Country Air Quality Supplementary Planning Document (SPD) remains relevant. The SPD sets out guidance on minimising air quality impacts, in particular the requirements for promotion of alternative travel choices.

Section 5.6 of the SPD advises 5% of parking provision will be sought with charging points to comply with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. Appropriate cable provision shall be in place for a further 5% to meet any future increase in demand. From the application, the Site Plan indicates that the proposed car park will include 2 charging points. This is short of the SPD requirements of 5%, for the proposed 100 spaces, i.e. a minimum of 5 Charging Points will be required. Environmental Protection are of the opinion that the Applicant needs to increase the number of Charging Points and provide provision (infrastructure) for further Charging Points which will be secured via condition.

The Applicant has submitted a Travel Plan with their Application, 'Travel Plan', Proposed Lidl Food Store Land west of Walsall Road, by SCP, February 2022, Doc Ref: SCP/190922/TP/00, which includes an Action Plan that meets the requirements of the Air Quality SPD.

Noise

The applicant has included a 'Noise Impact Statement', by Acoustic Consultants Ltd, Reference: 9523/FD, February 2022. This indicates that based on the current locality, there should not be any significant noise impacts. Environmental Protection agrees with the assessment and do not require any further assessment or restrictions.

Planning Obligations/S106 Agreement

A Travel Plan has been submitted in support of the application. The Travel Plan includes details of a monitoring programme. Due to the inclusion of monitoring the Travel Plan will be secured by legal obligation through a S106 agreement.

Conclusions and Reasons for Decision

The proposal in principle is considered acceptable.

The design of the proposed development is considered acceptable.

The proposed development would not unduly harm the amenities of neighbouring residents.

The proposed access and car parking is considered acceptable.

The proposal complies with the NPPF, Policies CSP4, CSP5, CEN7, TRAN2, TRAN4, TRAN5, ENV3, ENV5 of the BCCS, saved policies GP2, ENV10, ENV11, ENV14, ENV32, ENV33, ENV35, ENV40 of the UDP, policies NE4 to NE6 of Conserving Walsall's Natural Environment, Policies DW1 to DW10 of Designing Walsall SPD and the Air Quality SPD.

Taking into account the above factors it is considered that the application should be recommended for approval subject to addressing outstanding matters as set out.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding requiring a planning application being made to Sandwell Council due to the access being within their borough, an application has been submitted in which their Local Highway Authority has confirmed support.

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 PL-01 Rev A submitted 07/02/23
- Proposed site plan drawing PL-03 Rev M submitted 17/03/23
- Proposed Building Plan PL-04 Rev B submitted 17/03/23
- Proposed Roof Plan PL-05 Rev B submitted 17/03/23
- Proposed Elevations PL-06 Rev A submitted 07/02/23
- Proposed levels Strategy 105 Rev P3 submitted 03/11/22
- Proposed Drainage Strategy Plan 104 Rev P4 submitted 03/02/23
- Noise Assessment submitted 14/02/23
- Luminare schedule and Proposed lighting layout submitted 17/03/23
- Lighting Calculations submitted 17/03/23

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- Landscape strategy Rev B submitted 14/02/23
- Flood Risk Assessment Report submitted 17/03/23
- Suds Maintenance Plan submitted 03/02/23
- Drainage Design Report submitted 03/02/23
- Transport Assessment submitted 17/03/23
- Travel Plan submitted 17/03/23
- Arboricultural Impact Assessment 17/03/23
- Air Quality Assessment submitted 14/02/23
- Ecological Impact Assessment submitted 21/12/22
- Geo Environmental Investigation Report submitted 30/08/22
- Biodiversity Metric 3.1 Calculation Tool submitted 03/02/23
- Biodiversity Metric 3.1 Habitat Condition Assessment Sheets with Instructions submitted 03/02/23

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. No development shall take place until the site access shown on the Proposed Site Plan, drawing no. PL-03 Revision M has been completed. The site access shall thereafter be retained for the lifetime of the development.

Reason: To improve accessibility to the site in accordance with saved UDP Policies GP2, T8 and T10.

4a. Prior to demolition and removal of any buildings and/or structures hereby permitted a site survey to identify any potentially hazardous materials including asbestos shall be carried out and a Method Statement shall be submitted to the local planning authority and agreed in writing detailing actions and time scale to be taken to prevent localised contamination, including how and where the hazardous materials will be removed from site and to where it will be removed too.

4b. Following demolition and removal of any buildings and/or structures a validation report shall be submitted to the Local Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials therein. Including any mitigation measures put in place to control risks to future occupiers

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved policies GP2 and ENV18.

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

- i) Prior to the commencement of development hereby permitted, a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- ii) Prior to the commencement of development hereby permitted a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted in writing to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

- iii) The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- iv) If during the undertaking of the approved remedial works or during the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and has been submitted in writing to and agreed in writing by the Local Planning Authority.
- v) A validation report setting out and confirming the details of the remedial measures implemented, cross referencing those measures with the approved Remediation Statement, together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted in writing to and agreed in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)
- vi) The development shall not be carried out otherwise than in accordance with the approved Remediation Statement.
Reason: To ensure safe development of the site and to protect human health and the environment. In addition, to meet the requirements of the National Planning Policy Framework (2019) 170 and 178.

6a. Prior to the commencement of development hereby permitted 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 in writing to and approved in writing by the Local Planning Authority.

6b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

6c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

7a. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

1. Construction working hours
2. Parking and turning facilities for vehicles of site operatives and visitors
3. Loading and unloading of materials
4. Storage of plant and materials used in constructing the development
5. A scheme for recycling/disposing of waste resulting from construction works
6. Temporary portacabins and welfare facilities for site operatives
7. Site security arrangements including hoardings

8. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
9. Measures to prevent flying debris
10. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
11. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
12. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

7b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

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.

8. Prior to the commencement of development (including vegetation / site clearance) until an Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the Walsall Council. The plan should include:

- i. Tree protection plan;
- ii. Vegetation removal outside bird nesting season (Sept to Feb);
- iii. Sensitive Lighting scheme to avoid light spill to protect bats, detailing the provision of lighting across the site, in accordance with guidance outlined in Note 08/18 bats and artificial lighting in the UK, Bats and the Built Environment Series, BCT, 2018;
- iv. Precautionary working practices in respect to badgers, bats, nesting birds and hedgehogs.

9. Prior to the commencement of development a Landscape and Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The content of the LEMP should include the recommendations for habitats and species outlined within the Ecological Impact Assessment dated May 2022 and the management proposals for the green infrastructure onsite. This should include:

- i. Retained trees and shrubs and tree and shrub planting incorporated within the design.
- ii. Provision of two bird boxes (25mm and 32mm entrance hole box or similar) attached to or integrated within new building or retained trees on site; and
- iii. Provision of two bat boxes attached to or integrated within new building or retained trees on site.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

10. Notwithstanding the submitted information, If bat/s or evidence of bats are found during the demolition of the building:

- i. The works should halt until Natural England or the ecologist for this project is consulted.
- ii. The bat/s should not be handled or touched, and the vicinity of the roost shall be immediately reinstated.
- iii. No further destructive works shall be carried out to the building until the need for Natural England licence has been established.
- iv. Within one week of finding bats or evidence of bats, a written report by the ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
- v. Work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued.
- vi.

Reason: to conserve local bat populations and to be in accordance with National legislation; wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural habitats, & c.) Regulations 1994.

11a. Prior to the commencement of building operations above damp-proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

11b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

11c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

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 and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

12a. Prior to the occupation of any part of the development hereby permitted, details of the proposed covered and illuminated cycle shelters including their locations within the site, shall be submitted in writing to and approved in writing by the Local Planning Authority.

12b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

13. Provision of a 4-metre easement is required to allow for the ongoing inspection and maintenance of the M6/M5 off slip.

Reason: To ensure the continued safe and efficient operation of the M6/M5 off slip and structural integrity of the existing carriageway retaining wall.

14. Should the assessment of existing retaining structures by a structural engineer identify the requirement for installation of new retaining structures, removal and replacement with structured, compacted fill material along the South West boundary with the M6, as identified in the submitted Geo-Environmental Desk Study Report dated February 2022, details of the proposed design, materials, and construction methodology for fill materials and retaining structures shall be submitted to the Council and approved in consultation with National Highways in writing prior to their construction.

Reason: To ensure the continued safe and efficient operation of the M6/M5 off slip and structural integrity of the existing carriageway retaining wall.

15. Notwithstanding the submitted information, 5 Electric Vehicle Charging points will be required, specification to be met Building Regulations Approved Document S.

Reason: To meet the requirement of part 5.6 of Walsall Council Air Quality SPD.

Notes for Applicant

Environment Agency

The applicant should note that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 183), *'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'*. Therefore, should any significant contamination subsequently become apparent then responsibility will remain with these parties.

Notes for Applicant – Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2018; British Standard BS10175: 2011 +A2:2017 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); Land contamination risk management (LCRM) or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

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

CL3

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

Note to Applicant Air Quality SPD

The applicant is to provide at least 5 electric vehicle charging points and infrastructure for additional charging points should there be sufficient

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

The electric vehicle charging point parking provision for commercial premises is **5%** of points to comply with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw, with appropriate cable provision in place for a further 5% to meet any future increase in demand.

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

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

Fire Officer

Comments as per previous response on 21/04/22. Objection raised as it appears the requirements of ADB Vol 2, 16.8 have not been met. The nearest hydrant appears to be in excess of 260m.

Approved Document B, Volume 2, Buildings other than Dwellings, 2019.

Requirement B5: Access and facilities for the fire service

Section 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

a. 15% of the perimeter.

b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors)

Design of access routes and hard-standings

15.7 Access routes and hard-standings should comply with the guidance in Table 15.2.

Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height. a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter. b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 15.2)

Section 16: Fire mains and hydrants

Provision of private hydrants

16.8 A building requires additional fire hydrants if both of the following apply.

- a. It has a compartment with an area more than 280m².
- b. It is being erected more than 100m from an existing fire hydrant.

16.9 If additional hydrants are required, these should be provided in accordance with the following.

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.
- b. For buildings not provided with fire mains – hydrants should be both of the following.
 - i. Within 90m of an entrance to the building.
 - ii. A maximum of 90m apart.

16.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251.

16.11 Guidance on aspects of provision and siting of private fire hydrants is given in BS 9990.

Water

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

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

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

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 8)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

Secured By Design

Consider construction security.

https://www.securedbydesign.com/images/CONSTRUCTION_SITE_SECURITY_GUIDE_A4_8pp.pdf

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

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

I would recommend security using the principles of Secured By Design.

Below is a link to secured by design guides, including Commercial, police approved crime reduction information.

<https://www.securedbydesign.com/guidance/design-guides>

Below is a link to secured by design commercial, police approved crime reduction information guidance.

https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf

Secured By Design security standards are explained.

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

END OF OFFICERS REPORT

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 27 April 2023

Plans List Item Number: 2

Reason for bringing to committee

Called In by Head of Planning as required committee consideration due to Significant Community Interest and Impacts

Application Details

Location: AAINA WOMENS CENTRE, BATH ROAD, WALSALL, WS1 3BS

Proposal: DEMOLITION OF EXISTING COMMUNITY HUB AND CONSTRUCTION OF NEW 2.5 STOREY (FRONT ELEVATION) AND 3 STOREY (REAR ELEVATION) REPLACEMENT COMMUNITY HUB WITH REAR DORMER WINDOWS AND BALCONIES, COURTYARD PARKING AND COURTYARD GARDEN. PROPOSED BOUNDARY RAILINGS AND ENTRANCE GATES (RESUBMISSION OF PLANNING APPLICATION NO. 21/1789)

Application Number: 23/0146

Case Officer: Helen Smith

Applicant: Aaina Community Hub

Ward: St Matthews

Agent: Potter Church and Holmes Architects

Expired Date: 02-Apr-2023

Application Type: Full Application: Minor Use Class F2 (Local Community)

Time Extension Expiry:



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Recommendation

Refuse

Proposal

This proposal is a resubmission of an amended planning application following the refusal of a previous planning application (reference no. 21/1789).

The current proposal is for the demolition of existing community hub building and the proposed construction of new 2.5 storey replacement community hub. The building would be 3 storeys high to the rear. The new building would include rear dormer windows and balconies, courtyard parking, courtyard garden, boundary railings and entrance gates. The existing community hub is a two storey flat roof building

The submission states that whilst changes have been made to the design, they have not changed the size of the proposed building as this is required to allow for the delivery of essential services to the local community.

The proposed new building would include a main hall for intergenerational activities, exercise and well-being classes, and rooms for hire for the delivery of services such as consultations, polling station and community events. An ancillary community café would be included to provide catering training and provide hot food for vulnerable adults. Storage facilities, garden/courtyard area, offices/meeting room, plant room and IT suite would be included.

The planning statement comments that the proposed new building would be positioned further back into the application site than the original building to avoid obstructing the view of St Michaels' and All Angels Church. The proposed front elevation would sit 10.2 metres back from Bath Road public footpath.

There are no changes proposed to the height, footprint, or internal layout of the proposed new building. The proposed height of the building is unchanged from the previous proposal. The land slopes down towards the rear of the application site and the proposed heights of the new building are;

- Rear elevation (west) – 11.4 metres high
- Front Elevation (East) – between 8.8 and 10.9 metres

The Planning Statement advises that the rear cavity of the existing building is filled with soil to bring this up to pavement level.

Site elevation drawings have been provided to demonstrate how the proposed new building would sit in the landscape and in relation to adjacent buildings along with a plan showing the footprint of the existing building to be demolished in relation to the footprint of the proposed new building. An analysis of window form in relation to St

Michael's Church has also been provided referring to triplets of large and small windows in both buildings.

To the rear of the proposal there are balconies at first and second floor level along with a rear dormer roof extension which would measure 21.9 metres in width and would extend a maximum of 3.9 metres from the roof plane (excluding dormer roof overhang). Sky lights would be installed in the front roof elevation at ridge height.

The roof would have a gable design with photovoltaic panels added to the rear roof slope. Side facing windows are proposed at ground, first and second floor level.

The proposal includes the provision of 9 off-street car-parking spaces. There are mature trees along the northern boundary of the site which are not subject to Tree Preservation Orders.

The proposed cycle racks and bin stores have been relocated to a less prominent position to the rear of the building below the proposed first floor balcony. Additional tree planting has been shown on the site plan to the front of the property and the proposed front boundary wall has been reduced in height from 500mm to 450mm with railings over. The proposed side facing boundary walls with railings over, at the front of the proposal, have also been reduced in height.

The proposal includes a proposed change of materials to include red brick work, timber cladding and natural slate roof which is a change from the previously proposed standing seam roof and yellow/orange glazed brick inserts. The planning statement refers to the removal of a canopy, which was originally to be from the front gates to the front door of the building on the revised proposal.

The planning statement refers to the incorporation of green energy efficient measures to reduce the cost of heating and lighting and to reduce the carbon footprint.

The planning statement refers to a 3 storey social housing project directly opposite the church which they consider competes visually with St Michael's Church in terms of scale and blocks the front view of the church.

The application is supported by the following documents;

- Asbestos Survey
- Coal Mining Report
- Design and Access Statement
- Heritage Statement
- Drainage and Water Report by Severn Trent
- Environmental Report by Landmark
- Letter of support from IQRA Supplementary School and Youth Provision
- Non Residential Mining Report
- Phase 1 Contaminated Land Assessment
- Planning Statement
- Topographic Survey
- Traffic Statement

The Heritage Statement outlines the alterations to the proposed scheme since the refusal of the previous application as:

- Alterations to the proposed railings;
- Replacement of double doors with lower gates;
- Removal of the covered walkway;
- Removal of yellow accent panels;
- Planting between the car parking area and the church wall;
- Slate roof

Site and Surroundings

The application site is a rectangular parcel of land on the western side of Bath Road and the northern side of Carless Street.

The application site is an existing brick built community centre on Bath Road and the building is of flat roofed construction circa 1970's. The site is situated on a parcel of land adjacent to St Michael's and All Angels Church, a Grade II Listed Building fronting Bath Road and St Michaels Road.

The application site is located on the edge of the Highgate Conservation Area and Caldmore Green Conservation Area is situated approximately 100 metres to the west of the site. There are a number of locally listed buildings in the immediate area including no's. 27a and 39 Bath Road. Caldmore Green Conservation Area is listed on the Heritage at Risk Register as "very bad" and "no significant change".

The site is 120 metres from the edge of Caldmore Local Centre. Caldmore Road sits at a lower level than Bath Road.

In addition to the above neighbouring 39 Bath Road and 27a Bath Road are locally listed buildings.

Caldmore Community House is separated from the site by a distance of 40.6 metres.

The application site slopes down in a westerly direction by approximately 2.7 metres. To the south of the application site is Carless Street, a cul-de-sac.

The existing building has an adjacent car park and to the rear of the application site is a community garden. To the south west of the site, off Carless Street cul-de-sac, is Caldmore Village Primary School.

Relevant Planning History

21/1789 - Demolition of existing community hub and construction of new 2.5 storey replacement community hub with rear dormer windows and balconies, courtyard parking and courtyard garden. Proposed boundary walls, railing, and gates – refused permission on 10/8/22 on the following grounds;

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1. The proposed development competes with the Grade II Listed Church St Michael's, and would obscure views of this designated heritage asset from Bath Street. The proposed development is not considered sympathetic to the character and appearance of the locality and fails to preserve or enhance the character and appearance of the Highgate Conservation Area. This proposal results in less than substantial harm to designated heritage assets; the public benefit of the redevelopment of the site would not outweigh the harm arising in particular due to the size, height and scale of the development and its impact on the existing heritage assets. Furthermore the application fails to demonstrate that the proposal would comprise the most optimum viable use which would cause the least harm to the significance of the heritage assets contrary to Saved Policies GP2 Environmental Protection and ENV27 Buildings of Historic or Architectural Interest of Walsall's saved Unitary Development Plan, Policies ENV2 Historic Character and Local Distinctiveness and ENV3 Design Quality of the Black Country Core Strategy, DW3 Character and DW9 High Quality Public Realm of the Designing Walsall SPD and paragraphs 195 and 202 of the National Planning Policy Framework 2021.
2. The proposed development would be detrimental to the character and appearance of the locality when weighing up the merits of the scheme in relation to the provision of a community facility the proposal cannot be supported on visual impact grounds as the proposal fails to provide sufficient benefit that would overcome the impact on the character and appearance of the area and is therefore contrary to Saved Unitary Development Plan Policies GP2 Environmental Protection and ENV32 Design and Development Proposals, Black Country Core Strategy Policies CSP4 Place Making, and ENV3 Design Quality, DW1 Sustainability, DW2 Safe and welcoming places DW3 Character of the Designing Walsall SPD and Chapter 12 paragraph 130 of the NPPF 2021.

This previous planning application is the subject of an appeal to the Planning Inspectorate reference no. APP/V4630/W/23/3316356. This was confirmed by PINS on 09/02/23 but has yet to be determined.

07/0848/FL - Residential flat to be converted to a community centre – GSC 20/06/2007

Relevant Legislation, Policies and Guidance

Legislative Context

- **Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990**

16(2) In considering whether to grant listed building consent for any works the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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66 (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

72 (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Case Law

E Northants DC v Secretary of State for Communities and Local Government [2014] EWC A Civ 137) confirms that the duties imposed under the Act indicate that where harm to a listed building or conservation area or its setting is identified this a matter to which great weight and importance should be attached in the planning balance.

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**
- **NPPF 16 – Conserving and enhancing the historic environment**

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

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- 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
- LC8: Local Community Facilities

Black Country Core Strategy

- CSP4: Place Making
- HOU5: Education and Health Care Facilities
- CEN7: Controlling Out-of-Centre Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

EN5: Development in Conservation Areas

T4: The Highway Network

Supplementary Planning Document

Designing Walsall

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

Planning Practice Guidance

- Design: Process and Tools
- Historic Environment
- Use of Planning Conditions

National Guidance

- National Design Guide

Other Policy/Guidance

- National Design Guide
- Historic England Good Practice Advice Note 1: Conservation Area Designation, Appraisal and Designation.
- Historic England Good Practice Advice Note 2: Managing Significance in Decision-Taking in the Historic Environment.
- Historic England Good Practice Advice Note 3: The Setting of Heritage Assets.
- Historic England Advice Note 12: Statements of Heritage Significance: Analysing

Significance in Heritage Assets.

- Black Country Historic Landscape Characterisation (2009)
- Highgate Conservation Area Appraisal and Management Plan.
- Caldmore Green Conservation Area Appraisal and Management Plan.

- Historic Environment – Guidance, Gov. UK, updated 23/7/19

Consultation Replies

Archaeology – No archaeological implications

Coal Authority – No objections subject to the inclusion of the Coal Authority's standing advice if the application is approved.

Conservation Officer – Objects

Designing Out Crime Officer – No objections and recommend the principles of Secured by Design which can be included as an informative note

Environmental Protection – No objections subject to the inclusion of planning conditions in respect of asbestos removal, implementation of a Demolition and Construction Management Plan and to ensure that any imported soils are safe for intended use, if approved.

Fire Officer – No objections subject to compliance with Approved Document B, Volume 2, Dwellings, 2019 Edition incorporating 2020 and 2022 amendments - for use in England. An informative can be included for the applicant.

Historic England – No specific comments but confirm that the views of the Council's specialist Conservation Officer are sought.

Local Highway Authority – No objection subject to the inclusion of planning conditions in respect of hard-surfacing of the parking area, retention of parking spaces, cycle racks, construction methodology statement required and an informative note to keep the highway free from mud etc. if this proposal is approved.

Severn Trent Water – No objections subject to the inclusion of a drainage condition for the disposal of foul and surface water flows and an informative that there may be a public sewer located within the application site if the proposal is approved.

Representations

(Local Planning Authority comments are in brackets and italics)

Objections have been received from 4 residents on the following grounds;

- Loss of natural light
- Privacy
- Outlook restricted
- Parking
- Increased noise and disturbance
- Increased traffic

- Increased visitors to the site
- Air quality
- Alternative site should be considered *(the Local Planning Authority is required to assess the planning application as submitted)*
- Extend the community garden into this site *(the Local Planning Authority is required to assess the planning application as submitted)*
- Trees already removed *(there are no protected trees within the site however trees within Conservation Areas are protected)*
- Disruption during construction works *(there would be some disruption during construction however the potential impacts can be managed by a Construction Environmental Management Plan, if approved)*
- Working people cannot view the plans *(the plans are available to view online and if there are difficulties in accessing the internet an alternative provision can be provided on request)*
- Glare from solar panels *(a planning condition can be included requiring anti-glare surfaces on solar panels if approved)*
- Danger to children using the school from increased traffic
- Loss of views *(there is no right to a view in this instance)*
- Impact on historic church

Representations supporting the proposal have been received from 8 residents/centre users on the following grounds:

- Valuable community service
- Caters for the needs of women and children
- Teaches vocational skills
- Current building is too small, old, and difficult to heat
- Outdated toilets
- Kitchen too small
- Well used community asset

Determining Issues

Whether the application has addressed the reasons for refusal of the previous application or raises any new issues in respect of;

- Principle of Development
- Previous Refusal Reason 1 – Impact on Heritage Assets
- Previous Refusal Reason 2 – Design and Visual Impact
- Amenity of Neighbours
- Asbestos
- Ground Conditions and Environment
- Trees
- Parking and Access

Assessment of the Proposal

Principle of Development

This matter was considered by the previous planning application and Planning Policy indicated that while this is a proposed out of centre use, they advised that they would support an F2 use in this location, out-of-centre, given that this does not represent a centre use in the most up-to-date national guidance.

The facility is considered represents a much needed and valued community use that is widely supported in local strategy, offering expanded benefits for the social welfare, health and cohesion of the surrounding community that is has already long served in situ. The justifications previously provided in support of this proposal in planning policy terms was considered to be acceptable in principle.

Refusal Reason 1 – Impact on Heritage Assets

1. The proposed development competes with the Grade II Listed Church St Michael's, and would obscure views of this designated heritage asset from Bath Street. The proposed development is not considered sympathetic to the character and appearance of the locality and fails to preserve or enhance the character and appearance of the Highgate Conservation Area. This proposal results in less than substantial harm to designated heritage assets; the public benefit of the redevelopment of the site would not outweigh the harm arising in particular due to the size, height and scale of the development and its impact on the existing heritage assets. Furthermore the application fails to demonstrate that the proposal would comprise the most optimum viable use which would cause the least harm to the significance of the heritage assets contrary to Saved Policies GP2 Environmental Protection and ENV27 Buildings of Historic or Architectural Interest of Walsall's saved Unitary Development Plan, Policies ENV2 Historic Character and Local Distinctiveness and ENV3 Design Quality of the Black Country Core Strategy, DW3 Character and DW9 High Quality Public Realm of the Designing Walsall SPD and paragraphs 195 and 202 of the National Planning Policy Framework 2021.

The amended planning proposal has made minor changes to the initial proposal however the scale, mass, footprint, positioning and height of the proposed new building is unchanged.

Consequently, the proposed development is considered would compete detrimentally with the neighbouring Grade II St Michael's and All Angels Church and would detrimentally obscure long views of this designated heritage asset when looking northwards along Bath Road.

The proposed built form and design of the part 2.5 and 3 storeys high development is considered unsympathetic and would cause lasting visual harm to the historic character of the neighbouring listed church, two designated Conservation Areas, one of which is recorded on the Heritage at Risk Register and the immediate locality.

The Council's Conservation Officer has been re-consulted on the revised proposal and has maintained their objection on heritage grounds.

The Conservation Officer has advised that the proposed building has a large expanse roof that would overhang the building and with the fortress type boundary, albeit reduced in height, along the frontage of the site, the proposal would dominate views of the church from Bath Road. The submitted Heritage Statement states a flat roof building is out of character with the surrounding buildings and whilst this is considered the case, it is also considered that the existing building could have been deliberately designed to retain views of the church along Bath Road.

The proposed building is shown to be set back approximately 4.4m and 1m from the position of the original staggered building line. However, the existing building is irregular in shape and staggered in height part two storey, part single storey. The existing two storey element extends 9m in length across the frontage and then steps in by 4.4m to then extend 10m in length. The proposed building now extends 23m in length across the site, closer to the boundary with Carless Avenue at a height of 11m, which would be visually prominent in the street scene. The proposed building competes with the listed church due to its height. Historically, buildings surrounding the church would have been two storey and whilst some three storey development has been allowed opposite the church, these are on the opposite side of the road and seen in content of the continued development along the eastern side of Bath Street.

The Heritage Statement states 'The OS map of 1885 shows substantial buildings tight to the back of pavement line on the site of the current community hub, with a wooded gardens behind. The substantial building on the corner ("presumably a house" – See Heritage Statement) would have obscured the long views of the Church, built at that time, from Bath Street to the south, and therefore the church was never designed with such long views as being important elements in its visibility in the urban context of Bath Road'. There is no evidence to suggest that any building sitting tight along Bath Road at the junction of Oxford Street (as it was known then) would have obscured long views of the church. The dwelling most likely would have been two stories high, with rear two storey and single storey wing, following on from the established pattern of development.

Furthermore, there is a gap between the development at the junction of Oxford Street and Bath Road and the built development to the west of that, where views of the church would have been visible. St Michael's and all Angels Church has a high level of significance emanating from its Grade II listed status. The key issue is to safeguard the significance of the listed church to ensure any new development is subservient to the church and to avoid harm to the setting of the listed church.

Previously, the Conservation Officer stated that the proposed building blocked views of the church, other than the chancel and apse when looking north from Bath Road. This remains the case.

The Heritage Statement states, 'the eaves of the new community hub remain subservient to the eaves of both the chancel and nave of the church'. The church is the most prominent building on the western side of Bath Road. The submitted scheme, blocks even more of the views of the church from Bath Road and especially more so

with the proposed boundary wall and railings, albeit the boundary having been slightly reduced in height.

The proposed rear elevation of the building would be seen from the access road adjacent number 2 St. Michael Street, leading to the car park and rear of the commercial properties along Caldmore Road and from Caldmore Road itself. Caldmore Road sits at a lower level than Bath Road. The proposed three storey development together with the large expanse roof including the continuous flat roof dormer and numerous solar panels are considered would not only dominate the skyline but would be seen as a visually prominent and visually detrimental development that would harm the significance and setting of the Listed church. Whilst, this harm would be less than substantial it is considered that the scale of harm would be weighed as medium to high. Furthermore, the proposed development would tower above existing two storey development, especially given the site is set at a higher level than 12 Carless Street.

The eaves of the proposed building still appear to be higher than the church, and the pitch of the roof sits in line with the church. The proposed building due to its height and width is prominent and dwarfs the church impacting upon its setting and harming the significance of the listed church. While this harm would be less than substantial the scale of harm would be weighed as medium to high.

The site is on the edge of Highgate Conservation Area. The design and height of the proposed development with its large expanse roof together with the proposed boundary treatment is considered would not enhance or preserve the character or appearance of Highgate Conservation Area. Furthermore, the proposed development, due to its height and design, is considered would be harmful to the setting of Highgate Conservation Area. Whilst this harm would be less than substantial the scale of harm would be weighed as medium to high.

The Caldmore Green Conservation Area is located to the west of the site, beyond the residential properties fronting Bath Road; the proposal would have less than substantial harm to the significance of the heritage asset and the scale of harm would be weighed as low.

The design of the proposed building is considered to have been designed as one large box with a large pitch roof housing one large flat roof dormer. The Heritage Statement states, 'the new ridge height would be below the eaves height of the church'. The submitted visuals do not show the roof height to be lower than eaves height of the church.

The solid to void relationship on the front elevation is considered to be unbalanced. The window design and proportions do not relate or reflect the existing character of the street scene and the smaller square windows look out of keeping with the design appearing to be 'swallowed up' by the solid form of the built development on the right-hand side and fail to add any meaningful design or character to the building.

The left-hand windows at first floor leaves a larger gap between the first floor and the roof. The drawing submitted seems to illustrate that the proposed centre is subservient to the church, when in fact the submitted visual show the opposite.

The proposed development, due to its design including an overhanging roof and unbalanced solid to void proportions, height, scale, mass, represents poor design that fails to integrate with the existing pattern of development. The proposal fails to respect, preserve, and enhance the local historic and architectural character of the area and the local townscape quality. Furthermore, the proposed development due to its large bulky design would be visually prominent within the street scene.

Soft landscaping and trees along Bath Street, in particular St Michael's Church are visually prominent due to the low boundary walls and railings. Existing properties along Bath Road have low level boundary walls with hedges behind. The boundary to the listed church consists of a low wall with railings on top that allow views into the church grounds and the church. The proposed landscaping is shown behind the proposed boundary wall, meaning it would be hidden by the boundary wall. No planting details have been provided. Planting is proposed adjacent the boundary wall, where sunlight would be limited. The introduction of a fortress like boundary treatment of a wall with railings on top is not characteristic of the street scene and does not promote high quality development that visually enhances the street scene. The proposed boundary treatment would visually detract from the character and appearance of the street scene.

The cycle stands have been positioned to the rear of the site along with the bin store, which is positioned adjacent to Carless Street. There are no details showing the refuse area. Any cycle facilities would need to be designed into the scheme as an integrated feature for safety and security reasons to design out crime.

The proposed revised materials include red brick and a slate roof, which would be acceptable subject to exact colour matches being agreed by planning condition, if the proposed development were to be supported. However, the timber cladding either side of the proposed front door is not characteristic to any design or architectural features along Bath Road and would be seen as out of character in the street scene.

The previous refusal reason refers to the proposal failing to demonstrate that this would comprise the most optimum viable use of the site, which would cause the least harm to the significance of the heritage assets. The optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes.

The Case Officer is of the opinion that the requirement to consider the optimum viable use relates specifically to heritage assets rather than to a neighbouring development, such as the proposed new community hub being considered, which is not, in itself, a heritage asset. The NPPF (2021) however, requires that any harm to designated heritage assets is weighed against the public benefits of the proposal and this has been commented upon in the section titled Refusal Reason 2.

Consequently, it is considered that the amended proposal would harm the setting and significance of the listed church. The proposed development would not be sympathetic to the setting of a listed building and fails to improve the character and quality of the historic area and represents poor design. It is considered that the proposal fails to enhance and preserve the character and appearance of Highgate conservation area, the proposal is contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

In view of the above concerns it is considered that the revised proposal fails to address the first refusal reason.

Refusal Reason 2 – Design and Visual Impact

2. The proposed development would be detrimental to the character and appearance of the locality when weighing up the merits of the scheme in relation to the provision of a community facility the proposal cannot be supported on visual impact grounds as the proposal fails to provide sufficient benefit that would overcome the impact on the character and appearance of the area and is therefore contrary to Saved Unitary Development Plan Policies GP2 Environmental Protection and ENV32 Design and Development Proposals, Black Country Core Strategy Policies CSP4 Place Making, and ENV3 Design Quality, DW1 Sustainability, DW2 Safe and welcoming places DW3 Character of the Designing Walsall SPD and Chapter 12 paragraph 130 of the NPPF 2021.

The proposal has changed little from the initial proposal in terms of its built form, position, height and scale and the concerns of a detrimental visual impact from this proposed development remain as outlined in the previous comments given under Refusal Reason 1 above.

The amended planning proposal has made minor changes to the initial proposal however the scale, mass, footprint, positioning and height of the proposed new building is unchanged.

Consequently, the proposed development is considered would compete detrimentally with the neighbouring Grade II St Michael's and All Angels Church and would detrimentally obscure long views of this designated heritage asset when looking northwards along Bath Road.

The proposed built form and design of the part 2.5 and 3 storeys high development is considered unsympathetic and would cause lasting visual harm to the historic character of the neighbouring listed church, two designated Conservation Areas, one of which is recorded on the Heritage at Risk Register and the immediate locality.

The NPPF (2021) however, requires that any harm to designated heritage assets is weighed against the public benefits of the proposal. In this instance it is recognised that the proposed development of the Aaina Community Hub would provide an improvement

to the existing facilities and services provided which would result in a public benefit for the users of the centre. However in this instance, it is considered that the proposed public benefits would not outweigh the harm, arising in particular from the proposed size, height and scale of the development in relation to its detrimental impact, on the existing Grade II listed St. Michael's and All Angels Church and the neighbouring Conservation Areas.

Case law confirms that the duties imposed under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, indicate that where harm to a listed building or conservation area or its setting is identified, this a matter to which great weight and importance should be attached in the planning balance. The case law referred to is *Northants DC v Secretary of State for Communities and Local Government* [2014] EWC A Civ 137). In this instance it is considered that the harm to the listed building and its setting and the harm to the Conservation Areas is unacceptable in this instance.

The proposed development is considered would not to be sympathetic to the setting of a listed building and fails to improve the visual character and quality of the historic area and represents poor design. The proposal cannot be supported on visual impact grounds as the proposal fails to provide sufficient benefit that would overcome the impact on the character and appearance of the area.

The proposal is considered fails to enhance and preserve the character and appearance of Highgate conservation area, the proposal is contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

Consequently, it is considered that the second refusal reason has not been satisfactorily addressed. The previous refusal reasons have been amended from the previous proposal to include more detailed reasons to clarify and assist with the understanding of the Local Planning Authorities concerns regarding this proposed development.

Amenity of Neighbours

The proposed development would sit 4.5 metres further back into the site than the existing building and there would be a separation distance of 24.6 metres between front habitable room windows in house no's 17 to 25 Bath Road. This distance would be slightly less for 27 Bath Road to 23.5 metres; however, this would exceed the Council's minimum recommended separation distance of 13 metres referred to in Appendix D of Designing Walsall, between habitable room windows and walls in excess of 3 metres high. This distance would limit the impacts of this proposal on neighbours existing natural light, privacy, and outlook.

36 and 35 Carless Street are dwelling houses and face north towards the application site. The proposed development would sit closer to these neighbouring houses than the existing building however as there would be a separation distance of 21.4 metres between habitable room windows and the side elevation of the building, along with the

northerly orientation of the development, it is considered that the impacts on amenity, natural light and outlook would be limited.

Caldmore Community Garden sits to the rear and west of the proposed new development. Proposed balconies would overlook this area and provide natural surveillance. As the site is in close proximity to Carless Street and the balconies could result in potential overlooking of house no's 35 and 36, screens could be provided to obscure the views from the balconies, which could be controlled by planning condition.

Concerns regarding noise and disturbance have been raised by neighbours however it is considered that whilst there would be some disruption for residents during construction works, if approved, this would be for a limited time-scale and the works could be managed by a Construction Environmental Management Plan.

Noise and disturbance from the proposed rear balconies as people would potentially be sitting and congregating in these outdoor areas is likely to result in some level of noise however this would already arise from the established community use, community garden, the adjacent school and church use such that a refusal on these grounds is considered inappropriate.

The amended proposal is considered to have not raised any new issues in respect of impacts on the amenity of neighbours.

Air Quality

Environmental Protection Officers have raised no concerns in respect of air quality.

Asbestos

Environmental Protection have advised that the asbestos survey has identified asbestos within several different locations of the existing building and prior to any demolition this will require removal by an appropriately licensed business.

Environmental Protection recommend that the applicant obtains written confirmation from the Asbestos Removal Company to confirm all asbestos has been removed prior to the demolition commencing if this proposal receives planning approval. This can be included as a planning condition and an informative note for the applicant if the planning application is approved.

Ground Conditions and Environment

The applicant has undertaken Desktop/Phase 1 contaminated land investigation. Based on the information obtained, Environmental Protection agrees with the Consultants that the land should not be significantly contaminated for the intended use. However, they have advised that care needs to be undertaken (a watching brief) in case any unexpected contamination is encountered.

Environmental Protection also advise that care is needed in the management of any made ground that is encountered during the demolition/construction works. Based on their previous experience with made ground, this often contains contaminants, which depending upon the final use may exceed recommended health exposure concentrations (usually if the land is to be used for residential purposes e.g. growing vegetables within gardens).

Consequently, the applicant will need to ensure that any topsoil and subsoil that is imported onto the site is of a quality that will not present a hazard to users of the garden areas, i.e. is not significantly contaminated for intended use. Records confirming that the imported material is not contaminated should be obtained from the supplier and filed for inspection if required by third parties.

In addition, Environmental Protection advise that the applicant needs to agree a Demolition Management Plan and Construction Environmental Management Plan to control local environmental impacts (noise, dust, debris, site drag-out) in writing with the Local Planning Authority. These can be combined documents or individual ones, depending upon whether the same contractor or management company is to be used. Planning conditions to address these concerns can be included if planning permission is granted.

Trees

Two trees have been removed from the site fronting Carless Street which is unfortunate as they provided good visual amenity for the surrounding area however these were not protected trees. A landscaping scheme would have been provided for by condition to ensure that the development provides good landscape quality if the proposal were recommended for approval.

Parking and Access

The Local Highway Authority (LHA) has commented that access to the car park is existing onto Bath Road which is a one-way northbound route, and it is considered that adequate visibility would be retained by the proposal being considered.

Cycle stands are provided to the rear of the building beneath the rear balcony for cover. Their implementation and retention can be conditioned.

The LHA comments that the proposal would provide 9 off-street parking spaces. In terms of T13 parking policy, which is based upon 1 space per 22sqm gross floor area, the development requires a maximum of 23 spaces, inclusive of two disabled bays. Taking into account the extant building requires 19 spaces, inclusive of two disabled bays, the difference is effectively a requirement for 4 additional spaces. The LHA advise that the submitted transport information states 'that new building will not require additional parking as 90% of service users reside in the locality and access the Hub by

foot, use public transport or cycle. Car parking spaces are primarily used by the Aaina Hub staff that commute to work. Around 5 to 6 car parking spaces are required at any one time on a daily basis. Additional car parking spaces are available to accommodate partner organisations visiting the site for meetings or external agencies facilitating sessions for service users'. On this basis the LHA consider that the level of parking provision is therefore considered acceptable.

Planning conditions in respect of hard-surfacing, sustainable drainage, retention of parking spaces and the provision of a Construction Environmental Management Plan are recommended along with an informative note to keep the highway free from mud and debris during construction, if approved.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed new development would fail to respect, preserve and enhance the local historic character of the area and would fail to integrate with the existing pattern of development, failing to provide high quality development that would improve and enhance the character and quality of the historic area. The proposal represents poor design.

The proposed development would be harmful to the significance and setting of St Michael's and All Angels church. Whilst, this harm would be less than substantial the scale of harm would be weighed as medium to high. The proposed development does not enhance or preserve the character, appearance or setting of Highgate Conservation Area.

Furthermore, when weighing the planning balance between public benefits of the and the design and visual impacts of the proposed development case law states that the duties imposed under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 indicate that where harm to a listed building or conservation area or its setting is identified then this a matter to which great weight and importance should be attached in the planning balance. It is considered in this instance that the harm to heritage assets is considered to outweigh the public benefits offered by this proposal and the proposal is recommended for refusal.

The proposal is considered to be contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

The Local Planning Authorities concerns were included in the previous refusal decision notice and the amended proposal has been assessed as presented.

Recommendation

Refuse permission

Reasons for Refusal

1. The proposed three storey development due to its design, including its large expansive overhanging roof of 23m in length, solar panels, large flat roof dormer, unbalanced solid to void proportions, height, scale, mass and layout would be visually prominent and would visually detract from the character and appearance of the street scene. It would fail to respect, preserve and enhance the local historic character of the area and would fail to integrate with the existing pattern of development, failing to provide high quality development that would improve and enhance the character and quality of the historic area. The proposal represents poor design. The proposed boundary would be visually prominent and visually detrimental in the street scene. The proposal is contrary to paragraphs 134 and 206 of the NPPF, Saved Policies GP2, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

2. The eaves of the proposed development would be higher than the church; the proposed development would compete with the Grade II Listed church, St Michael's and All Angels. The proposed development would dominate views of the church and block views of the church from Bath Road. The proposed development would be harmful to the significance and setting of St Michael's and All Angels church. Whilst, this harm would be less than substantial the scale of harm would be weighed as medium to high. The proposed development does not enhance or preserve the character, appearance or setting of Highgate Conservation Area. The proposal is contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV27, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

3. The proposed three storey development together with its large expanse roof including the continuous flat roof dormer and numerous solar panels would dominate the skyline and would be visually prominent and visually detrimental when viewed from the access road adjacent number 2 St Michael Street and from Caldmore Road. The proposed development would be harmful to setting of St Michael's and All Angels church. The proposed development does not enhance or preserve the character, appearance or setting of Highgate Conservation Area. The proposal is contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV27, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

4. No details of the bin store or planting scheme have been submitted to fully assess the proposal in line with Policies GP2 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, and Policy DW3 of Designing Walsall SPD.

END OF OFFICERS REPORT

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 27 April 2023

Plans List Item Number: 3

Reason for bringing to committee

The application has been called in by Councillor Flint who supports the proposal, on the grounds that the proposal provides the opportunity for new homes to the benefit of the wider Borough, the design of the proposal requires wider consideration and there will be no significant harm to the amenities of the surrounding area.

Application Details

Location: LAND TO THE REAR 107 AND 109, LICHFIELD ROAD, BLOXWICH, WALSALL, WS3 3LU

Proposal: DEVELOPMENT OF FOUR, THREE BEDROOM HOUSES AND ASSOCIATED PARKING AND LANDSCAPING (RESUBMISSION OF 22/0011)

Application Number: 23/0248

Case Officer: Thomas Morris

Applicant: Eric Russell

Ward: Bloxwich East

Agent: DCMS

Expired Date: 21-Apr-2023

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

Time Extension Expiry:



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Recommendation

Refuse Permission.

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Proposal

This application seeks full planning permission for the erection of four dwellinghouses with associated parking and landscaping at land to the rear of 107 and 109 Lichfield Road, Bloxwich. The application is a resubmission of the identical proposal at the site for the erection of four detached dwellinghouses and associated works (22/0011), which was refused in February 2023.

The 22/0011 application was also a resubmission of application reference 20/1222 at the site. The 20/1222 application was for the erection of five detached dwellinghouses and associated works and was refused in December 2021. The amended 22/0011 application, as well as this new application, sought to resolve the previous refusal reasons for the 20/1222 application and this report is set out as such.

With regards to the proposal under assessment here, the proposed dwellinghouses are detached, two-storey, comprising three bedrooms each and all feature the same design, albeit with no details submitted of the proposed materials to be used. The dimensions of the proposed dwellinghouses are approximately 8.5m (length) x 7.6m (width) x 8.2m (height to roof ridge) x 5m (height to roof eaves). The gross internal floor areas of the proposed dwellings are approximately 110sqm, comprising a living room, dining room, kitchen/breakfast/family room and WC at the ground floor and three bedrooms, a study and bathroom at the first floor.

The proposed site layout includes gardens to the rear of the new dwellings, comprising areas of approximately 70sqm (Plots 1, 2 and 3) and 208sqm (Plot 4). Each plot will comprise two car parking spaces located to the front of the proposed dwellings and an additional five car parking spaces as well as bin storage area to the rear of 107 Lichfield Road.

The pedestrian and vehicular access to the site off Lichfield Road will use the existing driveway for 109 Lichfield Road, which is located in between 109 and 111 Lichfield Road. The driveway will be modified to provide a private shared space driveway with a width of 5.5m and distance from Lichfield Road to the front elevation of the closest of the proposed dwellings (Plot 1) of approximately 54m.

The application is supported by the following documents:

- Design and Access Statement.
- Transport Note dated 20/12/2021.

Site and Surroundings

The application site comprises land to the rear of 107 and 109 Lichfield Road in the Bloxwich East Ward. The west side of the site is also located to the rear of 105 Lichfield Road. The site is currently garden land which is in an overgrown state. The overall site area is approximately 1444sqm.

The surrounding area is primarily residential in nature and this section of Lichfield Road is characterised by detached and semi-detached dwellings of various styles and sizes. The established pattern of development comprises a linear built form with a strong consistent building line fronting Lichfield Road with driveways and landscaped areas fronting existing dwellings.

107 Lichfield Road is a large, detached dwelling set back from the highway with a gated access driveway and an area of off-road parking for four vehicles. 109 Lichfield Road is a detached two storey dwelling with a tiled gable end roof.

Millfield's Nursery and Walsall Academy are sited approximately 15m to the north of the application site. The site is not within a conservation nor is it a listed building. The area is a coal development low risk area and is within the Cannock Chase SAC.

Relevant Planning History

Land to the rear of 107-109 Lichfield Road:

22/0011 - Development of four, three bedroom houses and associated parking and landscaping – Permission Refused 17/02/2023.

20/1222 - Development of 5 x 3 bedroom houses and associated parking and landscaping – Permission Refused 03/12/2021.

19/1590 - Erection of 5 x 3 bedroom detached dwellings with associated access, parking and landscaping at land to the rear of 105, 107 and 109 Lichfield Road – Application Withdrawn 21/08/2020.

17/1209 - Erection of 4 x 1 bedroom detached bungalows – Application Withdrawn 03/08/2018.

107 Lichfield Road:

20/0097 - Rebuild and extend existing garage to form garden annex granny flat – Permission Granted 23/03/2020.

06/1439/FL/H1- Two-Storey Side Extension, and Boundary Wall and Gates to Front – Permission Granted 25/09/2006.

06/0493/FL/H1 - Two-storey extension and front boundary wall – Permission Refused 21/06/2006.

02/1278/FL/H1 - First Floor Side Extension – Permission Granted 31/08/2002.

109 Lichfield Road:

No specific planning history.

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 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 & coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved 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.

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
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H1: Renewal of Existing Residential Areas
- T1: Helping People to Get Around
- 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

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems & Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- T4: The Highway Network
- T5: Highway Improvements
- EQ2: Cannock Chase Special Area of Conservation

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards:

- NE4: Survey Standards

The natural environment and new development:

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

Development with the potential to affect trees, woodlands and hedgerows:

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

Designing Walsall

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

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**

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- 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

Ecology (*New comments not received, the following comments are from the 22/0011 application*) – No objections on ecology grounds and advise that the site is within the Cannock Chase SAC 15km zone of influence and mitigation measures are therefore required.

Environmental Protection (*New comments not received, the following comments are from the 22/0011 application*) – No objections, subject to the following conditions:

- For a Desk Study and Site Reconnaissance to be conducted to identify the potential for ground contamination and ground gas.
- Submission prior to development commencing of a Site Investigation, Ground Contamination Survey, Ground Gas Assessment and Remediation Strategy (depending on the findings of the Desk Study and Site Reconnaissance).
- Submission of a Construction Management Plan.
- Installation of electric vehicle charging point and Ultra-Low NOx boilers.

Local Highway Authority (*New comments not received, the following comments are from the 22/0011 application*) – Object to the proposals on highways and pedestrian safety grounds, due to the following reasons:

- The proposed private driveway fails to include a segregated footway to minimise conflict between pedestrian and vehicles accessing the site.
- The 2m x 43m visibility splay is not acceptable as it falls short of the minimum setback distance of 2.4m for an access serving multiple dwellings on a 30mph road. The required 2.4m x 3.4m pedestrian visibility splay is also not likely to be achievable.
- There is insufficient space for a refuse collection vehicle from the access and within the site which will result in risks to highway safety and no alternative means of refuse collection have been proposed by the applicant.

Natural England – Advise that as the site is within 15km of the Cannock Chase Special Area of Conservation (SAC), a Habitats Regulation Assessment is required and Natural England should be reconsulted once this is received and when the application progresses to an Appropriate Assessment.

Severn Trent Water (*New comments not received, the following comments are from the 22/0011 application*) – No objections and no conditions required.

The Coal Authority – No objections and no conditions required.

West Midlands Fire Service – No objections and provide general guidance in relation to fire safety measures for the proposal, stating that failure to meet these requirements may result in an objection and an unsatisfactory proposal.

Representations

Two letters of objection were received, based on the following grounds:

- The new application has not been changed from the previous proposal and all the same refusal reasons should remain.
- The proposed dwellings will overlook the playground of the neighbouring nursery school and the classrooms and social areas of the school. The overlooking of the nursery/school spaces raises concerns regarding safeguarding of children at the site.
- Trees at the site have already been removed by the applicant and there is no screening of the nursery/school from the application site.
- The proposal will result in highways and pedestrians' safety issues due to the increase in vehicles crossing the pavement in close proximity to the school's access off Lichfield Road where there is a very high number of pedestrian movement.

Determining Issues

- Principle of Development - Backland Development
- Highways Safety
- Visibility Splay
- Refuse Collection
- Impact on Neighbour Amenity
- Impact on Walsall Academy and Nursery School
- Ground Conditions and Environment
- Flood-risk and Drainage
- Ecology and Trees
- Cannock Chase Special Area of Conservation
- Local Finance Considerations
- Five-Year Housing Land Supply

Assessment of the Proposal

Principle of Development - Backland Development

This proposal represents inappropriate backland development which would cause harm to the character and amenity of the local area, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings in terms of design, density and layout.

The application site has the same red line boundary as the previously refused applications 20/1222 and 22/0011 and therefore still proposes a backland style development of parts of the rear gardens of 107-109 Lichfield Road. The main change in this third iteration of the proposed scheme in comparison to the first in terms of the proposed site layout is that one of the proposed dwellings (Plot 5) has been removed from the proposal, the proposal is identical to the most recently refused application with reference 22/0011. The remaining proposed dwellings will be sited in the same position as was previously proposed, with their front elevations facing the rear gardens of 105, 107 and 109 Lichfield Road to the South and their rear elevations facing the Walsall Academy and Nursery School site to the North.

Whilst the amendment to the proposal in removing Plot 5 is acknowledged, the application ultimately still proposes a backland style of development of garden land, which is considered to be contrary to the characteristics of the local area, which primarily features detached/semi-detached dwellinghouses with large rear gardens, set within a strong building line fronting Lichfield Road. Whilst the existing dwellings at 107-109 Lichfield Road would be retained, the proposal would still introduce a tandem style of development where the new dwellings would be sited to the rear, entirely disconnected from the established street frontage, and failing to tie into the existing pattern of development in the area. The removal of Plot 5 makes no difference to the overall impact of the scheme on the character and appearance of the area and the proposal would still relate poorly to its surroundings and is considered to result in an erosion to the spatial characteristics of the area.

In summary, the proposal is considered to be unacceptable with regards to the impact on the character of the area and is contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).

Highway Safety

The current application proposes a shared space access where pedestrians and vehicles have equal priority, which is said to be in keeping with a 'very low speed, very low traffic volume environment the driveway will serve'. The overall width of the driveway remains in line with previous submissions at 5.5m (although the submitted Transport Statement states the width is 5.3m), however, the driveway will occupy the full width of the access rather than including a separate pedestrian and vehicle area, as was previously proposed. The submitted Transport Note has also provided examples of other shared space arrangements in Walsall (and further afield), including at the Millers Walk estate off Wolverhampton Road. The Transport Note also references the Warrington Borough Council Residential Design Guide, but this is not considered relevant to a proposal in Walsall.

The applicant has clarified that the application includes a private driveway to serve the four proposed dwellings (as well as the existing dwelling at 109 Lichfield Road) and is not an 'access road'. Regardless of the definition, it is accepted that the proposed driveway provides the access to the site, but the use of the term private driveway to describe the access is not disputed.

Whilst the changes to the access arrangements and the information provided within the Transport Note are acknowledged, these changes do not ultimately resolve the issues raised in refusal reason 2 of 20/1222 which stated that *"the intensification of the vehicle access serving four dwellings is likely to either result awkward vehicle reserving movements onto Lichfield Road which is a classified road (A4124) and a strategic highway or vehicles blocking of the highway footway at a sensitive location close to school and nursery where at times there will be relatively high footfall passing by thus causing significant harm to the highway safety of drivers, cyclists and pedestrians"*. The examples given of shared space driveways on the Millers Walk Estate were approved over 20 years ago and are not considered relevant to meet current fully inclusive design standards. The Local Highway Authority does not dispute that shared private driveways

are common, but they were assessed under previous design guidance and there are ongoing concerns around the use of shared space designs for disabled users and those with visual impairments. These concerns have not been satisfactorily addressed within the proposal and the Local Highway Authority are required to ensure that developments wherever possible are fully inclusive as part of its duties under the Equalities Act 2010.

It is also noted that the examples of shared space driveways at the Millers Walk Estate all appear to be situated within the estate itself and not directly from Wolverhampton Road, which would be more comparable with the application site which is accessible from Lichfield Road. Consequently, the examples provided of shared spaces are not considered to be comparable situations, given that Lichfield Road is a 30mph classified road which carries relatively high levels of strategic and local traffic.

For these reasons, the proposed shared space access, whilst providing greater space for vehicles passing than previous iterations with a segregated footway, would instead result in a greater likelihood of conflict between pedestrians and vehicles along the driveway. The access arrangement at the site is therefore still considered to be unacceptable with regards to pedestrian/highway safety. The proposal is therefore contrary to saved policies GP2 (Environmental Protection), T10 (Accessibility Standards – General) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan and policy TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy and the National Planning Policy Framework.

Visibility Splay

The 2.0m x 43m visibility splay as shown on revised block plan REV 1D, received 10/09/2021, is not acceptable to the Highway Authority. The setback distance should be 2.4m, which is an industry wide accepted distance and the minimum recommended distance for an access serving multiple dwellings onto a 30mph road as set out in Government guidance Manual for Streets. It is clear that the position of the proposed access is unable to achieve the required 2.4m set back due to third party land issues. Likewise, the required 2.4m x 3.4m pedestrian visibility splay, whilst not shown on the submitted plans, is also unlikely to be achievable for the same reason. The splays are required to meet highway design standards due to the intensification of the access, the proximity of the access to a secondary school and nursery entrance and the nature of Lichfield Road being a classified road (A4124) and a strategic highway.

The applicants Transport Note attempts to justify the visibility arrangement at the site. Reference is made to the proposed visibility being the same as the existing visibility and therefore not reducing visibility at the site, and that the development will not result in a significant increase in vehicle movements to the site (suggesting a likely two vehicle movements per hour). The existing visibility setback distance of 2m for the x-distance (rather than 2.4m as is required by the Local Highway Authority) is accepted by the applicant, however, they suggest that given this is the same as the existing visibility, it is therefore acceptable at the site and is generally acceptable in slow-speed environments. The applicant also suggests that visibility will be improved due to the modifications to the boundary wall to make way for a parking area to the front of 109 Lichfield Road.

However, the Local Highway Authority continue to advise that a visibility splay of 2.4m x 43m is required for the proposed development in this location. Although it is accepted that the visibility splay at the site is the existing visibility, the proposed development will intensify the use of the access given that it will serve an additional four dwellings, as

well as the existing dwelling at 109 Lichfield Road, and it is therefore considered not to be unreasonable for the access to comply with current guidance to safeguard pedestrian and highway safety.

Furthermore, the Local Highway Authority disputes that the site is within a slow speed environment. Lichfield Road is a classified road and carries relatively high levels of traffic. The use of a 2m (x-distance) visibility splay would normally be more appropriate in a traffic calmed residential location, which is not the case for the application site, especially given the intensification of its use. Manual for Streets states that a 2m (x-distance) visibility splay will require vehicles to protrude into the highway/footway, which is not acceptable in a location being close to the main entrance to the Walsall Academy site and again, given the intensification of the access as a result of the proposal.

In summary, the Local Highway Authority maintains that a visibility splay of 2.4m x 43m is required for the proposed development. This is to ensure that emerging drivers are able to see approaching pedestrians before manoeuvring out and over highway and footway and vice-versa. The amended proposal has failed to demonstrate that this be achieved at the site's access. The proposal is therefore contrary to saved policy GP2 (Environmental Protection) of the Walsall Unitary Development Plan, policy T4 (The Highway Network) of the Walsall Site Allocation Document, DfT Manual for Streets guidance and the National Planning Policy Framework.

Refuse Collection

The proposed access arrangements to the site show the width of the driveway of 5.3m-5.5m. The proposed site plan also shows a Swept Path Analysis, demonstrating how a refuse vehicle could enter/exit and manoeuvre within the site. Notwithstanding the amended plans, the Council's Local Highway Authority advise that the proposed site layout is unsuitable for refuse vehicles. Whilst the width of the private shared drive has been increased by virtue of the removal of the footway on the latest application, the access to the site off Lichfield Road itself is tight and would likely result in refuse collection vehicles having to shunt in and out of position, leaving them exposed to traffic and in a vulnerable position on Lichfield Road. The Swept Path Analysis also still shows a lack of manoeuvring space, leaving minimal margin for error which would require absolute precision from refuse vehicle drivers, which could not be reasonably expected.

Furthermore, given that the proposed driveway will be private, it is considered to be extremely unlikely that a refuse collection vehicle would actually enter the site and will instead park on the kerbside on Lichfield Road. Whilst refuse collection already takes place in this manner for the existing dwellings fronting Lichfield Road, the distance from the furthest of the proposed dwellings (Plot 4) to the highway is approximately 75m, which exceeds the overall maximum distance recommended in Manual for Streets of 55m, for residents to carry waste (30m) and for collection operatives to walk to collect bins (25m). No proposals for alternative refuse collection arrangements have been submitted in support of the application which would justify such an arrangement.

As such, the proposal is therefore contrary to saved policies GP2 (Environmental Protection) ENV32 (Design and Development of Proposals) of the Walsall Unitary Development Plan, policy T4 (The Highway Network) of the Walsall Site Allocation Document and the National Planning Policy Framework.

Impact on Neighbour Amenity

Part of the front elevation of the Plot 4 dwelling will directly face the rear garden of 105 Lichfield Road, with a separation distance of just 1.8m from the ground floor dining room

window and the first-floor bedroom 3 window of the proposed dwelling (Plot 4) to the rear garden of 105 Lichfield Road. This arrangement with habitable windows directly facing the neighbour's garden at 105 Lichfield Road would therefore result in a significant loss of neighbour privacy, particular through the introduction of the first-floor bedroom window at the Plot 4 dwelling and is therefore considered to be unacceptable.

In addition, the proposed turning head and vehicle parking spaces will be located directly adjacent to the rear garden of 105 Lichfield Road, resulting in an unacceptable level of additional noise and disturbance from vehicle movements, doors closing and people congregating in the area, to the detriment of the amenity of the occupiers of 105 Lichfield Road. No amendments to the scheme, further information or justification for this has been provided by the applicant and this arrangement is therefore considered to be unacceptable.

Furthermore, the proposed main access to the site provided by the private shared driveway will be located adjacent to 113 Lichfield Road. It is considered that this would introduce a level of vehicle movement which would result in an unacceptable level of additional noise and disturbance to the rear garden amenity area serving this neighbour, and increased light pollution, particularly to ground floor habitable windows in the front elevation. The applicant has provided no further information or justification for this arrangement.

The proposal is therefore considered to have an unacceptable impact on the amenities of neighbouring occupiers, by virtue of the overlooking of the private amenity space of 105 Lichfield Road from the front elevation of the proposed Plot 4 dwelling and due to noise and disturbance impacts on the rear gardens of 105 and 113 Lichfield Road. The proposal is therefore contrary to saved policy GP2 (Environmental Protection) of the Walsall Unitary Development Plan and the National Planning Policy Framework.

Impact on Walsall Academy and Nursery School

The layout of the site and proximity of the rear elevations of the proposed dwellings to the boundary with the Walsall Academy and Nursery School site to the North is at a distance of 7.7m. Objections have been received regarding the proximity of the proposed dwellings to the school and the subsequent overlooking of school social spaces, as well as safeguarding concerns. No further justification to this issue has been provided by the applicant within the amended proposal. The proposal is therefore still considered to be unacceptable with regards to the impact on the Walsall Academy and Nursery School site and it is considered that these existing facilities could have the potential to have unreasonable restrictions placed on them as a result of development permitted after they were established. The proposal is therefore contrary to Paragraph 187 of the National Planning Policy Framework which requires that new development integrate effectively with existing community facilities and facilities should not have unreasonable restrictions places on them as a result of new development.

Ground Conditions and Environment

No information has been submitted regarding ground conditions at the site and no information was provided regarding any contamination or ground gas issues. As such, Environmental Protection have advised that as a minimum a desktop survey and site appraisal is undertaken to determine whether an intrusive investigation is required. Conditions to address these matters would be required in the event of the approval of the application.

Flood-risk and Drainage

The site is located outside of flood zones 2 and 3, within an established residential area generally at low risk of flooding. The proposal will continue the existing residential use of the site albeit with the addition of four dwellings and is not considered likely to result in any increase in flood-risk or additional pressures on the drainage system in the area. Severn Trent Water have raised no objections to the proposal and would not require a drainage condition to be included in the event of an approval. The application is therefore considered to be acceptable with regards to flood-risk and drainage matters.

Ecology and Trees

With regards to ecological impacts at the site, a bat survey is not required for this application. The site is predominantly surrounded by built form and does not fall within the Council's bat buffer zone. Whilst there are some trees present at the site, a tree survey has not been submitted, but none are protected by a Tree Preservation Order, and none appear to be of significant quality so as to warrant protection. The application is therefore considered to be acceptable with regards to the impact on ecology and trees at the site.

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 £290.58 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 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 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 affects 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 within 15km of the Cannock Chase SAC and proposes a net increase of four 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 £290.58 per each net new dwelling which can be secured by a Unilateral Undertaking, or within a Section 106 Agreement when other obligations are required.

The applicant was contacted on March 14th 2023, requesting them to complete a Habitat Regulation Assessment as part of the Cannock Chase SAC assessment process. However, whilst the applicant has submitted a draft Unilateral Undertaking in relation to the mitigation payment, they have not yet submitted the Habitat Regulation Assessment. Whilst it is accepted that as the applicant has submitted the Unilateral Undertaking, it is likely they will agree to pay the mitigation payments, given that this has not yet been agreed and they have not yet submitted a Habitat Regulation Assessment, refusal reason 1 has been included in order to reflect the current situation. It is acknowledged however that this refusal reason could be resolved in the event of an approval.

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 four new homes. The Government has indicated that, for 2022-23, 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. The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Five-Year Housing Land Supply

Notwithstanding the previous concerns raised, it is acknowledged that the proposal will provide new housing at the site and will therefore contribute to Walsall's housing supply, in a situation where the Council is no longer able to demonstrate a five year housing land supply and has failed the housing delivery test published in January 2022, based on low levels of housing delivery over the last 3 years. For these reasons the presumption in favour of sustainable development as described in Paragraph 11d of the NPPF is in effect, meaning that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the proposal.

Conclusions and Reasons for Decision

The application proposes a backland style of development of existing garden land, which would be entirely disconnected from the street frontage and would fail to tie into the established pattern of development in the area. The removal of the Plot 5 dwelling does nothing to mitigate the harm of the proposal on the character and appearance of the area as the overall site plan still inserts new dwellings to the rear of the established building line which is at odds with the character of the area.

The proposed access to the site is also still unacceptable as the alterations to provide a shared access and thereby removing the segregated pedestrian footpath fails to resolve the highways and pedestrian safety concerns. The amended access will now result in conflict between pedestrians and vehicles, visibility at the site's access will be insufficient to meet the relevant highways safety standards in this location and the access route will be impractical for refuse vehicles. This issue has not been resolved within any iteration of the various schemes at the site and continues to present a challenge to achieving a development of this nature at the site.

Furthermore, the first floor bedroom window at the proposed Plot 4 dwelling will be located at just 1.8m from the boundary of the rear private garden of 105 Lichfield Road, resulting in a significant harm to this neighbour's amenity due to the direct overlooking of their existing private amenity space. There is no existing boundary treatment at the site or any other circumstances which would mitigate the overlooking of the garden and this arrangement will therefore result in a significant loss of neighbour privacy. The introduction of the proposed access and parking adjacent to existing rear gardens will result in a further loss of amenity to neighbouring properties.

The impact on Walsall Academy and Nursery School has not been addressed and the proposal has the potential to place unreasonable restrictions on the existing facility which is contrary to the NPPF. A further reason for refusal is also included on the grounds that the applicant has not yet formally agreed to provide any Cannock Chase SAC mitigation measures/payments, although it is accepted that this issue could be resolved in the event of the approval of the application.

In summary, when viewed collectively, the totality of the harm which would be caused by the proposed development is considered to be highly significant and demonstrable and outweighs the benefits of the proposal in providing housing in the Borough within the context of the lack of five-year housing land supply. For these reasons, given that there are no material planning considerations in support of the proposals it is 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.

Recommendation

Refuse permission

Reasons for Refusal

1. The application fails to provide the necessary Cannock Chase Special Area of Conservation (SAC) mitigation. The proposed development falls within the 15km zone of influence relating to the Cannock Chase SAC and has failed to provide any information in relation to likely impacts on the SAC arising from the proposed addition of 4 dwellings and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. The application is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Policies CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation) of the Black Country Core Strategy, Saved Policy ENV23 (Nature Conservation and new development) of the Walsall Unitary Development Plan, Policy EN1 (Natural Environment Protection, Management and Enhancement) of the Walsall Site Allocation Document and the NPPF.
2. This proposal represents inappropriate backland development which would cause harm to the character and amenity of the local area, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings in terms of design, density and layout, contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness), ENV3 (Design Quality) and HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, SAD Policy HC2 (Development of Other Land for Housing), DW3 (Character), DW4 (continuity) and DW6 (Legibility) of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework (Achieving well-designed places).
3. The private shared driveway as shown on Block Plan 2020-109 Sheet 1, fails to include a segregated footway required to provide a traffic free, fully inclusive route for residents and visitors of the development of at least 1.5 metres width in order to minimise conflicts between pedestrians and vehicular traffic along the driveway. The provision of such a footway would significantly reduce the width of the driveway available to vehicles below what would be acceptable to allow two vehicles to pass safely and satisfactorily and is therefore contrary to saved policies GP2 (Environmental Protection), T10 (Accessibility Standards – General), TRAN2 (Managing Transport Impacts of New Development) of the Black Country Core Strategy and the NPPF 2021 para 112.
4. The 2.0m x 43m visibility splay as shown on Block Plan 2020-109 Sheet 1, is not acceptable to the Highway Authority. The setback distance should be 2.4m, which is an industry wide accepted distance and the minimum recommended distance for an access serving multiple dwellings onto a 30mph road as set out in Government guidance Manual for Streets 2. It is clear the position of the proposed access is unable to achieve the required 2.4m set back due to third

party land issues. Likewise, the required 2.4m x 3.4m pedestrian visibility splay, whilst not shown on the revised plan, is also unlikely to be achievable for the same reason. The splays are required to meet highway design standards due to the intensification of the access, the proximity of the access to a secondary school and nursery entrance and the nature of Lichfield Road being a classified road (A4124) and a strategic highway. The proposal is therefore contrary to the NPPF, Saved UDP Policy GP2 (Environmental Protection), SAD Policy T4 (The Highway Network), DfT Manual for Streets guidance and to the detriment of highway safety.

5. A refuse collection vehicle (RCV) would not reverse off this section of Lichfield Road; the access is tight and therefore there is a very high probability that drivers may have to shunt in and out for positioning leaving them exposed to the traffic on the main road and in a vulnerable position for longer than could be justified in a risk assessment. Further, there is a lack of space in the site and Block Plan 2020-109 Sheet 1 shows the RCV route leaves no margin for error and would take absolute precision which could not be expected of drivers. As such, the likelihood of causing damage due to this is too high to be acceptable. No alternative waste collections arrangements have been provided and is therefore contrary to the NPPF and the Unitary Development Plan, in particular policies GP2 (Environmental Protection), ENV32 (Design and Development of Proposals) and SAD Policy T4 (The Highway Network).
6. Plot 4 would introduce habitable room windows at ground and first floor which would introduce a direct form of overlooking to the rear amenity space serving No.105 Lichfield Road. Furthermore, the provision of the turning head and vehicle parking directly adjacent the rear garden of No.105 would also introduce an unacceptable level of additional noise and disturbance from vehicle movement, doors closing, and people congregating resulting in significant additional overlooking, loss of privacy and noise and disturbance to the detriment of this neighbour's amenity. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.
7. The proposed main access directly adjacent No.113 would also introduce an unacceptable level of vehicle movement which would result in an unacceptable level of additional noise and disturbance to the rear garden amenity area serving this neighbour, and increased light pollution, particularly to ground floor habitable windows in the front elevation. The proposal is contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.
8. The proposed development would not integrate effectively with the nearby school Walsall Academy and nursery Millfield's Nursery School, and it is considered that these existing facilities could have the potential to have unreasonable restrictions placed on them as a result of development permitted after they were established. The proposal is therefore contrary to paragraph 187 of the NPPF.

END OF OFFICERS REPORT

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 27 April 2023

Plans List Item Number: 4

Reason for bringing to committee

The application has been called in by a Councillor Wilson, on the grounds that the redevelopment offers an improvement to the character/amenities of the surrounding area to outweigh any potential harm, and the site is currently an eyesore and attracts anti-social behaviour.

Application Details

Location: 11, KNIGHTS HILL, ALDRIDGE, WALSALL, WS9 0TG

Proposal: FULL APPLICATION FOR DEMOLITION OF EXISTING HOUSE AND REPLACEMENT WITH ONE BEDROOM FIVE HOUSE AND ONE TWO BEDROOM BUNGALOW.

Application Number: 21/0168

Case Officer: Thomas Morris

Applicant: Emma Turrell

Ward: Aldridge Central And South

Agent:

Expired Date: 05-Apr-2021

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

Time Extension Expiry:



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Recommendation

Refuse Permission

Proposal

This application seeks full planning permission for the demolition of an existing three-bedroom dwellinghouse at the site to allow for the erection of a five-bedroom two-storey dwellinghouse and a two-bedroom bungalow at 11 Knights Hill, Aldridge, WS9 0TG.

The proposal will provide two new dwellinghouses at the site (net gain of one dwelling), as follows:

Plot 11A

The proposed Plot 11A dwelling will be detached, two-storey, with five-bedrooms and is designed with a gable roof with forward gable section, ground floor bay window, red bricks, grey roof tiles, UPVC windows/doors and plastic guttering. The gross internal floor area of the proposed dwelling is approximately 180sqm, the rear garden area is approximately 1020sqm and the dwelling will provide three car parking spaces.

Plot 11B

The proposed Plot 11B dwelling will be detached, single-storey, with two-bedrooms and is designed with a gable roof with forward gable section, ground floor bay window, red bricks, grey roof tiles, UPVC windows/doors and plastic guttering. The gross internal floor area of the proposed dwelling is approximately 85sqm, the rear garden size is approximately 930sqm and the dwelling will provide two car parking spaces.

Associated Works

No alterations are proposed to the site's existing access off Knights Hill. A gravel driveway will be provided from the access to the proposed dwellings and proposed parking spaces will be block paved. The proposed boundary treatments include timber post/rail fencing and hedging 1.2m in height. An area of hardstanding of approximately 283sqm which currently provides access to several outbuildings to the rear of the site will be removed and the outbuildings themselves will also be removed.

The application is supported by the following documents:

- Arboricultural Impact Assessment
- Bat Survey
- Design and Access Statement
- Planning Statement
- Tree Constraints Plan
- Tree Protection Plan
- Tree Schedule

Site and Surroundings

The existing dwellinghouse at the site to be demolished is detached, two-storey, with three-bedrooms and designed with brick/render elevations, roof tiles and timber windows/doors and a glass conservatory. The dwellinghouse measures approximately 12.5m (length) x 8.3m (width) x 8.2m (height) and comprises a gross internal floor area of approximately 140sqm. The existing dwelling is sited toward the centre of the site and is slightly forward of 15 Knights Hill to the north and is setback from 5 Knights Hill to the south.

The application site is located on the eastern side of Knights Hill, within the Aldridge Central and South Ward. The site covers an area of approximately 3519sqm and features green and open characteristics. There are a number of trees to the front and rear of the site and the site is subject of a Tree Preservation Order. The eastern side of Knights Hill, including the application site itself, falls within the West Midlands Green Belt. Knights Hill slopes upwards from Erdington Road to the north to Barr Common Road to the south. The existing houses on Knights Hill are set back from the street and are set within a staggered building line.

The surrounding area is residential in nature primarily to the north and the west and comprises existing dwellings of varying age and character within an urban setting. Most of the surrounding area particularly to the east and south falls within the West Midlands Green Belt and is of an open and green countryside character. The site is outside of a designed centre, is outside of the Coal Development High Risk Area and is outside of the Cannock Chase Special Area of Conservation (SAC) 15km Zone of Influence.

Relevant Planning History

20/0077 - Demolition of existing dwelling and replace with 2 x 5 bedroom detached houses – Refused 01/05/2020.

19/0980 - T5 - Sycamore - to remove low branch southwards. T6 - Sycamore - fell to ground level. T9 - Holly - fell to ground level. T11 - Sycamore - to crown reduce by 2.5m. T13 - Holly - to crown lift over the highway to give 2.5m clearance above ground level - Tree: Part Approve Part Refuse 19/09/2019.

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

On **planning conditions** the NPPF (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
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV7: Countryside Character
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV16: Black Country Urban Forest
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T1: Helping People to Get Around
- T7: Car Parking
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- 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

- HC2: Development of Other Land for Housing
- GB1: Green Belt Boundary and Control of Development in the Green Belt
- EN1: Natural Environment Protection, Management and Enhancement
- EN2: Ancient Woodland
- EN3: Flood Risk
- EN4: Canals
- T4: The Highway Network

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development:

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

Development with the potential to affect trees, woodlands and hedgerows:

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

Designing Walsall

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

Air Quality SPD

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

Consultation Replies

Ecology – Object to the proposals as the submitted bat survey dates from August

2019 and the results are therefore out of date. Advise that a new Bat Survey Report is required.

Environmental Protection – No objections, subject to the following conditions:

- Submission of a Construction Management Plan.
- Installation of Electric Vehicle Charging Points.
- Installation of low NOx boilers.

Local Highway Authority – No objections, subject to the following conditions:

- Parking and manoeuvring spaces to be fully implemented prior to occupation and to be retained thereafter.

Natural England – No comments.

Severn Trent Water – No objections.

Strategic Planning Policy – Advise that the proposal is in conflict with local and national policy in relation to the Green Belt.

Tree Preservation Officer – Objection, recommend refusal due to the proposed site layout which will likely result in the removal of protected trees.

West Midlands Fire Service – No objections and advise that the proposal should be implemented in accordance with Approved Document B, Volume 1, Dwellings, 2019.

Representations

Two letters of objection were received, based on the following grounds:

- The site is overgrown and has fallen into a state of disrepair and has become an eyesore.
- Fences are being destroyed due to ivy at the site.
- Concerns regarding the removal of trees at the site and replacement trees have not been planted.
- The proposed houses do not contain garages and the area has been subject to car theft in recent years.

Determining Issues

- Principle of Development
- Green Belt Assessment
- Amenity of Future Occupiers
- Amenity of Neighbours
- Access and Parking
- Ecological Impacts
- Trees and Protected Trees
- Flood Risk and Drainage
- Ground Conditions and Contamination
- Local Finance Considerations
- Five-year Housing Land Supply

Assessment of the Proposal

Principle of Development

The application site features a two-storey dwellinghouse set within an open and spacious plot, albeit the existing dwelling will be demolished to make way for the proposed development of two dwellings at the site: a replacement two-storey, five-bedroom dwelling (Plot 11A) and a new single-storey, two-bedroom dwelling (Plot 11B), a net gain of one dwelling. Given that the existing use of the site is residential, and the proposal will continue the residential use, the principle of the continued residential use is acceptable. However, the site is located within the West Midlands Green Belt and a key consideration for this application is the application's compliance with local and national Green Belt policy, which is discussed in the next section of the report.

Green Belt Assessment

The site is located in the West Midlands Green Belt. The proposal seeks to demolish the existing dwellinghouse to allow for the erection of two dwellings: a replacement two-storey dwelling (Plot 11A) and a new single-storey dwelling (Plot 11B). The existing house occupies a very small portion of the site (approximately 2.5%) which is mostly open with long views across the site available from Knights Hill towards the open countryside to the rear. In its current form, the site therefore contributes to the openness of the Green Belt, which alongside its permanence is one of the essential characteristics of the Green Belt.

The NPPF states that the construction of new buildings, other than in connection with a limited number of specific exceptions, should be regarded as inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. When considering proposals affecting the Green Belt, local planning authorities are required to ensure that substantial weight is given to any harm to the Green Belt.

The NPPF sets out some exceptions to new buildings being considered inappropriate development in the Green Belt, including:

- *Paragraph 149, D – The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.*
- *Paragraph 149, E – Limited infilling in villages.*

The applicant's Planning Statement raises the above exceptions to justify this proposal in the Green Belt. The Statement asserts that the Plot 11A dwelling meets the exception as set out in *Paragraph 149, D* (replacement dwelling) and the new Plot 11B meets the exception as set out in *Paragraph 149, E* (infill development).

Replacement Dwelling (Plot 11A)

There is no definition or guidance within the NPPF or the PPG which defines what is considered as materially larger and this is a question of planning judgement. However, the key principles in assessing whether a replacement dwelling is materially larger

includes the size of the replacement building, including its footprint, floorspace and volume, and the general intention is that the replacement building should be of a similar scale when compared to the existing building and within the same use class.

The applicant suggests that the replacement dwelling (Plot 11A) is not materially larger than the existing dwelling, as there is only a minor increase in the floorspace compared to the existing dwelling (150sqm to 182sqm, a 21% increase), and that in their view an increase of 30% to 40% is generally considered to be materially larger. However, the 21% increase in floorspace fails to reflect that full extent of the increased size of the replacement dwelling, which is also 20% larger in footprint, 14% wider (main two-storey sections), 46% deeper (main two-storey sections) and 33% larger in volume. For these reasons, it is therefore considered that the replacement dwelling (Plot 11A) is materially larger than the existing dwellinghouse and therefore fails to meet the exception as set out in Paragraph 149, D of the NPPF. The replacement dwelling is therefore considered to be inappropriate development in the Green Belt.

Limited Infilling in Villages (Plot 11B)

There is no specific definition of 'village' or 'limited infilling' in the NPPF or PPG and this is a question of planning judgement. The generally accepted definition of infilling is the infilling of a small gap in an otherwise built up frontage. However, in this case, site of Plot 11A bungalow forms part of the garden of the existing dwellinghouse and is not therefore considered to be a small gap in an otherwise developed frontage, it is garden land. For this reason, it is therefore considered that the new dwelling (Plot 11B) therefore fails to meet the exception as set out in Paragraph 149, E of the NPPF. The new dwelling is therefore considered to be inappropriate development in the Green Belt.

Impact on Openness

The proposal therefore represents inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and should only be approved in very special circumstances. In terms of the totality of harm of the proposal to the Green Belt, this includes a loss of the openness (spatial and visual) and the permanence of the Green Belt, which are its essential characteristics. This is as a consequence of the overall increase in the scale, footprint, floorspace and volume of the proposed dwellings when viewed together compared to the existing situation – the development represents a 136% in total footprint (87sqm to 206sqm), a 78% increase in total floorspace (150sqm to 267sqm) and a 107% increase in approximate total volume (650m³ to 1350m³).

Given that the proposal is for two dwellings, the development is permanent with no prospect of the land returning to its current state of openness. The proposal is also likely to result in an increased degree of activity in terms of vehicle generation to the site which will result in a further reduction in the openness of the Green Belt. It is also acknowledged that the outbuildings and areas of hardstanding will be removed from the rear area of the site, however, the outbuildings are ancillary buildings not used as dwellings and cannot be used as justification for the proposal, and whilst an area of hardstanding will be removed, this will essentially be replaced by the new hard surfacing to the front of the proposed dwellings as part of the access and parking spaces.

In summary, the proposed buildings are considered to be inappropriate development in the Green Belt and are therefore harmful to the Green Belt. The proposal will result in a loss of spatial and visual openness and a loss of permanence of the Green Belt which are its essential characteristics. Inappropriate development should only be approved where there are very special circumstances. Very special circumstances will not exist

unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations (see Conclusion section of the report).

Amenity of Future Occupiers

The internal layout of the proposed Plot 11A two-storey dwelling will comprise a living room, kitchen, family/dining room, study, utility and WC at the ground floor and five bedrooms and a bathroom at the first floor. The overall gross internal floor area of the proposed dwelling is approximately 180sqm and the bedrooms sizes are 17sqm, 16sqm, 14sqm, 9.6sqm and 7sqm (four double bedrooms and one single bedroom). The internal floor area of approximately 180sqm exceeds the minimum requirement of 128sqm for a five-bedroom, eight-person dwelling on two floors, as set out within the Technical Housing Standards – Nationally Described Space Standards (whilst these standards are not formally adopted as policy by the Local Planning Authority, they provide useful guidance to assess the quality of residential accommodation). All habitable windows provide windows and will provide provision of outlook and light.

The Plot 11A dwelling will provide a rear garden of approximately 1020sqm which is well in excess of the minimum garden size standard of 68sqm as set out within the Designing Walsall SPD.

The internal layout of the proposed Plot 11B single-storey dwelling will comprise a living room, kitchen, family/dining room, two bedrooms and a bathroom. The overall gross internal floor area of the proposed dwelling is approximately 85sqm and the bedroom sizes are 12.5sqm and 11.5sqm (two double bedrooms). The internal floor area of 85sqm exceeds the minimum requirement of 70sqm for a two-bedroom, four-person dwelling on one floor. All habitable windows provide windows and will provide provision of outlook and light.

The Plot 11B dwelling will provide a rear garden of approximately 930sqm which is well in excess of the minimum garden size standard of 68sqm as set out within the Designing Walsall SPD.

In summary, the internal and external layout of the site is considered to be acceptable and will provide a good standard of amenity for future occupiers.

Amenity of Neighbours

Considering the impact of the proposal on the amenities of the neighbouring property at 15 Knights Hill to the north of the site, the side elevation of the proposed Plot 11A dwelling has a first floor bedroom window which faces toward the property to the north of the site. However, the distance between the bedroom window in the side elevation to the boundary with 15 Knights Hill is 12.5m which will therefore reduce the impact in terms of the overlooking of private amenity space. Furthermore, the proposed side facing bedroom window opposes the side elevation of 15 Knights Hill rather than their private garden. For these reasons, no significant overlooking of the private amenity space at 15 Knights Hill is likely to occur as a result of the proposal.

Considering the impact of the proposal on neighbour amenity at 5 Knights Hill to the south of the site, the side elevation of the proposed Plot 11B dwelling contains a kitchen/dining room window which will face towards to rear garden of No. 5. However, the kitchen/dining room window will be approximately 10m from the boundary with the neighbouring property and is at the ground floor. These circumstances are such that

the side facing window is not considered to result in a loss of privacy at the private amenity space of 5 Knights Hill. It also accepted that the proposed Plot 11B dwelling will technically breach the 45 Degree Code to the rear elevation of 5 Knights Hill. However, the impact of this breach will be reduced as the application site is located lower than 5 Knights Hill, the proposed building is single storey, the distance between the rear elevation of 5 Knights Hill and the proposed dwelling (when measures from the 45 Degree Line) is approximately 15m, and 5 Knights Hill is located to the south of the application site. Collectively, these circumstances are such that it is considered that no significant loss of light or outlook to 5 Knights Hill would occur as a result of the proposal.

In summary, the application is considered to be acceptable with regards to the impact on neighbour amenity.

Access and Parking

No alterations are proposed to the site's access from the public highway – the existing access in front of the larger dwelling will be retained. The existing three parking spaces will be retained at the larger dwelling and two additional parking spaces are proposed at the smaller bungalow (5 spaces in total). An area of hardstanding leading to the outbuildings to the rear of the site will be removed.

The Local Highway Authority have raised no objections to the proposal, subject to conditions which are listed above. The level of parking provision meets with requirements of Saved Policy T13 of the UDP. The proposal will have no unacceptable impact on road safety and will not have any cumulative impacts on the operation of the road network.

In summary, the application is considered to be acceptable with regards to the impact on access and parking.

Ecological Impacts

The Council's Ecologist has objected to the proposal. As the proposal requires the demolition of the existing building at the site and the site is also within an area which is identified as a bat zone where bats are present, a Bat Survey Report is required. However, the submitted Bat Survey Report was completed in August 2019. As three and half years have now passed since the report was completed, the results are now deemed to be out of date and an update survey would be required in support the application.

Please note that whilst it is accepted that this application was submitted in February 2021 and the determination of the application has been significantly delayed, even if the application was determined by the original decision due date of 05 April 2021, the Bat Survey Report would likely still have been out of date. Surveys should ideally be undertaken within the same year's survey window but potential surveys from the year before could also be accepted. This would have meant when the application was submitted in February 2021, a 2020 survey would have been accepted, rather than a 2019 survey. For this reason, whilst it is unfortunate the survey is out of date, it would have out of date when the application was submitted so an updated Bat Survey Report would have still been required.

In summary, the application is considered to be unacceptable with regards to ecological impacts, due to the absence of an up to date bat survey.

Trees and Protected Trees

The Council's Tree Officer has recommended refusal of the application due to the impact it will have on trees and protected trees at the site. The site is protected by a Tree Preservation Order and the trees at the site make a useful contribution to the visual amenity and landscape value of the area.

Whilst there are no trees indicated for removal as a direct result of the proposal, the juxtaposition between the proposed bungalow and existing trees is such that the Council will be placed under severe pressure to allow significant pruning or felling of nearby trees to allow any future occupier reasonable enjoyment of their property. For example, the proposed bungalow has been sited with its rear elevation between two groups of significant trees – T20, T21 and T22 to the northeast and T23 and T24 to the southeast. This creates a narrow field of view from the family and dining area of the bungalow and is likely to be unacceptable to the future occupants. In addition, there is no hard standing (patio) to the rear of the bungalow, only a 1m access path leading from the parking area to the French Doors of the family and dining area. Given the potential level changes in this area, this will have a further impact on the nearby existing trees.

In addition, the proposed turning head on the north side of the access will necessitate the removal of Tree T27, which is a good quality tree that forms part of a small group of 3 Cypress trees (with T27 and T28) and are of good amenity value. The retention of this tree is essential to the existing landscape design and amenity value of the locality. There are also no details of proposed services (electricity, gas, water, foul and surface water disposal etc) and given the proximity of existing trees to the proposed houses, this information is essential.

Due to these reasons, the proposed site layout is unacceptable as it will likely require the removal of protected trees at the site which contribute to the character and appearance of the area. The application is therefore considered to be unacceptable with regards to the impact on trees and protected trees.

Flood-risk and Drainage

The site is located in flood zone 1 and within an established residential area generally at a low risk of flooding. The proposal will continue the existing residential use of the site and is not likely to result in an increase in flood-risk or additional pressures on the drainage system in the area. Severn Trent Water have raised no objections to the proposal and do not require any drainage conditions to be attached to the approval. The application is therefore considered to be acceptable with regards to flood-risk and drainage matters.

Land Stability and Contamination

The existing use of the site is residential and there is no planning history to indicate any alternative uses of the site which may have resulted in land contamination being present. The proposal is located in the coal development low risk area and there is no evidence that the site is at risk of any land stability issues. The application is therefore considered to be acceptable with regards to ground conditions and contamination matters.

Local Finance Considerations

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

This application proposes a net gain of one new home. The Government has indicated that, for 2021-22, 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. The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Five-Year Housing Land Supply

It is acknowledged that the proposal will provide a net gain of one dwellinghouse at the site and will therefore contribute to Walsall's housing supply, in a situation where the Council is no longer able to demonstrate a five year housing land supply and has failed the housing delivery test published in January 2022, based on low levels of housing delivery over the last 3 years. For these reasons the presumption in favour of sustainable development as described in Paragraph 11d of the NPPF is in effect, meaning that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the proposal. In this case, the overall harm of the proposal is considered to outweigh the benefits, as is discussed in the following Conclusion section of the report.

Conclusions and Reasons for Decision

The proposal seeks to demolish the existing dwellinghouse house at the site to allow for the erection of a replacement two-storey dwelling, as well as a new single-storey dwelling. The proposal involving the erection of buildings represents inappropriate development in the Green Belt, by virtue of the replacement two-storey dwelling being materially larger than the existing dwelling and the new single-storey dwelling failing to represent an infill development within a village. This development in the Green Belt is therefore harmful and will result in a loss of spatial and visual openness and a loss of permanence which are the essential characteristics of the Green Belt.

Whether Very Special Circumstances Exist

Local planning authorities are required to ensure that substantial weight is given to any harm to the Green Belt. Inappropriate development which is harmful to the Green Belt should only be approved in very special circumstances and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, as well as any other harm resulting from the proposal, is clearly outweighed by other considerations.

In this case, the totality of the harm of the proposed development is considered to be substantial, arising from the erection of two new buildings which are inappropriate development and by definition harmful, resulting in a loss of spatial/visual openness and a loss of permanence at the site, alongside the additional harm of the proposal in terms of the potential impact of ecological habitats, wildlife and protected species. The benefits of the proposal in as a result of a gain of a slightly larger dwellinghouse

(addition of two bedrooms compared to the existing house), as well as a net gain of one small dwelling with only two-bedrooms (giving a total overall increase in bedrooms of four at the site) are considered to be relatively minor and does not outweigh the overall harm of the scheme, noting that the harm to the Green Belt affords significant weight. For these reasons, very special circumstances which would justify the proposal do not exist.

In summary, given that there are no material planning considerations in support of the proposals it is 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.

Recommendation

Refuse permission.

Reasons for Refusal

1. The proposed erection of two dwellings represents inappropriate development in the Green Belt, which is definition, harmful to the Green Belt and should only be approved where there very special circumstances. In this case, the overall harm resulting from the proposal is not outweighed by any other considerations, therefore, very special circumstances do not exist. The application is therefore contrary to Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt) of the Walsall Site Allocation Document, Policies CSP2 (Development Outside the Growth Network) and ENV2 (Historic Character and Local Distinctiveness) of the Black Country Core Strategy, Saved Policy GP2 (Environmental Protection) of the Walsall Unitary Development Plan and the National Planning Policy Framework.
2. The proposed erection of two dwellings would result in a loss of spatial and visual openness and fails to preserve the permanence of the Green Belt, contrary to the essential characteristics of the Green Belt. The application is therefore contrary to Policy GB1 (Green Belt Boundary and Control of Development in the Green Belt) of the Walsall Site Allocation Document, Policies CSP2 (Development Outside the Growth Network) and ENV2 (Historic Character and Local Distinctiveness) of the Black Country Core Strategy, Saved Policy GP2 (Environmental Protection) of the Walsall Unitary Development Plan and the National Planning Policy Framework.
3. The Bat Survey Report was completed in August 2019, the results are now considered to be out of date and an updated survey is required. Consequently, there is insufficient information to assess the impact of the proposal on ecological features, habitats, wildlife and protected species at the site. The application is therefore contrary to Policy ENV1 (Nature Conservation) of the Black Country Core Strategy, Policy EN1 (Natural Environment Protection, Management and Enhancement) of the Walsall Site Allocation Document, the Nature Conservation in Walsall SPD and the National Planning Policy Framework.

4. The proposed erection of two dwellings would result in the loss of trees at the site which are protected by a tree preservation order, due to proximity of the proposed dwellings to the trees. The trees make a positive contribution to the visual amenity and landscape character of the area. There is insufficient information submitted regarding the installation of services at the site to assess whether there would be additional harmful impacts to protected trees as a result of the application. The application is therefore contrary to Saved Policies GP2 (Environmental Protection), ENV18 (Existing Woodlands, Trees and Hedgerows) and ENV23 (Nature Conservation and New Development) of the Walsall Unitary Development Plan, Policies ENV1 (Nature Conservation) and ENV2 (Historic Character and Local Distinctives of the Black Country Core Strategy, Policy EN1 (Natural Environment Protection, Management and Enhancement of the Walsall Site Allocation Document, the Conserving Walsall's Natural Environment SPD and the National Planning Policy Framework.

END OF OFFICERS REPORT

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 27 April 2023

Plans List Item Number: 5

Reason for bringing to committee

Called in by Councillor Pedley on the grounds that the redevelopment offers an improvement to the character/amenities of the surrounding area to outweigh any potential harm and expedite a decision.

Application Details

Location: 68 , Thornhill Road, Streetly, B74 3EW

Proposal: ERECTION OF FAMILY ANNEX AT LAND ADJACENT 68 THORNHILL ROAD

Application Number: 20/1606

Case Officer: Thomas Morris

Applicant: Mr Adam Pearson

Ward: Streetly

Agent: Spooner Architects

Expired Date: 18-Mar-2021

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

Time Extension Expiry: 28-Oct-2021



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Recommendation

Refuse Permission.

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Proposal

This application seeks full planning permission for the erection of a 'self-contained family annex' at land adjacent 68 Thornhill Road, Streetly. The applicant has indicated that the development will be in order to cater for their elderly parents.

The proposed annex will measure 7m (height) x 11.5m (length) x 10.2m (width) and is designed with a gable roof, facing brickwork and clay roof tiles, with the proposed materials to match the existing dwellinghouse at the site. The proposed annex will have an overall gross internal floor area of approximately 120sqm, with the internal layout including a living/dining room, kitchen, bedroom and a bathroom on the ground floor and two bedrooms on the first floor.

The existing gated access to 68 Thornhill Road will be retained and a new access will be provided, located closer to the junction with Foley Road East, creating an in/out drive for use by both dwellings. No specific quantity of parking spaces is proposed; however, the site features a front drive with parking space for several vehicles.

All trees and landscape features will be retained where possible. The soft landscaping to the site's frontage will remain. A new pedestrian access to the site will be provided off Foley Road East and close board fencing will be installed to the front of the proposed building. No specific private amenity space has been specified.

Please note that the original development description was described as the 'erection of a three-bedroom dormer bungalow'. However, the proposal has been amended due to officer concerns and the agent has suggested that the new development description is a more accurate reflection of the proposed development.

The application is supported by the following documents:

- Arboricultural Impact Assessment
- Design and Access Statement

Site and Surroundings

The application site comprises a large dormer bungalow with projecting rear wings and is designed with a half hipped roof and forward gable sections with timbering. The site is located at the corner of Thornhill Road and Foley Road East. The site comprises a narrow rear garden area measuring 6m from the rear elevation to the boundary with 1 Foley Road to the west, as well as a larger grassed garden to the side adjacent to the corner of Thornhill Road and Foley Road East. The site is located opposite Sutton Park which is designated Green Belt and a local nature reserve and adds to the green characteristics of the area.

The existing boundary treatment to the site at Thornhill Road and Foley Road East is formed of 1.8m wooden panel fence with hedgerow. There are some trees to the boundary to Foley Road East and the boundary to 1 Foley Road East to the west. The site is subject of a Tree Preservation Order (two of the trees are protected).

The surrounding area is primarily residential in nature and comprises dwellings of varying age and character. The character of the area is open and green which is formed of the open corner of the site, soft boundary treatments, trees, street trees and Sutton

Park opposite, all of which adds to the green characteristics of the area. The site is also located within the designated Streetly Area of Special Townscape Character.

The site is located outside of the Coal Development High Risk Area and outside of the Cannock Chase Special Area of Conservation (SAC). The site is not in a Conservation Area and is outside of a flood risk zone.

Relevant Planning History

14/0101/FL - New dwelling unit on the corner of Thornhill Road and Foley Road West. Bungalow unit – Refused permission 18/03/2014 and appeal dismissed.

04/1286/FL/E4 – Erection of a detached one bedroom bungalow – Permission Refused 06/08/2004.

03/1851/FL/H4 - Two storey side extension and internal alterations - Permission Granted Subject to Conditions – 10/11/2003.

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

On **planning conditions** the NPPF (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
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV16: Black Country Urban Forest
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T1: Helping People to Get Around
- T7: Car Parking
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- 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

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- T5: Highway Improvements

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards:

- NE4 – Survey Standards

The natural environment and new development:

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

Development with the potential to affect trees, woodlands and hedgerows:

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

Designing Walsall

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

Air Quality SPD

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

Consultation Replies

Local Highway Authority – No objections, subject to the following conditions:

- Submission of a plan to show pedestrian visibility splays at the new access of Thornhill Road.
- For the access and parking areas to be fully implemented prior to occupation.
- Installation of a new footway crossing at the new access prior to occupation.
- For the two access points to remain in place at the site and at no point the new access to be used as the sole access to the new dwelling.

Severn Trent Water – No objections and no conditions recommended.

Tree Preservation Officer – Objection, recommend refusal due to the proposed site layout which shows the proposed annex is located close to protected trees and will result in the loss of protected trees at the site.

West Midlands Fire Service – No objections and advise that the proposal should be implemented in accordance with the requirements of Approved Document B, Volume 1, Dwellings, 2019.

Representations

One letter of objection was received (in relation to the original proposals), based on the following grounds:

- The proposal will appear shoehorned onto the site and the site is not large enough to accommodate the proposal.
- The proposal is not in keeping with surrounding properties.
- The proposal will result in safety issues for pedestrians and traffic.

Determining Issues

- Principle of Development
- Impact on the Character and Appearance of the Area
- Amenity of Future Occupiers
- Amenity of Neighbours
- Highways Safety & Parking
- Flood Risk & Drainage
- Trees & Protected Trees
- Other Matters (Applicant's Personal Circumstances)

Assessment of the Proposal

Principle of Development

This application seeks full planning permission for the erection of a detached, three-bedroom 'family annex' at land adjacent to 68 Thornhill Road. It is acknowledged that the application has been amended since it was originally submitted, with the proposed development changed from a 'three-bedroom dormer bungalow' (defined as market housing on the original application form, so for a new dwelling for rent or sale), to a 'family annex', for use by the relatives of the applicant. The updated Design and Access Statement also states that the proposal is for a family annex and is not for a separate dwellinghouse. The development description has therefore been updated to reflect these changes.

Considering the characteristics of the proposed development, the latest Proposed Site Plan (Drawing No. 2113:01) has been altered so that the proposed building no longer has a separate vehicular entrance off Foley Road East (though it retains a separate pedestrian access off Foley Road East), and it no longer has a separate garden. The proposed annex now appears to be located within the grounds of the existing dwellinghouse with a shared garden and does not appear to be separated through any proposed boundary treatment shown on the amended site plan, as was the intention of the original proposal (See the original Proposed Site Plan, Drawing No. 1000-167-01).

The function of an annex as opposed to a separate dwelling, is that an annex is required to be subservient and ancillary to the host dwelling, which is not considered to be the case for this proposal. While the proposed annex would be subservient in scale to the host dwelling, it would also contain all the residential facilities which would normally be expected at a dwellinghouse (living room, kitchen, bathroom and three bedrooms) and could therefore be used as a separate dwellinghouse. The proposed annex is also physically separated from the main dwelling with no internal access or link between the two buildings.

Furthermore, the proposed annex will provide three bedrooms and a gross internal floor area of approximately 120sqm, which is roughly equivalent to the internal floorspace standard of 124sqm (four-bedroom, eight-person dwellinghouse) set across two floors, as is set out within the Technical Housing Standards – Nationally Described Space Standards. The size of the proposed annex is well above that of the average three-bedroomed family home being built today, which is 88sqm (according to RIBA)

The proposed annex is orientated so that rather than addressing the front elevation to Thornhill Road (like the existing dwellinghouse), the front of the annex (as defined by its front door) faces Foley Road East in line with the new pedestrian access. For these reasons, due to the number of bedrooms, the provision of residential facilities, the internal floor area and the orientation of the building, the proposed annex could easily operate as a separate generous family sized dwelling. The proposed annex cannot therefore reasonably be accepted as a use which is ancillary to the main dwellinghouse and will in effect have the same impact on the area as a new dwelling application, especially if the intention is for the building to be occupied on a long term/permanent basis by relatives of the applicant.

For these reasons, notwithstanding the proposal is technically for the erection of a family annex, the application has been assessed as a dwellinghouse application given that it is separate from the host dwelling and provides all the facilities expected from a dwellinghouse and could therefore be used as a permanent and separate dwelling.

Impact on the Character and Appearance of the Area (Including on the Special Townscape Character and Setting of Foley Road East).

The site is located at the corner of Thornhill Road and Foley Road East and comprises a large, detached dormer bungalow set within a large but locally characteristic sized plot of approximately 1225sqm. This includes a fairly large side garden at the corner adjacent to the junction with Thornhill Road and Foley Road East (where the proposed annex would be sited). There is a detached bungalow to the rear of the site (1 Foley Road East), which is also large and set within a plot with a fairly large front garden. The existing dwellings on this part of Foley Road East are generally set back from the street with large front gardens and there is a general conformity between the application site at 68 Thornhill Road and a visible, albeit not uniform, building line of houses on Foley Road East. The boundaries along Foley Road East, as well as the application site, are well vegetated, including two trees subject to a Tree Preservation Order, on the boundary between the application site and 1 Foley Road East. When viewed in the context of Sutton Park opposite the site, as well as the overall layout and soft landscape features within the wider street scene, the application site and the surrounding area has a spacious and green character which are positive characteristics that should be retained through any new development proposals.

In contrast, while the proposed annex will conform to the building line when viewed in the context of Thornhill Road, the annex would sit significantly forward of the building

line when viewed in the context of Foley Road East, therefore failing to tie into the established pattern of development in the area. In addition, the proposed annex would significantly reduce the sense of openness and space at the corner plot, which currently contributes to the spacious and green character of the area. Whilst it is accepted that the proposed annex would be somewhat screened by the existing planting at the boundary, there would still be views through the vegetation into the site and therefore, the presence of screening would not completely mitigate the visual impacts of the proposal on the local character of the area.

In addition, whilst the proposal is technically for the erection of a family annex, as is discussed in the previous section of this report, the characteristics of the annex are such that it has the capacity to be used as a separate dwellinghouse. Consequently, although the dimensions of the proposed building (when considered as an annex) would be acceptable in that the annex would be subservient in scale to the host dwelling; when viewed as a separate dwellinghouse, the proposed building (as a dwellinghouse) is much smaller than the surrounding development, occupying a much smaller plot size on the corner and therefore appearing out of character with the existing built form and plot proportions in the area.

The site also falls within the designated Streetly Area of Special Townscape Character and the proposed development is considered to be contrary to the positive characteristics of this area. As is previously noted, the annex would sit much further forward than the adjacent property at 1 Foley Road East and would therefore detract from the special townscape character and setting of Foley Road East, where the existing dwellings are generally set well back from the street behind generous front gardens and soft boundaries.

Planning history for the site reveals that a similar proposal was refused with the appeal dismissed. Application reference 14/0101/FL was for 'a new dwelling unit (bungalow) on the corner of Thornhill Road and Foley Road West'. The application was refused by the local planning authority in March 2014 with an appeal dismissed by the Planning Inspectorate in December 2014. The new proposal is very similar to the previously refused scheme in that the new building is of a similar scale and siting as was previously refused (and dismissed at appeal). Reasons for refusal were cited as eroding the sense of openness and space at this corner plot location and therefore being contrary to the positive characteristics of the area, in conflict with planning policy. The circumstances of the site have not changed since the previous refusal in 2014 and the appeal decision adds additional weight to resist this new application.

Whilst not located in the Green Belt, it is also noted that the site is located opposite Sutton Park which falls within the Green Belt. The application site is viewed within the context as the Green Belt in that the corner of the site is currently open and free of development (the essential characteristics of the Green Belt) and in its current form the site is complimentary to the setting of the Green Belt. Therefore, whilst the site does not fall within the Green Belt itself, the proposal will result in some minor harm to the setting of the Green Belt by virtue of the addition of new buildings in proximity to the Green Belt and eroding the current openness of the corner plot.

In summary, due to these circumstances, the proposed development is considered to have a harmful impact on the character and appearance of the area and some minor harm to the setting of the Green Belt, by virtue of the loss of openness and space at this corner plot location. The application is therefore considered to be unacceptable with regards to the character and appearance of the area.

Amenity of Future Occupiers

Notwithstanding the above concerns, the internal layout of the proposed annex will comprise a living/dining room, kitchen, bathroom and bedroom on the ground floor and two bedrooms on the second floor. The proposed annex will provide an overall gross internal floor area of approximately 120sqm and bedroom sizes of approximately 19sqm, 16.3sqm and 12.5sqm (all double bedrooms). The overall internal floor area of 120sqm is in excess of the minimum requirement of 102sqm for a three-bedroom, six-person dwellinghouse set across two floors, as set out within the Technical Housing Standards – Nationally Described Space Standards. While it is accepted that the proposal is technically for a family annex, the standard of accommodation is such that it is comparable and would be acceptable as a three-bedroom dwellinghouse. The internal layout of the proposed annex is therefore considered to be acceptable and will provide a good standard of accommodation (albeit excessive for an annex).

Externally, the application site will provide a front, side and rear garden area, although it appears that the garden will be shared between the existing dwellinghouse and proposed annex. Assuming a shared garden, the total retained garden size for the existing dwelling and proposed annex will be approximately 540sqm. If separate gardens are provided, these would be approximately 198sqm for the existing dwelling and approximately 200sqm for the proposed annex. The gardens sizes are in excess of the 68sqm minimum standard for gardens at houses as stated within the Designing Walsall SPD and are therefore acceptable.

In summary, the application is considered to be acceptable with regards to the amenity of future occupiers and would provide a standard of accommodation comparable with that which would normally be provided for a three-bedroom dwellinghouse.

Amenity of Neighbours

With regards to the impact of the proposal on the amenity of neighbours (including on the amenities of the occupiers of the host dwelling at 68 Thornhill Road), the site occupies a corner plot and none of the proposed habitable windows will therefore overlook any existing private amenity spaces. The proposed rear elevation will contain a bedroom window at approximately 6m from the boundary with 1 Foley Road East, however, the bedroom window will face towards the front driveway of the neighbouring property and will therefore result in no loss of privacy at any private amenity spaces. The proposal also complies with the 45 Degree Code in relation to the existing dwellinghouse at the site and will therefore cause no loss of outlook and light in this regard.

However, the side elevation of the proposed annex will be located at just 1m from a side facing ground floor window of a bedroom at the existing dwellinghouse. Whilst it is acknowledged that the bedroom has secondary rear facing windows, the secondary windows are very small in comparison to the main side facing window which is a large bay window and will provide the majority of light/outlook to the bedroom. The side elevation of the proposed annex building falls well short of the 13m distance separation requirement between habitable windows and blank walls exceeding 3m in height and is therefore contrary to the Designing Walsall SPD. The proposal will therefore result in a harm to the amenity of the occupiers at the existing dwellinghouse (68 Thornhill Road).

In summary, due to the shortfall in separation distances to an existing bedroom window, the application is considered to be unacceptable with regards to the impact on the amenities of neighbours.

Highways Safety and Parking

The Local Highway Authority have raised no objections to the proposed development in relation to highways safety and parking. The proposal includes the creation of a secondary access off Thornhill Road, to create an in/out driveway for shared use by both the existing dwellinghouse and the proposed family annex. Whilst it would be difficult for the operation of the proposed in/out driveway to be controlled by planning condition, there is no reason why this could not operate in practice at the site.

With regards to the provision of parking space, the specific quantity of parking spaces for the proposed annex has not been specified within the amended plans, however, it is noted there is an existing driveway/parking area to the front of dwellinghouse and this will be extended slightly for the annex. Whilst the proposal is technically for a family annex, the parking requirement of a three-bedroom house (which the annex is comparable too) is two spaces and based on the information available this is likely to be achieved at the site.

In summary, the proposal is considered to be acceptable with regards to the impact it will have on highways safety and parking at the site.

Trees and Protected Trees

The site is well vegetated at the boundaries and comprises several trees which add to the local character of the area and is complimentary to the wider street scene and the setting of Sutton Park (Green Belt) opposite the site. There are two sycamore trees (Identified as T2 and T3) which are located at the boundary to 1 Foley Road East, and these are subject of a Tree Preservation Order. The Council's Tree Officer has recommended refusal of the application due to the proximity of the proposed annex to these trees.

The submitted Arboricultural Impact Assessment (AIA) suggests that Tree T3 (in the northwest corner) should be removed *'due to the risk from instability and reduced remaining contribution'*. This is supported by further comments in the AIA which states that *"T3 sycamore (TPO tree T2) was found to be unbalanced due to uneven root growth and leaning towards the road with some lifting of roots within the lawn area. It is recommended that this is removed as it is vulnerable to failure particularly during high winds when in foliage"*. However, the Site Location Plan indicates the tree is to be retained.

The Council's Tree Officer has inspected the site and noted that T3 appeared in good condition with no visible faults or defects. T2 was in a similar condition. However, significant roots were noted in the lawned area to at least 10m from the base of the tree. The amount of lawnmower damage, and subsequent wound wood growth, to the roots indicates they have been protruding from the ground for many years and this is not considered to be a fault.

In addition, T3 tree is positioned in close proximity to the public footpath and highway on Foley Road East, as well as a significant block paved driveway to the front of the property to the west on Foley Road East. These form a constraint to rooting activity resulting in an off-set root protection area (RPA) for both trees.

The proposed annex is located approximately 5m from the base of T2 Sycamore, and approximately 5.3m from the base of T3. The RPA's for these trees extends to approximately 9m from both trees.

The amount of intrusion into the RPA of T3 would result in an estimated loss of 10% of rooting material. The amount of intrusion into the RPA of T2 would result in an estimated loss of 17% of rooting material. This is considered excessive and likely result in their removal of the trees through instability.

Furthermore, there are no details of proposed services (electricity, gas, water, foul and surface water disposal etc) and given the proximity of existing trees to the proposed houses, this information is considered essential in order to determine the impact of the proposal on trees at the site.

Due to these reasons, the proposed site layout is unacceptable as it will result in the removal of protected trees at the site which contribute to the character and appearance of the area. The application is therefore considered to be unacceptable with regards to the impact on trees and protected trees.

Flood-risk and Drainage

The site is located in flood zone 1 and within an established residential area generally at a low risk of flooding. The proposal will continue the existing residential use of the site and is not likely to result in an increase in flood-risk or additional pressures on the drainage system in the area. Severn Trent Water have raised no objections to the proposal and do not require any drainage conditions to be attached to the approval. The application is therefore considered to be acceptable with regards to flood-risk and drainage matters.

Other Matters

The Applicant's Personal Circumstances

It is acknowledged that the proposal is technically for a family annex, with the intention for the annex to be used by relatives of the applicant (notwithstanding any concerns regarding the characteristics of the proposed annex being similar to a dwellinghouse). Regarding the intention for the annex to house relatives of the applicant, please note that the applicant's personal circumstances is not a material planning consideration unless these are exceptional and clearly relevant, for example, the provision of facilities for someone with a physical disability. In this case, there is no evidence that the applicant's personal circumstances are exceptional and clearly relevant and therefore, the applicant's circumstances are not a material planning consideration and have not been considered within the assessment of the application.

Conclusions and Reasons for Decision

The proposed family annex is considered to be of an excessive size in terms of its internal floor space and number of bedrooms and is more comparable to a family sized dwellinghouse. Furthermore, the proposed annex is separated from the host dwelling with no internal link to it and is also orientated to face towards Foley Road East featuring a new pedestrian access. For these reasons, the proposed annex is in effect more likely to have the impact of a separate dwellinghouse at the site rather than an ancillary annex accommodation.

The proposed annex will also result in harm to the character and appearance of the area, by developing a corner plot which is currently open, spacious and green and therefore makes a positive contribution to the character and appearance of the area. Conversely, the proposal will erode upon these positive characteristics and the sense of openness and space in the area, due to the siting of a proposed annex which is well forward of the established building line at Foley Road East and will fail to tie into the established pattern of development in the area. This conclusion is also consistent with the most recent appeal decision at the site whereby a similar proposal was refused in part due to the impact on the character of the area and this adds weight to the refusal of the application. The proposal will also result in harm to the amenities of the host dwelling at 68 Thornhill Road, due to the insufficient distance between a main bedroom window and the side elevation of the proposed annex (1m), therefore conflicting with the Designing Walsall SPD which requires a minimum distance of 13m between habitable windows and blank walls exceeding 3m in height.

In weighing the harm against the benefits, it is considered that there are no benefits of the scheme which would override the harm as is outlined above. The application's personal circumstances are not a material planning consideration as these are not exceptional and clearly relevant to the proposal. Therefore, given that there are no material planning considerations in support of the proposals it is 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.

Recommendation

Refuse Permission.

Reasons for Refusal

1. The development does not satisfy the defining character of an annex, as opposed to a typical residential dwellinghouse, in being subservient and ancillary to the main host dwelling at 68 Thornhill Road. The proposed family annex will in effect be self-contained and will provide full residential facilities and no internal connections with the host dwelling and will comprise an overall internal floor area which is comparable with a three-bedroom family dwellinghouse. The application is therefore considered to be contrary with Saved Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, the Designing Walsall SPD and the National Planning Policy Framework.
2. The proposed family annex will be sited forward of the neighbouring property at 1 Foley Road and generally forward of the established building line of properties on Foley Road East, eroding the sense of openness and space at the corner plot which contributes to the character and appearance of the area. The proposal will therefore appear as an incongruous addition in this location and will be harmful to the spacious characteristics of the area. The application is therefore considered to be contrary to Saved Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, Policies CSP4 (Place Making), ENV2 (Historic

Character and Local Distinctiveness) and ENV3 (Design Quality) of the Black Country Core Strategy, the Designing Walsall SPD, Area of Special Townscape - Guidance for New Development at Thornhill Road/Middleton Road/Foley Road East, Streetly and the National Planning Policy Framework.

3. The proposed family annex will fail to meet the 13m separation distance between habitable windows and blank walls exceeding 3m in height and will result in a loss of light and outlook to the main bedroom window at 68 Thornhill Road. The application is therefore contrary to Saved Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan, Policy HOU2 (Housing Density, Type and Accessibility) of the Black Country Core Strategy, Policy HC2 (Development of Other Land for Housing) of the Walsall Site Allocation Document, the Designing Walsall SPD and the National Planning Policy Framework.
4. The proposed family annex would result in the loss of trees at the site which are protected by a Tree Preservation Order, due to proximity of the proposed annex to the trees and resulting intrusion to root protection areas. The trees make a positive contribution to the visual amenity and landscape character of the area. There is insufficient information submitted regarding the installation of services at the site to assess whether there would be additional harmful impacts to protected trees as a result of the application. The application is therefore contrary to Saved Policies GP2 (Environmental Protection), ENV18 (Existing Woodlands, Trees and Hedgerows) and ENV23 (Nature Conservation and New Development) of the Walsall Unitary Development Plan, Policies ENV1 (Nature Conservation) and ENV2 (Historic Character and Local Distinctives) of the Black Country Core Strategy, Policy EN1 (Natural Environment Protection, Management and Enhancement) of the Walsall Site Allocation Document, the Conserving Walsall's Natural Environment SPD and the National Planning Policy Framework.

END OF OFFICERS REPORT