



## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 9<sup>th</sup> July 2015

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Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 09-Jul-2015

**Plans List Item Number: 1.**

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

### Application Details

**Location:** CENTRAL POINT, WILLENHALL ROAD, WALSALL

**Proposal:** CHANGE OF USE OF LAND TO SERVICED HGV PARKING IN ASSOCIATION WITH NEIGHBOURING SITE, INCLUDING FORMATION OF HARDSTANDING AND INSTALLATION OF EXTERNAL LIGHTING. INCLUDES ANCILLARY LANDSCAPING.

**Application Number:** 14/1686/FL

**Case Officer:** Katie Parsons

**Applicant:** Yodel Delivery Network Limited

**Ward:** Bentley & Darlaston North

**Agent:** Vincent and Goring

**Expired Date:** 05-Mar-2015

**Application Type:** Full Application

**Time Extension Expiry:** 17-Jul-2015

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



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## **Officers Report**

### **Application and Site Details**

The site is located within a core employment area, within the Black Country Enterprise Zone. The site is bordered by the Black Country Route to the north (approximately 3m above the application site), Willenhall Road to the east and Walsall Canal to the south and includes the existing Yodel site (accessed from Midland Road) to the west. Historically the site contained warehousing for employment uses, but has been vacant and cleared for many years. As a result much of the site became covered in tree and shrub growth although areas of slab remain visible (it is understood the site has recently been cleared though). Tree Preservation Order 27 of 1991 covers some of the trees on the eastern part of the site along Willenhall Road and then extends under the Black Country Route and onto an area north of the site. The old vehicular accesses to Willenhall Road remain visible. Parts of the site are in flood zones 2 and 3. The site is also within the Coal Development High Risk Area. Walsall Canal is designated as a Site of Local Importance for Nature Conservation and a wildlife corridor runs along the Black Country Route.

The proposal would allow the existing Yodel site to extend its operations by changing the use of the site to a serviced HGV park used in association with the existing Yodel site, achieved by laying hard standing across the site and installing external lighting. The existing accesses from Willenhall Road would be closed and all vehicle movements would be via the existing access from Midland Road. An acoustic fence also forms part of the proposals. The development would take place in two phases. The application has been submitted following complaints about use of the land for vehicle storage without planning permission (which it is understood has now ceased whilst the application is considered).

The application has been supported by a design and access statement, proposed site layouts, an air quality assessment, external lighting specification, landscape proposals, an ecology report, a flood risk assessment and drainage scheme, a land quality report, noise assessments, a transport statement and a tree report.

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

### **Relevant Planning History**

02/0453/FL/W6 - Proposed development for B1, B2, B8 use (outline application) – approved 22 October 2002

07/1798/FL/W5 Proposed warehouse/ distribution unit with two-storey office accommodation - approved 31 October 2007

10/1346/TE Application to extend time limit for implementation of planning approval reference number 07/1798/FL/W5 for proposed warehouse/distribution unit with two storey office accommodation – approved 15 November 2010

### **Relevant Planning Policy Summary**

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

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

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

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

- Proactively drive and support sustainable economic development
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and characters of different areas
- Contribute to conserving and enhancing the natural environment
- Encourage the effective reuse of land

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

## The Black Country Core Strategy (BCCS)

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

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

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

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

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

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

CSP3: Environmental Infrastructure

CSP4: Place Making

CSP5: Transport Strategy

EMP1: Providing for Economic Growth  
EMP2: Actual and Potential Strategic High Quality Employment Areas  
EMP3: Local Quality Employment Areas  
EMP4: Maintaining a Supply of Readily Available Employment Land  
TRAN2: Managing Transport Impacts of New Development  
ENV1: Nature Conservation  
ENV3: Design Quality  
ENV4: Canals  
ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island  
ENV8: Air Quality

These Policies are considered to be consistent with the NPPF.

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

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

The key 'Saved' Policies relevant to this proposal are:

GP2: Environmental Protection  
ENV10: Pollution  
ENV11: Light Pollution  
ENV14: Development of Derelict and Previously-Developed Sites  
ENV17: New Planting  
ENV18: Existing Woodlands, Trees and Hedgerows  
ENV23: Nature Conservation and New Development  
ENV24: Wildlife Corridors  
ENV32: Design and Development Proposals  
ENV33: Landscape Design  
ENV40: Conservation, Protection and Use of Water Resources  
JP5: Core Employment Areas  
JP7: Use of Land and Buildings in Other Employment Areas  
T4: The Highway Network

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

### **Supplementary Planning Documents**

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

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

- Designing Walsall
- Conserving Walsall's Natural Environment

### **Consultations**

**Area Partnership** – no comments received

**Building Control** - no comments received

**Canal and River Trust** – Welcomes the extension of the acoustic screen and additional planting along the canal boundary. Recommends landscaping is secured by condition. Concern raised regarding impacts of lighting on canal corridor and nocturnal species. Advised that a canal overflow channel (culvert) passes through the application site which

should be protected during construction via a condition. Note to applicant requested to ensure the applicant seeks consent of the Canal and River Trust before commencing works in the vicinity of their land.

**Coal Authority** – The planning application is primarily for change of use of the land with hard standing and lighting, therefore no significant operational development that would present risks to coal mining features. Note for applicant recommended.

**Community Safety Team** – No objections.

**Development and Delivery Team** – Central Point forms part of the Black Country Enterprise Zone, the purpose of which is to create jobs, attract investment and generate economic growth. Whilst HGV parking does not directly create jobs, the proposal represents investment by one of the Borough's largest employers that would enable them to operate more effectively and support their future growth. Given the site's prominent location adjacent to the Black Country Route and its status as an EZ site, the visual appearance of the site is important as this will contribute to improving the profile of the area.

**Environment Agency** – Standing advice for flood risk should be consulted for this proposal. Advice given in relation to sustainable surface water management, disposal to public sewers, designing for exceedance, climate change and preference for gravity discharge rather than pumped drainage, which should be assessed by the Lead Local Flood Authority. No further consultation required.

**Environmental Health** – No objections or comments.

**Flood Risk Planning and SuDs Officer** - A full planning application should contain full details of drainage and discharge points. Works should avoid structural damage to the culverted Darlaston Brook. No surface water flows should discharge to the brook unless the site already drains into it. Ideally the application should not be approved until these details have been received but it is possible to secure them by condition should the Local Planning Authority be satisfied with the principle of the submitted details.

**Highway Authority** – No objections. Conditions recommended. (Expanded in report)

**Highways Agency** - No objections.

**Inland Waterways** - no comments received

**National Grid** – No objection but apparatus in the vicinity which may be affected; applicant advised to contact them directly.

**Natural and Built Environment Team (Ecology)** – Objects as the proposal is unacceptable in ecological and landscape terms. (Expanded in report)

**Natural and Built Environment Team (Landscape)** – Objects due to poor landscaping proposals. (Expanded in report)

**Natural and Built Environment Team (Trees)** – No objections on the basis of existing tree constraints although improvements to space around retained trees through additional planting would improve the scheme. Some of the proposed new tree species are not ideal. Landscape condition recommended.

**Pollution Control** – The site is suitable for commercial development. Although the ground is contaminated and may contain asbestos from the previously demolished industrial building, no buildings or structures are proposed so no remediation measures or ground gas protection are considered necessary. A condition is recommended to mitigate and control dust generation during construction and the applicant should be aware of Health and Safety



implications for construction workers. The submitted Air Quality Assessment indicates that the impacts on air quality from the proposed use would be negligible. The lighting should be approved by the LPA prior to installation. The applicant has submitted an acoustic report and undertaken additional correspondence which indicates the proposed activity could be conducted in a manner that should not excessively disturb nearby residential premises. The scheme includes the installation of an acoustic barrier, implementation of a management plan and a smooth road surface. The mitigation scheme should be secured by condition.

**Public Lighting Manager** – The amended external lighting design statement is acceptable.

**SRF Darlaston**- no comments received

**Structures and Geotechnics** - The site is located outside the zone of consideration for limestone mine working and therefore not affected by the limestone issue. As regards the coal mining issues, the shafts present on site as reported in the land quality report have been identified and reported to have been infilled and capped.

**Vodafone** – No fixed apparatus within the vicinity of the site.

**Western Power** - no comments received

### **Public Participation Responses**

Five local residents/businesses have objected to the application for the following reasons:

- Noise and disturbance day and night
- Inadequate noise survey
- Light pollution
- Fencing obstructing views from houses/unsightly
- Fencing is not providing acoustic screening
- Increased traffic
- Staff parking on local roads causing congestion and road/pedestrian safety concerns
- The Willenhall Road accesses should be closed to prevent additional HGVs on that route to maintain highway safety
- Rubbish from the site strewn along local roads (*not relevant to this application*)
- Lack of pre-consultation with neighbours (*not a material planning consideration*)
- Use should not have commenced before permission is granted (*not a material planning consideration*)

Those issues which are relevant material planning considerations are discussed in the appropriate sections of the report.

### **Determining Issues**

- Suitability of proposed land use
- Highways and transport matters
- Residential amenity
- Ecology and landscaping
- Ground conditions
- Flood risk and drainage

### **Observations**

#### **Suitability of proposed land use**

The site is located within the settlement boundary, within a Core Employment Area. UDP 'saved' Policy JP5 reserves the site for uses falling within classes B1(b/c), B2 or B8. The



Core Strategy aspires for this to be part of a High Quality Employment Area and the 2012 Employment Land Review advises that it should be protected as a potential high quality site. The site is also located within the Black Country Enterprise Zone. HGV parking is not considered to be a high quality use, but the proposal would be ancillary to a high quality B8 operation on the existing site and would safeguard the existing Yodel operation. On this basis the proposal can be considered in accordance with these policies. However Strategic High Quality Employment Areas are required to have a high environmental quality. This is discussed elsewhere in this report.

## **Highways and transport matters**

The proposal would increase the number of trailer spaces for the use of the existing Yodel's site by 105 spaces over two phases. The extended site would all be accessed via the existing access on Midland Road and the old accesses on Willenhall Road would be closed up and blocked by landscaping. The application previously proposed access via Willenhall Road but due to Highway Authority concerns about safety, the application was amended to remove these.

In terms of traffic impact on the local highway network, surveys have been undertaken which demonstrate that the main vehicle movements to the site generally occur outside peak traffic periods. It is predicted that the development would result in an additional 7 two-way trips in the am peak traffic period and 2 two-way trips in the in pm peak and 145 over a 24 hour period. The main HGV vehicle movements for the site are generally outside peak traffic periods being 15:00 to 16:00 and 20:00 to 02:00. It is also relevant that the site was previously approved for a warehouse/distribution unit with offices which was not implemented but would have created trips in the peak traffic periods.

No additional building floor area is proposed under therefore there is no additional parking requirement. Evidence suggests that staff parking does occur on Armstrong Way. The recent introduction of double yellow parking restrictions on one side of Armstrong Way looks to control problems of indiscriminate parking and prioritise the free flow of traffic.

Overall, it is considered the development is unlikely to have severe transportation implications, subject to conditions relating to phasing and completion of works. The closure of the Willenhall Road accesses should also be secured by condition as the Highway Authority raised concerns about the safety of these accesses for large numbers of HGVs. A large amount of the landscaping scheme is also dependent on the closure of these accesses.

## **Residential amenity**

The nearest dwellings to the site are on Osborne Drive, which are approximately 20m from the site on the opposite side of the canal bank to the existing Yodel site.

The Air Quality Assessment is considered to be acceptable and the impacts of the development would be negligible. Dust should be controlled during construction – this is discussed under the 'ground conditions' section of this report.

Residents have made complaints about noise arising from the site, which has resulted from the applicant starting to use the site in advance of planning permission being granted. Whilst the site has been in use, the hard standing has not been installed and only a partial acoustic barrier is in place – implementation of these items would reduce noise levels from the site. Pollution Control is satisfied with the additional information submitted and discussions have taken place with Yodel to raise driver awareness of the noise emanating from the site. Conditions are recommended to secure the implementation of the acoustic barrier and a noise management plan and it is considered that these measures would prevent excessive disturbance to nearby residents. The highway-related conditions already require proper surfacing of the site before it is brought into use.

Lighting has already been installed on site and complaints have been received from local residents relating to its brightness and hours of operation. The applicant has confirmed that the current lighting does not have planning permission and will be removed and replaced with new lighting subject to this planning application. High levels of lighting are required for site security but they need to be angled to avoid spilling into nearby houses so dimmers or timers are not an option. The applicant has stated that 10m high lighting columns will be used and that the aiming points of these columns will be submitted for approval before installation. A condition is recommended to secure this. It is considered that any adverse impacts on residents (and the canal corridor) can be reduced through this condition.

The acoustic fence would be 4.5m high. The final design details are recommended to be secured by condition. At this height it certainly will be visible to residents. However the separation distance is some 20m, at an oblique angle as an industrial estate is directly opposite the proposed fence. The alternative would be views into a HGV storage facility so it is not deemed to be harmful to the character of the area. It is not considered that the fence would have a significantly adverse impact on residential amenity.

In summary, the proposal is considered to be acceptable in relation to residential amenity, subject to the recommended conditions.

### **Ecology and landscaping**

The site has been undisturbed for a long period of time and has regenerated naturally, although it has recently been cleared. It does not appear that a Preliminary Ecological Assessment was carried out prior to site clearance, despite this being raised as part of pre-application advice. One has since been submitted stating the site is of low ecological value.

The proposal does not deliver the level of biodiversity and ecology enhancements hoped for following the pre-application advice given. Some planting along Willenhall Road and part of the canal corridor are proposed. It would have been preferable to see larger areas of landscaping and habitat creation within and around the site with increased planting to the canal corridor and frontage planting along the Black Country Route. The Council's ecologist has objected on this basis and also to the acoustic fencing due to the lack of ecological enhancement and the visual impact on the canal corridor. However the Canal and River Trust specifically requested that the acoustic fence be extended the whole length of the shared boundary and are satisfied with the amended plans, which does include some planting on the canal side of the acoustic fence. The fence would completely screen the site activities from view of users of the canal and it is noted that the footpath is not adjacent to the fence but on the opposite bank of the canal. It is considered that the proposed fence is acceptable in the context of the site and given the supportive comments from the Canal and River Trust. It is also noted that the Black Country Route is on a bridge and raised platform adjacent to the site, some 3m above the ground level of the site. Any planting along this part of the boundary would not provide an effective screen for some years and would have to be located far enough within the site to leave a sufficient maintenance strip to the highway infrastructure and to leave space around the existing drainage gully, which would likely necessitate the removal of a bank of proposed HGV parking spaces. Some additional planting has been proposed around the protected trees fronting Willenhall Road (including in the locations of the existing accesses) and along the acoustic fencing, although it is considered that a larger area of existing hard standing could potentially be broken up to provide larger planting areas.

The long term aspiration for this site is a high quality employment use with a high quality environment and it is accepted that these proposals fall some way short of this. Whilst the Council's Ecologist's strong objections to the application have been considered, and it is understood that the proposal would not significantly improve the environmental value of the site, it is considered given the nature of the proposed use that the proposal would mitigate its own impacts to some extent and would not prejudice future development of the site coming

forward with higher quality hard and soft landscaping. In particular if the site were to be occupied by a lower noise-generating user, the acoustic fencing could be removed from the site.

Therefore in balancing the environmental concerns against the purpose and economic benefits of the application, the application is considered on balance to be acceptable. However conditions are recommended to secure a full landscaping scheme to ensure it is of sufficient quality as some of the details included in the current scheme would not be acceptable. This should include the elimination of Japanese Knotweed found on the site.

Lighting has already been discussed above and the angles of the lighting should be secured by condition to ensure there is no adverse impact on the canal corridor.

### **Ground conditions**

The site is located outside the zone of consideration for limestone mine working and therefore not affected by the limestone issue.

The site is located within the Development High Risk Area but the Coal Authority is satisfied that the proposed change of use would not affect coal mining features. The shafts present on site as reported in the land quality report have been identified and reported to have been infilled and capped.

Pollution Control is satisfied that the site is suitable for commercial development and that no remediation measures or ground gas protection are required, although a condition to mitigate and control dust during construction is recommended, as well as a note to the applicant about Health and Safety implications for construction workers.

### **Flood risk and drainage**

Parts of the site are located within flood zones 2 and 3. The Environment Agency has advised that it does not need to be consulted and the Lead Local Flood Authority should assess the proposal. Ideally a full application should contain full details of drainage and discharge points prior to determination. However it is considered that the application contains sufficient details to demonstrate that several drainage options are available, therefore conditions are recommended for the final scheme to be submitted for approval prior to commencement of development.

The Canal and River Trust has advised that a canal overflow channel (culvert) passes through the application site which serves an operational overflow weir, therefore the culvert should be protected to ensure the safe operation of the weir and the canal. This can be secured by condition.

### **Conclusions**

On balance, the application is considered to be acceptable subject to the recommended conditions.

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

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

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including any representations that may have been received, and following submission of negotiated amendment to the application, subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### **Recommendation**

Grant subject to conditions.

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

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

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

ITB9394-GA-002 Rev E – Site Layout Plan – Phase 1 Proposed

ITB9394-GA-003 Rev F – Site Layout Plan – Phase 1 and Phase 2 Proposed

REASON: to define the permission and ensure the development is carried out as approved.

3. No, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 Monday to Friday and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.  
(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

REASON: To protect the amenities of nearby residential occupiers.

4. A. No development shall take place until the canal overflow channel (culvert) which passes through the site has been assessed to determine its exact location and condition, and a report has been submitted to and approved in writing by the Local Planning Authority setting out any works required to ensure that the culvert is in sufficiently good condition to withstand any impacts from the proposed development.

B. Development shall take place only in accordance with the approved details.

C. No part of the development shall be brought into use until any works approved pursuant to part (a) have been completed.

REASON: To ensure the culvert remains in good working order, to minimise flood risk.

5. A. No development shall take place until a scheme (including timetable for implementation) for the provision of surface water drainage works, based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority.

B. The drainage works shall be completed in accordance with the approved details

and timetable.

REASON: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

6. A. No development shall take place until as a scheme (including timetable for implementation and subsequent management and maintenance) for the provision and implementation of surface water run-off limitation to greenfield run-off rates has been submitted to and approved in writing by of the Local Planning Authority.

B. The scheme shall be fully implemented and subsequently maintained in accordance with the approved details and timetable.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

7. A. No part of Phase 1 or Phase 2 of the development shall be brought into use until all trailer hard standing and vehicle manoeuvring areas and the turning circle associated with that Phase have been fully consolidated, hard surfaced and drained. The trailer parking bays shall be clearly demarcated on the ground.

B. These areas shall thereafter be retained and used for no other purpose than vehicle parking and manoeuvring.

REASON: To ensure the satisfactory completion and operation of the development, in the interests of highway safety.

8. No part of the development shall be brought into use until the three existing dropped kerb access points on Willenhall Road have been reinstated back to full kerb height to a specification which shall have first been submitted to and approved in writing by the Local Planning Authority, and until the associated advanced warning signs to these accesses on the southern approach have been removed. All access and egress of the site shall be via Midland Road only.

REASON: To maintain adequate control over vehicular access to site and to ensure the satisfactory completing and operation of the development, in the interests of highway safety.

9. A. No part of the development shall be brought into use until a 4.5 metre high barrier imperforate, sealed at the base, with a superficial mass of at least 15kg/m<sup>2</sup> has been installed on the site boundary adjoining the canal, in accordance with details which shall have first been submitted to an approved in writing by the Local Planning Authority. Furthermore no part of the development shall be brought into use until a noise management plan has been submitted to and approved in writing by the Local Planning Authority.

B. The approved barrier shall be maintained in an imperforate condition thereafter for as long as industrial/commercial activities are conducted on the site.

C. The site shall be used only in accordance with the approved noise management plan, which shall be reviewed and amended as required at least once every six months or upon the request of the Local Planning Authority to ensure that any significant noise concerns from nearby residential premises are being addressed. Any amendments must be approved in writing by the Local Planning Authority and complied with thereafter.

REASON: In the interests of residential amenity.

10. A. No development shall take place until measures to control dust generation during construction and engineering works have been submitted to and approved in writing by the Local Planning Authority.

B. Development shall take place only in accordance with the approved dust control measures.

REASON: To avoid the spread of any contaminants in the ground.

11. A. No development shall take place until comprehensive details of hard and soft landscaping, including a programme for the phasing of works, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed to protect and enhance biodiversity at the site and the submitted details shall include:

- a) Elimination of Japanese Knotweed from the site
- b) Preparation of land for planting (including details of areas of existing hardstanding to be broken up).
- c) Existing and proposed levels.
- d) Specification and depths of topsoil/ subsoil/ growing medium and any mulches. Simple reference to BS3882:2007 is unsatisfactory as this BS contains a range of soil specifications.)
- e) Density of planting/ sowing.
- f) Specifications for all planting to include: full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.
- g) Full details of hard landscaping.
- h) Drainage/ SUDs.
- i) Underground and above ground service layout, routed to avoid soft landscaped areas
- j) Maintenance of soft landscaping scheme throughout establishment and operational phases.
- k) Bird and bat boxes
- l) Protection of existing trees, hedgerows and planting during construction

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

C. No retained tree, hedgerow or group of shrubs shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved details.

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

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

REASON: In the interests of nature conservation, good landscape design and the

visual amenity of the area.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking and re-enacting that Order, no lighting shall be installed on the application site except in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Such details should include the location, type, technical specifications, angle of installation and hours of operation for the lighting, and light spill plans. The lighting scheme shall be designed to direct light away from residential properties and the canal corridor and shall comply with the recommendations of the Institute of Lighting Engineers guidance notes for the reduction of obtrusive light. The submitted scheme shall include details of regular reviews of the lighting system (at least once every six months) to ensure continuing compliance with the recommendations of the Institute of Lighting Engineers/Professionals for guidance notes for the reduction of obtrusive light and the approved scheme shall be complied with following installation of the approved lighting scheme.

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

### **Notes for Applicant**

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

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at [www.groundstability.com](http://www.groundstability.com)

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 01623 646 333. Further information is available on The Coal Authority website [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

There is localised ground contamination that may present Health and Safety implications for persons undertaking ground works. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking engineering/construction work at the development site.

The applicant will be expected to obtain the necessary Road Opening Permit or enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority for the construction of any new access or alterations to any existing access point within the public highway.

The attention of the applicant is drawn to the need to keep the highway from any mud or



other material emanating from the application site of any works pertaining thereto.

The applicant will be expected to enter into an agreement under S278 of the Highways Act 1980 or other appropriate agreement with the Highway Authority for the access reinstatement works within the existing public highway.

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

In relation to the drainage conditions, depending upon the detailed drainage proposals, the applicant must demonstrate that they have entered into a suitable agreement with the relevant body – i.e. Sewerage Undertaker, EA, Building Control / Technical Services, or Highway Authority – and that the receiving system has sufficient capacity to accommodate this proposal and the relevant permissions have been gained.

Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 09-Jul-2015

**Plans List Item Number: 2.**

**Reason for bringing to committee:** Significant Community Interest

### Application Details

**Location:** FORMER 71 SKIP LANE, WALSALL, WS5 3LP

**Proposal:** NEW BUILD 5 BEDROOM HOUSE ON PLOT OF FORMER HOUSE

**Application Number:** 15/0080/FL

**Case Officer:** Stuart Crossen

**Applicant:** Mr D Purba

**Ward:** Paddock

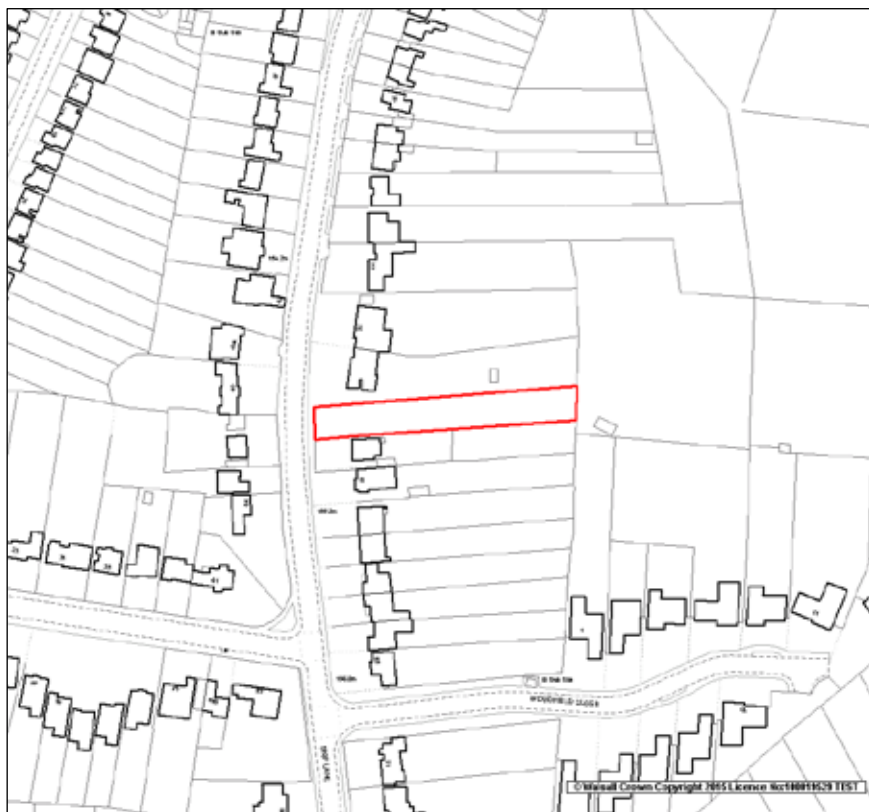
**Agent:** DNA Group

**Expired Date:** 17-Mar-2015

**Application Type:** Full Application

**Time Extension Expiry:** 07-May-2015

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



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## **Officers Report**

### **Status**

The Council received a plan before the March 2015 planning committee, challenging the applicants red line of the planning application and the ownership of part of the site. The planning application was withdrawn from the agenda to give time to check the plan and the validity of the claim including challenging the applicant. The claims have been fully investigated and it is considered the correct ownership notices have been served and interested parties are aware of the planning application. Amended plans have been received and public participation taken place, correcting the location of number 73 which was incorrect. Since the last committee the proposal has been reduced in depth, positioned further forward and has omitted a rear balcony. Whilst there may still be some dispute between the applicant and the neighbour, over the width of the plot and land ownership, this is now a private matter between interested land owners outside the scope of the planning legislation. It is considered there is sufficient detail submitted to allow the Council to determine the planning application. The report has been updated throughout regarding the changes and comments from neighbours that have been received so far.

### **Application and Site Details**

The application proposes a new 5 bedroom 2 storey house with projecting gables and bay windows. The application site was the former house numbered 71 which was demolished following fire damage, the plot is vacant land on the eastern side of Skip Lane and fenced off.

The prevailing character of the area is spacious and verdant, with dwellings generally set back from the road with mature gardens in front. One notable exception to this general pattern is the older, Georgian style, dwelling at No 42 which sits perpendicular to the road and has a two storey wing extending up to the back edge of the road.

The predominant architectural style and period is from the early to mid twentieth century and many dwellings display cat-slide roofs, hipped gables, dormer windows and architectural detailing resonant of the arts and crafts movement.

On the east side of Skip Lane the nearby houses are a mix of detached and semi-detached houses. Many of these houses are built close to shared boundaries or up to them. Of the 12 houses on this side from the corner with Woodfield Close only 3 have gaps at both sides.

Amended plans have been received which take account of the relationship between the proposed house and the extensions at number 73. Planning officers have measured the width of number 71 plot from inside the boundary walls at the point of the proposed front elevation confirming 12.06 metres wide. The difference between this measurement and the plan measurement is 8.5cm which can be accounted for by the ownership of the boundary walls. The wall along the boundary to number 73 is claimed to belong to the applicant who has provided some evidence of this. The agent has provided correspondence from a previous owner of number 71 before it was demolished. The correspondence confirms that the original boundary wall from the back of number 71 to what was the original extent of the rear garden was constructed by the original owner of number 71 and formed part of the land belonging to number 71. The section between 71 and 73 was built in the 1970s by the occupier of number 73 without permission while they were on Holiday.

The application proposes the following;

The house would provide a lounge, kitchen, utility room, dining room, toilet, cloak room and double garage on the ground floor, four bedrooms with en-suites and dressing rooms and a bathroom on the first floor and a bedroom, prayer room and storage rooms in the attic. The garden would be over 60 metres deep and would be terraced below the existing ground levels of the application site. Beyond the rear garden is greenbelt.

The house design includes a main side gable roof, two gable roof front projections with bay windows, a gable rear dormer, a two storey hipped roof rear projection and single storey flat roof rear projection. The main habitable room windows would be on the front and rear elevations.

This application differs from the previously refused application 14/0911/FL as follows:

- Projecting garage removed
- Front dormer windows removed
- Unequal front bay window features
- No significant proposed change to ground levels
- Gap to number 69 is reduced by 600mm to 900mm
- Positioned further forward in line with the extent of number 73
- Increased in length
- Footprint of number 73 has been reduced in depth and corrected to outline extent of 2002 planning permission which can still be implemented.
- The rear balcony has been omitted.
- Land level change and retaining walls to the front.

The proposed house would include slate roof tiles, render, sand stone banding and grey aluminium windows. The key measurements of the house are:

- 900mm gap to number 69
- Eaves to align with the shared boundary of number 73
- Main front elevation 2.4 metres forward of number 69
- House to be 8.4 metres high at the ridge
- Ground floor depth of 20.4 metres, including the rear wing
- Single storey rear extension would be 2.8 metres high with a flat roof
- First floor depth of 15.2 metres
- 11 metres wide

Number 69 is a detached house to the south of the application site, traditionally styled with low eaves roof and first floor part dormer windows. This house is 7.8 metres high. The side elevation of this house has no habitable room windows and an existing 3.5 metres high single storey rear extension extends 4 metres beyond the original rear elevation up to the shared boundary with number 71. There is a gap between the side of number 69 main house to the shared boundary with the application house of at least 500mm.

Number 73 is a bungalow to the north of the application property and fronting Skip Lane at an angle and on approximately 500mm higher ground 3 metres from the shared boundary of the application house. The front elevation faces away from the application house and is being extended to the side and rear, the rear part would project 1.5 metres less than the depth of the proposed application house. The construction of the side extension at number 73 is currently incomplete. When completed there would be a 1.5 metre gap between the application house at the front, reducing to meet the shared boundary 5.5metres back from the front of the house due to the angle of this house in relation to the application house. Also approved at number 73 are 1.8 metre high pillars and railing and 2 metre high gates at the back of the footpath. The nearest rear habitable room window of number 73 would serve the kitchen.

The application house would include a driveway and garage providing at least 3 car parking spaces.

This application includes front boundary walls and railings with brick pillars and gates measuring 1.8 metres high.

An amended street-scene plan now includes the extensions under construction at number 73 and amended site plans now have additional measurements annotations for clarification.

### **Relevant Planning History**

14/0911/FL - 71 Skip Lane, Walsall, WS5 3LP - New 5 bedroom 3 storey house with projecting garage and dormer windows. Refused 04/08/14

1. The design of the proposed houses which include the following features:
  - Change in topography including 500mm high retaining walls
  - Excessive mass due to the height, 600mm higher than number 69 and significantly higher than the neighbouring bungalow and side gable roof design which almost fills the plot width
  - Combination of double front 2 storey hipped projections, front roof dormer and projecting garage would result in an excessive number of front projecting features

These features are considered to form a contrived design to allow for the erection of a three storey house, and would not reflect the existing development on this side of Skip Lane which respect the existing topography and are simpler designs, the proposal would also be especially prominent when travelling along Skip Lane North to South due to the height difference it would have with the neighbouring bungalow.

2. The following proposed main habitable room windows would not enjoy satisfactory levels of amenity through lack of light, poor outlook and are likely to experience a significant overbearing impact from other proposed elements and from the existing blank side elevation of number 69 which the proposed design has not taken account of:
  - The front dining room window by virtue of the change of ground level and proposed front projecting garage would experience insufficient levels of light and poor outlook.
  - The kitchen window would face the side wall of number 69 over 3.5 metres high, 7.5 metres away which would result in an overbearing impact and insufficient levels of light and which would be contrary to the Councils 13 metre separation standards.
  - The formal lounge window would face the rising rear garden terrace and would be between 6 metre projections of the proposed house and the blank side elevation of number 69 which would result in an overbearing impact, insufficient levels of light and which is contrary to the Councils 45 degree code.

Appeal 2224472 was lodged with the Planning Inspectorate and subsequently dismissed on the 8<sup>th</sup> December 2014 on design grounds in particular concerning the ground level change, retaining walls and projecting garage to the front and because of the number of front elevation bay/dormer features all of different sizes.

02/2330/FL/H4 - 73 Skip Lane, Walsall, WS5 3LP – Single storey side and rear extensions, enlargement of roof to provide additional rooms at first floor level including dormer windows to the front, and garden wall and gates to the front. Granted Subject to Conditions 10/12/02. These works have only been part implemented, development has commenced and building works here are on-going.

### **Planning Policy**

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

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

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

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Contribute to conserving and enhancing the natural environment

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

**7: Requiring Good Design**

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

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

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

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

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

**11: Conserving and Enhancing the Natural Environment**

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

**The Development Plan**

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

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

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the

NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that *"... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

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

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

The relevant policies are:

GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV18: Existing Woodlands, Trees and Hedgerows

The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows. Development will not be permitted if it would damage or destroy trees or woodlands protected by Tree Preservation Order.

ENV23: Nature Conservation and New Development

- (b) The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology. Where loss or damage of existing features is unavoidable, the Council will require mitigation measures to which adequately compensate for the features lost.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development.



- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

#### **T7: Car Parking**

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

#### **T13: Parking Provision**

1, 2 and 3 bedroom houses    2 spaces per unit  
4 bedroom houses and above       3 spaces per unit

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

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

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

#### **Designing Walsall**

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

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

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

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

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

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

- § 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- § 13m separation between habitable windows and blank walls exceeding 3m in height.
- § 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).

#### **Consultation Replies**

**Ecology** – No objections. The TPO Oak tree would not be affected.

**Highways** – No objections subject to conditions.

**Severn Trent** – No objections subject to condition.

#### **Public Participation Responses**

The occupiers of number 34 Skip Lane who are opposite number 65 and 67 have objected on the following grounds:

- Proposal would result in terracing
- The proposal is too high

The occupier of number 67 has objected on the following grounds:

- Proposal would result in terracing
- A gap to the boundary is required to reflect the character of the area and provide access to drainage (*access to drainage is a matter for the applicant and not a determining issue of this application*)

The occupier of number 73 Skip Lane has objected on the following grounds

Proximity to the shared boundary

- Would result in terracing, would not reflect the existing gaps between houses
- The following 6 houses are referred to in the objection which have been granted planning permission in the last 8 years and which have gaps to the boundary on both sides: 42 to 52 Park Road, 87 Skip Lane, 48 Skip Lane, 44 Skip Lane, 37 Skip Lane and 17 Park Hall Road. (*The nearest of these is 50 metres from the application site on the opposite side of the road*)
- 73 has permission to build up to the boundary already.
- There should be a 900mm gap to the boundary.
- They will not allow scaffold on their land while the proposed development is being built. (*This is a private matter and not a determining issue of this planning application*)
- There was always a gap between number 71 and 73.
- Would impact on the Hawthorn tree
- The street-scene plan exaggerates the gap (*This is not relied upon for the assessment, as site visits also take place*)
- The inspectors report refers to photos illustrating that the previous dwelling was “hard up to the boundary” when it was not. (*Officers do not agree with the Inspectors point, which in any case was not the sole reason no concern was made about the proximity of the proposal to neighbouring houses. Officers are aware of the previous relationship*)

The occupier of number 77 Skip Lane has objected on the following grounds:

- Alters the appearance and character of Skip Lane
- Sub-terranean element is still included
- Gable wall to number 73 sets precedence (*each case is determined on its own merits*)
- Terracing
- Deep boundary retaining walls have an adverse affect on 69 and 73
- Garden tiers will have an impact on drainage and TPO tree
- Not a replacement house due its size.

#### **Additional objections following amended plans 01/04/15:**

1 objection has been received from the occupier of number 77 which raises the following additional objections.

- The frontage is not large enough to provide a turning circle on the drive so vehicles can exit in a forward gear and the visibility splay is not good enough.
- The balcony and vanity screen is detrimental to privacy.

#### **Additional objections following amended plans 20/04/15:**

The occupier of number 67 has objected raising the following additional objections:

- Requests written measurements
- House would be visible from their rear windows (*The view from a window is not itself a material consideration*)
- Balcony causes overlooking to bedroom windows
- Would set a precedent for encroaching onto front gardens (*Each application is determined on its own merits*)

The occupier of number 73 which raises the following additional objections:

- The plans are unprofessional, designed to mislead and confuse, and cannot be enforced against.
- The two storey part would breach the 45 degree rule by 1.5 metres and the single storey part by 6.5 metres from the rear window of 73.
- The plot shape is incorrect.

- The roof of number 71 and 73 would touch.
- The house should be moved 900mm away from number 73 where the previous house stood which would give balance.
- The balcony would allow views into the habitable rooms of number 73.
- People standing on the balcony would be able to see into habitable rooms of number 67, 69 and 75.
- The amended existing and proposed site plan does not match the land registry plan, the footprint of houses and plot shapes are incorrect.
- Rear elevation of houses shown on the Amended Proposed Site Level plan are set further back than they are.
- Amended Existing Site Levels illustrate the Silver Birch and Apple tree in the wrong place. *(The location of the trees is not relied upon for the assessment, part of which a site visit is undertaken and the trees are not protected)*
- Amended Street-scene states that extensions at number 73 are not yet built which is not correct as the side extension is built to wall plate level. Number 73 is shown without any fascia or soffit which would disguise the fact the roofs would touch. 73 is closer to the boundary than illustrated on the plan. *(The site visit confirms the state of build)*
- Amended Proposed Property Section, land levels, existing wall level, single storey level and balcony height are incorrect. There are no drawings of the new wall and no heights mentioned.
- The following points of the design and access statement are disputed:
  - there is no generic building line which is incorrect
  - The proposed property is built on a similar footprint
  - The balcony would be at garden level (it would be higher)
  - The 45 degree rule wouldn't be broken*(The design and access statement is not relied upon for the assessment.)*

The occupier of number 77 has objected raising the following additional objections:

- The proximity of the house to the road is out of character
- The height of the vanity screen is not specific and impacts on the privacy of number 63-69 and 73-77.
- The gates are too close to the road which causes a traffic problem.
- The revised plan encroaches onto highway land.
- The plots for 67 and 69 are not correctly plotted on the plans and no other neighbouring houses have permission to extend their plots.
- Breaks 45 degree rule

#### **Additional objections following amended plans 02/06/14:**

The occupier of number 67 has objected raising the following additional objections:

- Number 67 is no longer shown on the plans and does not now show the impact the proposal has on this house.
- The location of trees is incorrect on the plans

The occupier of number 73 has objected raising the following additional objections:

- Appeal APP/V4630/A/14/22244723 was dismissed in part for breaching the established building line.
- The plans are still incorrect for the following reasons:
  - Plot shape and size are incorrect
  - 73 and 69 are plotted incorrectly and a building illustrated at the rear of 69 is not there on site. *(Not relied on for the assessment, site visit, site photos and Ordnance Survey plans are used)*
  - The boundary wall is incorrectly illustrated showing the boundary wall touching 73. *(Does not prevent the assessment of the application)*
  - The drawings incorrectly state that extension to number 73 have not be built when there are actually to wall plate level.
  - The existing wall shown in blue on the plan does not project above the proposed single storey part.

- The single storey part is at least 900mm higher than the existing wall, with the proposed vanity screen would be 2.7 metres higher.
- Existing land levels shown for 73 and 69 are incorrect.

The occupier of number 75 has objected raising the following additional objections:

- The house is not in the correct position in relation to the neighbouring houses and trees.
- 45 degree rule is being ignored and anyone using the balcony will be able to see into bedroom windows of number 75.
- Would sit forward of number 69 by some distance totally dominating houses close by and is out of character.
- The roof of 73 will touch the proposed house where previously there was a walkway.

The occupier of number 77 has objected raising the following additional objections:

- The electric gates should be 5 metres from the back of the footpath otherwise could cause traffic problems.
- The revised plan encroaches onto the highway
- No other permissions on Skip Lane have been allowed to elongate the plot size.

### **Determining Issues**

The floor plan layout ensures that there is a satisfactory level of amenity by way of light and outlook for occupants and are similar to the amended plans the Planning Inspector considered were acceptable. For these reasons the proposal overcomes the second refusal reason, accords with the decision by the Planning Inspectorate and is not one of the following determining issues of this application.

- Whether the proposal overcomes the following refusal reasons in the appeal decision:
  - The impact of a change in ground level and front projecting garage on the street-scene.
  - Integration of the front elevation projecting features.
- Relationship between the extensions at number 73 and the revised proposed house.
- Whether the amendments are acceptable in Design and Character of the Area.
- Other issues raised through consultation.

### **Observations**

#### **Whether the proposal overcomes the previous refusal reasons and appeal decision.**

##### **The impact of a change in ground level and front projecting garage on the streetscene.**

The proposed design would not now alter the topography when viewed from the street and the front projecting garage has been omitted. The Inspectors comments on the character of the area related to the proposed house when viewed from the front, although this application also includes retaining walls and alterations to the topography they would now only be to the rear.

##### **Integration of the front elevation projecting features.**

The front elevation with matching bay windows has a much simplified traditional design from the previous refused scheme due to the omission of the mis-matched hipped roof front projections, garage projection and the off centre hipped roof dormer. The revised front elevation is considered a significant improvement reflecting the character of the area.

The rear part of the proposal is similar to the previous refusal having a dormer, rear two storey and single storey projections which raised no concerns from the Planning Inspector.

For the above reasons the proposal would now not cause harm to the character and appearance of the surrounding area accords with the requirements to secure good design within the Framework and overcomes the previous first reason for refusal and the Planning Inspectors concern about the design for the reasons explained above.

### **Relationship between the extensions currently being built at number 73 and the revised proposed house**

Planning permission 02/2330/FL/H4 approved in 2003 has been part implemented through the construction of a porch and sloping roof over the ground floor bay window. The side extension was not complete at the time of the previous application at 71 Skip Lane or the subsequent appeal. The existing permission for the extension to number 73 is a material consideration of this current application.

The current application proposes to be 900mm from the shared boundary with number 69 and although the gable roof eaves roof would be built up to the boundary with number 73, there would be a 1.5 metre gap between the approved front elevation of number 73 and the shared boundary when the building works are completed. Concern has been raised about the potential for the roof of 73 to touch the roof of the proposal. It is not clear from either planning permission 02/2330/FL/H4 or the current proposal whether this would be the case, because the 2002 application has boundary line which does not make clear whether or not line includes the existing wall in any case the close proximity of the guttering for both properties would be to the rear 5.5 metres back from the front elevations and would not have a significant impact on the appearance of the houses and both roof details must be within their ownership.. Number 73 and the attached bungalow do not follow a straight building line at this part of Skip Lane and angled away from the application house. This relationship combined with the bungalow design of number 73 with low eaves are considered on balance sufficient to ensure that the proposed house would retain a detached character consistent with the neighbouring detached houses in this part of Skip Lane which are predominantly built up to a boundary on at least one side. For the reasons outlined above this proposal is considered would not result in terracing.

The approved side extension elevation of number 73 includes two windows, one serving a utility room on the ground floor and a bathroom on the first floor. These are non-habitable room windows and the relationship between these and the proposal would not unduly affect the amenities of occupants of these rooms in accordance with UDP policy GP2. The nearest habitable room windows both serve the kitchen, the larger of the two is set further away from the boundary. The current proposed house design at 71 has been checked in relation to the approved plans of the extensions at 73, as well as the Ordnance Survey base, plus survey plans provided by the neighbour and the applicant. It is considered that there is no breach of the Council's 45 degree guidance from the nearest kitchen window to the two storey part of the proposal.

Due to the proposed ground level difference to number 73 the proposed single storey rear projection would be between 1 and 1.5 metres high when viewed from the garden of 73, which is lower than the usual 1.8 metre high boundary fencing. The impact of the single storey part of the proposal on the rear garden and rear windows of number 73 would be no different to garden boundary treatment which does not require planning permission. For these reasons the proposal to change the land level to the rear is considered minimises any impact on neighbouring amenity and accords with the Council's 45 degree code.

Little detail has been provided for the proposed boundary wall, however the principle is acceptable as the land owner could utilise their permitted development rights to erect a boundary treatment without permission. In this instance, it is considered details can be conditioned.

### **Other issues raised through consultation.**

Concern raised about the height of the proposal which would be within 300mm of the height of both neighbouring houses, is considered acceptable within the existing street-scene, and was considered acceptable by the planning inspector.

A number of other developments are referred to in the objections received, these developments do not form part of the character of this part of Skip Lane and each case is determined on its own merits.

A resident is concerned that the Planning Inspector stated the previous house at this site was hard to the shared boundary. It is acknowledged that this is not accurate and that there were previously gaps at both sides and is a matter for residents to take up separately with the inspector. The assessment of this planning application is based on the character of the area as it is now, the previous relationship between number 73 as originally built and number 71 where it once stood is not fundamental to determining this current planning application and any concerns that residents have with the Planning Inspectors decision, they would need to raise this directly with the planning inspectorate.

The Planning Inspector considered that the proximity of the proposed house to the shared boundaries would be close, but that it is not uncommon on the street. In this part of Skip Lane number 67 is built up to the boundary with number 69 and predominantly houses on this side of Skip Lane are semi-detached. One of the objectors provided details of 6 other recent permissions for new houses where they have gaps to shared boundaries on both sides. Each application is considered on its own merits within the constraints of the particular site and this instance, it is considered that these houses are too far away or on the opposite side of the road to be considered part of the character of the area where the application site is.

The Council's terracing policy states *"avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary"*. The terracing policy is not required to be applied to new houses which must in any case respect the character of the area and have an acceptable relationship to neighbouring houses, a matter considered elsewhere in this report.

Objection has been received that the proposal is not a replacement house. The increase in size is accepted, however the proposed house would be on a plot in which there was previously a house and it is clear that there is nothing on the site at present.

An objection has been raised about the location of the proposed house. This is a matter for the applicant and the Council must assess the scheme submitted.

An objection has been received about the drawings being incorrect as they states the extensions to number 73 have not be built. It is recognised that the works are underway but are incomplete, this can be seen in the site photos.

An objection commenting that the deep boundary retaining walls have an adverse affect on 69 and 73. The proposed house would be set into the ground with the front of the house being at street level. The retaining walls themselves would result in little loss of amenity to neighbours sufficient to sustain a reason for refusal.

An objection about the loss of a Hawthorn Tree and the impact on a TPO tree further back. The Ecology Officer with respect to this application or the previous application raised no concerns about the loss of the Hawthorn tree which is not protected or raised concerns about the TPO tree which is considered far enough away not to be affected by the development.

Concerns about drainage, Severn Trent have confirmed no objections subject to a drainage condition which can be attached to any permission granted.

The owner of number 73 has objected that the plot shape and red line plan submitted is incorrect and has provided a survey of the shared boundary with the application site. The red line of the location plan appears to be within the red line illustrated on the land registry plans the Council has obtained. It is considered, based on the objectors shared boundary survey, the applicants subsequent land survey of the site and the shared boundary, plus the land registry plans, that there is no reason to request a new location plan for this application. Any

resulting boundary dispute is now a civil matter between the two land owners to resolve and not a determining issue of a planning application.

Residents concern about the lack of space for a turning circle on the front of the development and the adequacy of the visibility splay, has been considered by the Council's Highway Authority. The Highway Authority has no objections to the parking arrangement or the way vehicles will enter and leave the site. It is considered acceptable in highway terms and similar to existing arrangements within the street.

Planning permission has not been sought for a change of use of highway verge and the Highway Authority has no concerns in this respect. To ensure that no part of the proposal encroaches onto highway land a condition can be attached to planning permission if granted which also ensures the verge is retained to provide an adequate visibility splay.

An objection has been received regarding the accuracy of the land levels. A site visit has occurred to the application site and neighbouring house number 73 and the assessment of the planning application takes account of both the site levels provided as part of the application and the concerns raised.

An objection has been received that the location of number 67 was not correctly plotted on the submitted plans and has now been omitted. Number 67 is over 13 metres away from the proposal, on higher ground and extends further back than the two-storey part of the current proposal. For these reasons the proposal would have little impact on the amenities enjoyed by occupiers of this house.

Following the Council's refusal of planning application 14/0911/FL, the applicant appealed the decision. Appeal APP/V4630/A/14/22244723 was dismissed in part for the impact of the proposed garage projection of nearly six metres "*set well forward of the established building line*" when combined with the other engineering works (front land level change and retaining walls) It is considered that the building line here is not straight, but that it progressively changes along Skip Lane due to the contour of the road. The proposal, although further forward is considered not to be out of keeping with this existing relationship being in line with the front of the extensions being built at number 73.

Concerns raised about the following issues, are considered to have been addressed through amended plans, sufficiently to not be able to sustain a reason for refusal:

Rear balcony

Vanity screen

Accuracy of submitted plans

Request for written measurements

New boundary wall height

Location of number 69 in relation to the proposal (although acceptable, the local planning authority rely on Ordnance Survey plans, site visits and site photos)

The proposed front boundary wall, railings and gates at 1.8 metres high, are considered to not impact on the street scene, as they reflect the emerging character, being similar in scale to those approved at 73 Skip Lane adjoining to the application site.

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

The Council has worked with the applicant to resolve any outstanding concerns with the proposal sufficiently to not sustain a reason for refusal and have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

### **Recommendation**

#### **Grant Subject to Conditions**



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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

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

Location Plan deposited 20/01/15

Amended - Existing Site Levels (2015/001/601) deposited 02/06/15

Amended - Proposed Site Levels (2015/001/602) deposited 16/06/15

Amended - Existing Site Plan (2015/001/603) deposited 02/06/15

Amended - Proposed Site Plan (2015/001/604) deposited 16/06/15

Amended - Proposed Ground Floor Plans (2015/001/605) deposited 02/06/15

Amended - Proposed First Floor and Loft Plans (2015/001/606) deposited 16/06/15

Amended - Proposed Side Elevation A (2015/001/607) deposited 16/06/15

Amended - Proposed Front Elevation (2015/001/608) deposited 02/06/15

Amended - Proposed Rear Elevation (2015/001/609) deposited 02/06/15

Amended - Proposed Side Elevation B (2015/001/610) deposited 16/06/15

Amended - Proposed Site Section 2 (2015/001/611) deposited 16/06/15

Amended - Streetscene (2015/001/612) deposited 02/06/15

Amended - Proposed Property Section (2015/001/613) deposited 16/06/15

Amended - Design and Access Statement deposited 20/01/15

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

3. a: Prior to the commencement of the development the following details shall be submitted and approved in writing by the Local Planning Authority:
  - Brick type including size texture and colour used in the house and boundary walls
  - Gate design details
  - Gate and railing RAL colourb: The approved details shall be fully implemented and retained thereafter.

Reason: Necessary prior to commencement to ensure the satisfactory appearance of materials and acceptable protection of neighbouring amenity to comply with policies GP2 and ENV32 of Walsall's Unitary Development Plan.

4. a: No development shall begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

b: The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

5. a: Prior to the development first coming into use, the frontage parking area shall be fully consolidated, hard surfaced and suitably drained so that surface water from the parking area does not drain onto the public highway at any time.  
  
b: The parking area shall thereafter be retained and used for no other purpose.

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

6. a: Prior to the development first coming into use, details of the height and location of the rear boundary treatment to the shared boundary with number 73 shall be submitted to the Local Planning Authority and approved in writing.

b: The approved details shall thereafter be retained.

Reason: To safeguard neighbouring amenity and in accordance with UDP Policy GP2 and ENV32.

7. : Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

9. For the avoidance of any doubt, the proposed boundary wall and gates across the property frontage shall respect the red line boundary of the application site and shall not enclose the existing highway verge between the back of footway and the site boundary and the proposed gates on the frontage shall not open over any part of the highway.

Reason: To ensure that the development does not encroach or enclose the public highway.

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

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

Reason: To protect the amenities of surrounding occupiers.



Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 09-Jul-2015

**Plans List Item Number: 3.**

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

### Application Details

**Location:** 51 CHARLEMONT ROAD, WALSALL, WS5 3NQ

**Proposal:** PROPOSED CONSTRUCTION OF A NEW BUNGALOW WITH DOUBLE GARAGE TO THE REAR OF THE EXISTING PROPERTY AT 51 CHARLEMONT ROAD AND CONSTRUCTION OF NEW SINGLE GARAGE TO SERVE THE EXISTING PROPERTY AT 51 CHARLEMONT ROAD.

**Application Number:** 14/1487/FL

**Applicant:** Mr R. Horrell

**Agent:** Alexander James Associates Ltd

**Application Type:** Full Application

**Case Officer:** Stuart Crossen

**Ward:** Paddock

**Expired Date:** 02-Dec-2014

**Time Extension Expiry:** 30-Jun-2015

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



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## **Officers Report**

### **Application and Site Details**

The application proposes a detached bungalow in the rear garden of number 51 Charlemont Road which would provide a double fronted bungalow with projecting garage, utility room, kitchen, snug, living room, hall, toilet, 3 bedrooms with shower rooms, a fourth bedroom and a shower room.

The attached garage and driveway to the front would provide 3 car parking spaces.

Also proposed is a single detached gable roof garage and drive to the side to serve occupants of number 51 Charlemont Road.

The original application proposed a large detached house. Amended plans have been received to reduce the height to a bungalow.

This part of Charlemont Road is defined by traditional styled houses and existing rear garden development. The application house is in a row of 7 houses which have houses, predominantly bungalows in their rear gardens (or low roof designs). The density of housing in this part of Charlemont Road is 7dph.

The design of the bungalow would be traditional including a hipped roof design with hipped front and rear projections and velux roof windows. The site density would be 10dph.

The key measurements of the bungalow are

19 metres wide

4 metres high to the eaves

7 metres high to the highest point

13.4 metres deep, the main part of the bungalow

The attached garage would project an additional 7.5 metre forward and would be 34 metres from the rear of number 51

The Key measurements of the single garage are:

6.3 metres deep

2.4 metres high to the eaves

3.7 metres high to the roof ridge

4 metres wide

The access to the development would replace the existing driveway for number 51 Charlemont Road and would be shared with the occupiers of number 51 as their parking (enough for three cars) is proposed to be at the rear.

The rooms at number 51 nearest to the new access serve a kitchen on the ground floor with a side access door and a bedroom and bathroom on the first floor which have no side elevation windows.

The bungalow would be to the side of number 53a a neighbouring bungalow in the rear garden of number 53. The main part of the proposal would not project further forward or rearward of 53a, the projecting garage would be 14 metres from the shared boundary defined by a 2 metre high hedge.

On the other side of the proposal is number 45 a detached bungalow which is 10 metres from the shared boundary defined by established planting.

The rear garden of the application house would be 25 metres deep and 20 metres wide, the rear boundary meets Walsall Golf Club. Number 51 would have remaining a 20 metre deep garden which would be 15 metres wide.

The Design and Access Statement relates to the original house design but provides information on the locality and its potential relationships with neighbouring properties.

### **Relevant Planning History**

On this side of Charlemont Road there are 5 houses with houses built in what were originally back gardens, all of these permissions were granted well over ten years ago and there is no relevant planning history specifically to this site.

### **Relevant Planning Policy Summary**

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

The NPPF was published on Tuesday 27<sup>th</sup> March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas

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

#### **4: Promoting Sustainable Transport**

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

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

#### **6: Delivering a Wide Choice of High Quality Homes**

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

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

#### **7: Requiring Good Design**

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

58. Policies should set out the quality of development that will be expected of an area, including:

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

59. Consider using design codes where they could help deliver high quality outcomes. Design policies should avoid unnecessary prescription or detail and

should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

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

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

On **planning obligations and conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

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

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

#### Annex 2- Glossary - Previously developed land

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

#### **The Development Plan**

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

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

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

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

The key planning policies include CSP4, HOU2, ENV2 and ENV 3



It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

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

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

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

Key planning policy references include saved policies:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV33 and 3.117 landscape design is an integral part of urban design

H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites and through the conversion of existing buildings.

ENV40 (c) The quality of all water resources will be protected and, where possible, improved. Development will not be permitted if the drainage from it poses an unacceptable risk to the quality or usability of surface or ground water resources. In particular the Council will need to be satisfied that:-

I. Adequate foul and surface water drainage infrastructure is available to serve the proposed development.

ENV14 and 3.9 The Council will encourage the reclamation and development of derelict and previously developed land.

3.64: Trees are an important visual, ecological and historical resource, which should be retained and protected wherever possible.

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

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

T13: Parking Provision

1, 2 & 3 bedroom houses                      2 spaces per unit

### **Supplementary Planning Document (SPD)**

On the basis that relevant Unitary Development Plan policies are consistent with National Planning Policy Framework, the related Supplementary Planning Document(s) will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

**Designing Walsall** (Feb 2008) refers to the development respecting massing, scale and rhythm of adjacent buildings, plots sizes and built density will relate to their local context , privacy and aspect distances between buildings must ensure all occupants have a satisfactory level of amenity, whilst reflecting the emerging and existing character of the area, ground floor activity and natural surveillance will be maximised, a clear definition between private and public realm and building frontage to overlook the public realm, common building lines along road frontages must be maintained with buildings have a clear relationship with their neighbours and new development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment.

DW3 – all new development must be designed to respect and enhance local identity

DW9 new development must seek to ensure it creates places with attractive environmental quality

Annexe D: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

The Vision: Homes, provides guidance on designing homes in Walsall.

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

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

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

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

### **Consultations**

**Ecology** – No objections

**Fire Officer** – No comments

**Police Architectural Liaison Officer** – No objections security recommendations which can be conditioned.

**Pollution Control** – No objections subject to hours of construction restriction

**Tree Officer** – No objections subject to conditions for replacement tree planting

**Transportation** – No objections subject to conditions

### **Public Participation Responses**

4 objections have been received from two neighbouring households on the following grounds in relation to the original house proposals:

The proposed 8.4 metre height is excessive

2 storey development is out of character and would result in overlooking and loss of privacy.

Proximity of shared access to neighbouring houses would impact on amenity.

Impact on the trees at number 45 as a result of the proposed garages.

1 objection has been received following the consultation on the current bungalow design on the following grounds:

Two storey large detached house is out of character, the reduction in height is not sufficient to reflect the character of other nearby tandem housing.

Overlooking to number 45

Proximity of shared access

Impact on trees

### **Determining Issues**

- Principle of Development
- Character of the area
- Neighbouring and Occupiers Amenity
- Access and Parking
- Trees
- Security

### **Observations**

#### **Principle of the development**

The site is situated within a well-established residential area within easy walking distance (maximum of 1000m defined in paragraph 7.51 of the UDP) of Park Hall local centres and regular bus services along Birmingham Road. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

Whilst the proposals will result in the development of a residential garden which is not defined as previously developed land in the NPPF, in this case it is considered that the proposals will not cause harm to the local area, will not adversely impact on the character and identity of the local area and will be consistent with advice in paragraph 53 of the NPPF. An appropriate level of private amenity will be retained for No 49 Charlemont Road and the proposals will continue the street frontage of Charlemont Road.

The principle of an additional residential property considered appropriate in this location.

### **Character of the Area**

The character of the houses facing Charlemont Road are predominantly large detached houses, but at the rear the character is defined by a number of detached bungalows (or those with low roof designs). The proposal reflects this existing design character and accords with ENV32. Although on a smaller plot than other neighbouring developments and of a slightly higher density, because of its location away from the road the proposal in this respect is considered compatible with the character of the area and is acceptable.

### **Neighbouring and Occupiers Amenity**

The hipped roof bungalow design of the proposal and location to the side of both numbers 53a and 45 would ensure that there would be no overbearing impact on these houses or significant loss of light. No main windows to habitable rooms are proposed on the side elevations and there would be little if any potential for overlooking.

No objections have been raised by Pollution Control and the relationship between the proposal and number 51 is considered acceptable providing sufficient garden space and separation between both properties to accord with the Council's Designing Walsall Appendix D guidance.

The shared driveway could result in some noise and disturbance to the occupiers of number 51, however the proposal is for a single bungalow and the likely comings and goings here would be minimal and Pollution Control Officers have no objections.

For these reasons the proposal is considered would not have any unacceptable adverse impact on the environment and accords with policy GP2.

### **Access and parking**

The Transportation Officer considers that although the hedge and fence is to be retained to the front, the proposal for a single additional house in an area with a low footfall the proposed access is acceptable. A condition has been recommended for hard surfacing of the driveway which can be conditioned.

The proposed parking for both the existing house and proposed bungalow is sufficient to provide 3 car parking spaces per property in accordance with the Council's parking standards T7 and T13.

### **Trees**

The Tree Officer has raised no concerns about the proposal but has recommended a condition is attached to any permission to require additional tree planting to replace recently felled trees in accordance with ENV18.

### **Security**

In the interests of security as recommended by the Police Architectural Liaison Officer and in accordance with UDP policy ENV32 the following security details can be conditioned:

Windows, doors, roof lights, defensible space for front ground floor windows, new boundary fencing, rear access gates and intruder alarm.

### **Recommendation**

Grant subject to conditions.

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2. The development shall be carried out in accordance with the following plans:  
Amended Site Location Plan ((P)B01) deposited 16/04/15  
Amended Existing Block Plan ((P)B02) deposited 16/04/15  
Amended Proposed Block Plan ((P)B03) deposited 16/04/15  
Amended Proposed Site Plan ((P)B100) deposited 16/04/15  
Amended Existing Site Plan ((P)B04) deposited 16/04/15  
Amended Proposed Elevations and Floor Plans ((P)B200) deposited 16/04/15  
Design and Access Statement deposited 02/10/14  
Garage plans and elevations (single garage only) ((P201) deposited 02/10/14

Reason: To define the permission.

3. a) No development shall begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.  
  
b) The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, to minimise the risk of pollution and in accordance with UDP policy ENV40.

4. a) Prior to the development commencing details of new tree planting shall be submitted to and approved by the Local Planning Authority  
  
b) The approved details shall be fully implemented within one planting season of the completion of the development

Reason: To enhance local tree populations and in accordance with UDP policy ENV18. The details are required prior to commencement to ensure that the proposal does not conflict with the development.

5. a) Prior to the construction of the development above damp proof course full details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will meet Secure By Design specification.  
  
b) The approved details shall be fully implemented prior to first occupation of any house and thereafter retained

NB. Please refer to "Note For Applicant" for further information.

Reason: To ensure the safety of future occupants

6. a) Prior to the development first coming into use, the proposed driveway and parking areas shown on the approved plan shall be fully consolidated, hard surfaced and drained in accordance with the approved details.
- b) The parking area shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development

7. No development within Classes A, B, C, D and E of Part 1 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) shall take place.

Reason: To protect the character and amenities of the area and to comply with policies GP2 and ENV32 of Walsall's Unitary Development Plan.

8. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. \* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

Reason: To protect the amenity of adjoining residential occupiers.

### **Notes for Applicant**

I request that the developer be made aware of Secure By Design specifications which will significantly increase the security of the building ( doors and windows) .

Information can be found at

[http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2010.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf)

All external door sets should comply to PAS 24 2012 standards.

All ground floor and accessible windows should comply to BS7950 or WCL4 standards. This should improve the standard of security to the more vulnerable ground floor windows.

All ground floor, accessible windows and doors should contain at least one pane of 6.8mm laminated glass, this includes French and Patio doors.

All ground floor front windows should have an area of defensible space across their width. This should be made up of densely planted shrubs, selected to be suitable for the environment they are to be planted in. This will provide a buffer area between the windows and other public or private space, making it more difficult for offenders to access such windows.

Where plants / shrubs are to be used in front of windows or around parking spaces the plants should be such that they grow to no more than 1m in height when mature. Plants and shrubs should also suit the environment they are to be located in terms of soil and light.

Perimeter and Boundary fencing should be at least 2.1m in height, the fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m fencing can include 300mm trellis topping in

order to offer protection of the vulnerable rear of the properties.

Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components.

Due to the national increase in metal thefts where possible lead substitute products should be used.

All the buildings on this development should be suitably fitted with an intruder alarm. All side gates should be as close to the building line as possible to improve natural surveillance around these vulnerable locations by removing or limiting the recess's

Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 09-Jul-2015

**Plans List Item Number: 4.**

**Reason for bringing to committee:** Contrary to Parking Policy

### Application Details

**Location:** 26 HALL STREET EAST, DARLASTON, WALSALL, WS10 8PL

**Proposal:** MIXED A3 AND A5 USE FOR TAKEAWAY AND RESTAURANT.

**Application Number:** 15/0435/FL

**Case Officer:** Stuart Crossen

**Applicant:** Mr L Singh

**Ward:** Darlaston South

**Agent:** Integrated Designs & Associates Ltd

**Expired Date:** 14-May-2015

**Application Type:** Full Application

**Time Extension Expiry:** 30-Jun-2015

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



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## **Officers Report**

### **Application and Site Details**

The application is for a change of use of 26 Hall Street East which was previously used as a shop (A1) and is now proposed to be a takeaway/ restaurant (sui-generis A3/A5).

The application building is part of a row of local shops on the corner facing both Peacock Road and Hall Street. The original building has been extended so that the unit subject to the application would have been the end property but for a pharmacy extension (number 26a) which has been created to the side which turns the corner facing Hall Street.

Within the same row is a convenience store and chip shop, there are no other takeaway/ restaurants within a mile radius. Darlaston Town Centre has the nearest facilities 1.5 miles away.

Amended plans propose to include the extraction flue within the existing chimney which would extend 1 metre above the roof ridge of the application building. Further details have also been submitted providing extraction equipment details.

The front part of the store would have a customer service and dining area with 16 covers, with the service area and preparation area behind and at the back of the unit would be a storage area, staff area and toilet facility.

A planning statement and sequential test provides the following key points:

- The unit has been vacant for some time
- The scale of the unit would have no detrimental harm to the viability of the local shopping centres
- The extraction system will not have any impact on the amenities of existing dwellings and opening hours will be restricted (*no details have been provided*)

Extraction details have also been submitted.

### **Relevant Planning History**

None relevant

### **Relevant Planning Policy Summary**

#### **National Planning Policy**

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

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Positively drive and support sustainable economic development to deliver business, taking account of the needs of the residential and business communities.

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

1: Building a Strong, Competitive Economy

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth



32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment.<sup>7</sup>: Requiring Good Design

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

58. Policies should set out the quality of development that will be expected of an area, including:

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

On decision-taking the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Other Relevant National Policy**

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

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

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

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

The key planning policies include:

ENV2 states that development proposals will be expected to preserve and, where appropriate, enhance local character.

ENV3: Design Quality

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

CEN1 - The Black Country's centres are the focus for retail, leisure, commercial and civic uses and it is the strategy of this document to maintain and enhance these centres appropriate to their role and function.

CEN6 –small-scale local facilities outside defined centres of up to 200 square metres gross will be permitted if all of the following requirements are met:

- The proposal is of an appropriate scale and nature to meet a specific day-to-day need of a population within convenient, safe walking distance.
- Local provision could not be better met by investment in a nearby centre;
- Existing facilities that meet day-to-day needs will not be undermined.
- Access to facilities by means other than by car would be improved and, in particular, will be within convenient, safe walking distance of the community it is intended to serve;
- Where new local facilities are to meet the specific needs of new housing development,

CEN7 - demonstrate that out of centre development cannot be provided in-centre or at edge-of-centre locations of existing Centres appropriate to the hierarchy. For all other main town centre uses a location that is well connected and within easy walking distance (i.e. up to 300 metres) of the centre boundary of Strategic and Town Centres will be regarded as edge-of-centre, unless defined in relevant saved UDP policies. Any proposal for a town centre use in an out of centre location, will only be considered favourably if the impact assessments contained in the most recent national guidance are satisfied, or the requirements of Policy CEN6 are satisfied. It will be important to ensure developments are accessible by a choice of means of transport, in particular public transport, walking and cycling, and support both social inclusion and the need to sustain strategic transport links.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

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

#### **GP2: Environmental Protection**

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

I. Visual appearance.

II. The creation of or susceptibility to pollution of any kind

Policy 3.7 proposals for development the council will seek to protect people from unacceptable noise, pollution, and other environmental problems.

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

#### **ENV10: Pollution**

Development of a facility which may cause pollution will only be permitted if it would not:

ii Cause unacceptable adverse effect in terms of ...lights, vibration, smell, noise, or other polluting emissions.

#### **ENV32: Design and Development Proposals.**

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development
- The integration and co-ordination of buildings and external space.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

#### **Policy S6: Meeting Local Needs**

(a) Outside the identified centres, existing local shopping, service, leisure, community and other facilities - in the form of shopping parades, clusters, single shops and other local

provision - will be encouraged to continue to meet the day-to-day needs of their communities, unless it can be shown that the requirements of policy LC8 in Chapter 8 would be met.

(e) Where there are suitable vacant premises in the area, the Council will normally prefer that these are used to accommodate new facilities. Otherwise, the Council will normally encourage new facilities to be provided adjacent to existing shop clusters or parades, wherever feasible.

Policy S10: Hot Food Take-Aways, Restaurants and Other A3 (Food and Drink)

Outlets<sup>5</sup>

These uses will be appropriate in the Town, District and Local Centres (subject to Policy S4) and in some shopping and commercial frontages elsewhere (if in accordance with Policies S6 and S7), subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings - both existing and proposed - where these are likely to be affected. In such locations, the Council will usually impose a condition requiring the premises to close at 23.00 hours Monday to Friday and 23.30 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits.
- III. Permission will not be granted where the absence of adequate off-street parking would be likely to lead to on-street parking in a hazardous location. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

Policy T13: Parking Provision for Cars, Cycles and Taxis

Developers must, however, still demonstrate in all cases (including developments below the size thresholds) that the development will provide adequate on-site car parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment. Food and convenience goods shops:

1 car park space per 14m<sup>2</sup> of gross floorspace. At least 1 bike stand for every 20 car park spaces, and absolute minimum of 2 bike stands Taxi facilities.

Hot food takeaways:

4 car park spaces for establishments with a gross floorspace up to 50m<sup>2</sup>; then 1 space per 22m<sup>2</sup> of gross floorspace. At least 1 bike stand for every 5 car park spaces with an absolute minimum of 2 bike stands. Taxi facilities.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

### **Supplementary Planning Document "Designing Walsall" (Feb 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW3 – Character - all new development must be designed to respect and enhance local identity

DW9 – High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

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

### **Consultations**

**Transportation** – No objections

**Environmental Health** – No objections subject to revised extraction specification and an informative to the applicant about trade waste.

**Pollution Control** – No objections subject to conditions

**Transportation** – No objections

**Police Architectural Liaison Officer** - to be updated at planning committee

### **Public Participation Responses**

3 objections have been received from 2 people following two consultations on the following grounds:

Parking issues

Highway Safety

Litter

Vermin

Smell

Junk mail

Problems with youths

### **Determining issues**

- Principle of development
- Design and Character of the Area
- Impact on the Amenities of the Surrounding Occupiers
- Parking & Highway Safety

### **Observations**

#### **Principle of development**

Whilst this is not an allocated local centre the row of shops the application unit is part of does provide an important service to the local area and should be protected and enhanced. The proposal is of the appropriate scale and brings back into use a vacant unit. Furthermore it is considered that the local need would not be better met by investment in the nearest centre as this is some distance away. Whilst there is already a neighbouring fish and chip shop there are no other such uses within a mile. The proposal accords with UDP Policy S6: Meeting Local Needs in particular parts a and e of the policy through the re-use of a vacant unit within a row of local shops serving the surrounding community. The proposal also accords with BCCS Policy S6 as the unit is under the 200sqm threshold, meets a local need and reduces the need to travel by serving the surrounding residential area.

#### **Design and Character of the Area**

It is considered that the changes to include the flue within the existing chimney integrates well with the original building and would respect existing identity of the area in accordance with the key provision 7 of the NPPF, ENV2 and ENV3 of the BCCS and DW3 and DW9 of Designing Walsall. The proposal is considered would not have a detrimental impact on the character of the area in accordance with ENV32 of the UDP.

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

This application has been submitted with details of flue extraction. The revised flue extraction details include the stack height increased to 1 metre above the roof ridge by the inclusion of it within the existing chimney. It is considered acceptable with no objections from Environmental Health subject to an improved specification for the extraction unit, which can be conditioned. Details of the flue extraction filters and extraction flue can be conditioned, to be maintained in accordance with the manufacturers recommendations.

The first floor of the property is a flat and occupiers of which could be subjected to noise issues from the proposed use. Noise mitigation measures can be conditioned to be submitted and approved prior to the use commencing.

Environmental Health Officers have advised that trade waste must be stored in an appropriate lidded container and disposed of by a licensed contractor and must not be allowed to build up inside or outside the food business. This matter is controlled by separate legislation and a note to applicant can be attached to any permission granted. In addition, a condition requiring the applicant to demonstrate the location of the bin store can be included in any planning approval.

### **Parking & Highway Safety**

In terms of UDP T13 parking policy the existing and proposed uses have similar parking requirements;

Existing A1 Food use = 9 + 1 disabled space,  
Proposed A3 Restaurant use = 6 + 1 disabled space,  
Proposed A5 Hot Food Takeaway use = 8 + 1 disabled space.

The site has no parking of its own at present and none is proposed.

The site is located on the Ground Floor of an existing shop unit, part of a small parade of shops at the corner of Hall Street East and Peacock Road. There is a highway service road across the frontage of the shop parade with no parking restrictions and there are no parking restrictions generally in the locality. On the basis that the change of use has similar parking requirement to the existing use and on street parking is available, the Highway Authority considers the development will not have significant or severe transportation implications and is acceptable. A transport statement is not required in accordance with NPPF paragraph 32.

### **Crime**

It is considered that the change of use is unlikely to result in any additional crime or that by improving hot food facilities would not significantly raise the fear of crime to warrant refusal in this instance.

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

Amended plans and details have been received to update the flue proposal and justify the scheme which is outside of an identified local centre. No other amendments are required to fully support this proposal.

### **Recommendation**

Grant subject to conditions.

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2. This development shall not be carried out other than in conformity with the following approved plans: -  
Amended existing and proposed plans, location plan and block plan deposited 19 May 2015;  
Extraction, grease trap, filter and insulation details received 19 May 2015  
Planning Statement and Sequential Test received 19 May 2015

Reason: For the avoidance of doubt and in the interests of proper planning.

3. (a) Prior to the commencement of the development odour extraction details, shall be submitted to the local planning authority and be approved in writing.

(b) The odour extraction system should provide a high level of odour control

(c) The approved odour extraction plant details shall be fully implemented before the mixed use as a hot food takeaway and restaurant, is first commenced, and shall be retained thereafter.

Reason; To safeguard the amenities of neighbours by way of smell prior to the use commencing in accordance with UDP policy S10.

4. (a) Prior to the use commencing details of the means of providing noise insulation to control the transmission of sound from the ground floor to the first floor, shall be submitted to the local planning authority and approved by it in writing.

(b) The approved noise insulation details shall be fully implemented before the mixed use as a hot food takeaway and restaurant, is first commenced, and shall be retained thereafter.

Reason; To safeguard the amenities of occupiers of the upper floors at the application building and adjoining premises.

5. (a) Windows to kitchens and serving areas shall be kept closed when food is being prepared or served.

(b) Doors to kitchens and serving areas shall be kept closed except when used for ingress and egress.

Reason: to ensure noise and fumes do not affect nearby residential premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

6. The grease trap, odour extraction plant, associated filters and motors hereby approved shall be maintained and serviced in accordance with the manufacturer's and supplier's recommendations.

Reason: to ensure drains do not get blocked, and noise and fumes do not affect nearby residential premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

7. The premises shall not be open to customers, or for deliveries, outside the hours of 1100 to 2300 daily.

Reason: To safeguard the amenities of the locality and to comply with UDP policy S10

Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 09-Jul-2015

**Plans List Item Number: 5.**

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

### Application Details

**Location:** BIFFA, WESTGATE, ALDRIDGE, WALSALL, WS9 8EX

**Proposal:** ERECTION OF A 6M HIGH LITTER FENCE ON THE NORTH WESTERN AND SOUTH WESTERN BOUNDARIES OF THE SITE AND A 4M HIGH FENCE ON THE NORTH EASTERN BOUNDARY FROM THE BUILDING TO THE WEIGHBRIDGE.

**Application Number:** 15/0400/FL

**Case Officer:** Devinder Matharu

**Applicant:** Biffa Waste Services Limited

**Ward:** Rushall-Shelfield

**Agent:** Not Known

**Expired Date:** 18-May-2015

**Application Type:** County Matters Application

**Time Extension Expiry:** 17-Jul-2015

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



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## **Officers Report**

### **Application and Site Details**

The application site is located on the western side of Westgate. The site is approximately 154m wide and set off the side and rear boundaries by an open parcel of land and trees that form the boundary with neighbouring commercial sites to the north and south and the Daw End Branch canal to the rear of the site.

The commercial unit accommodates the majority of the site being approximately 86m wide at the front of the site and 78m wide at the rear of the site and 196m in length.

From the highway boundary the unit is positioned 30m back with a parcel of open grassland and trees fronting Westgate and a parking area in front of the commercial unit. A low boundary wall forms the boundary between the highway and the application site.

The site has access around the commercial unit with an “ingress” entrance to the south of the site and an “egress” exit to the north of the site.

The application site is a waste transfer site.

Surrounding the site and beyond the canal are other commercial units and uses.

The application proposes the installation of a 6m high litter fence on the north western and south western boundaries of the site and a 4m high litter fence on the north eastern boundary from the building to the weighbridge.

A covering letter has been submitted with the application which states:

- Aldridge Waste Transfer Station comprises a large building with associated external yard areas.
- The building is used for the sorting and baling of recyclable materials.
- The bales of recyclable materials are stored outside of the building on the northern side and in the yard waiting export.
- The Aldridge facility is permitted to manage up to 300,000 tonnes of waste material per year and provides a valuable service to waste producers in the area contributing to ensuring that the recycling of industrial and commercial waste streams are maximised.
- The site is currently surrounded by a 1.8m high palisade fence.
- Every endeavour is made to prevent the escape of lightweight wastes from the site, as more recyclable waste is collected by Biffa and the site has become busier, it has proved difficult to capture all waste within the site boundary.
- The escape of waste from the site is both unsightly and potentially a nuisance to adjacent neighbours.
- In order to prevent the escape of lightweight wastes it is proposed that a 6m high litter fence, similar to the fences used successfully by Biffa on landfill sites is erected along the north western and southern western boundaries of the site.
- The fence would serve to protect adjacent properties and the Daw End Branch Canal from windblown wastes.
- The fence is only required on these two boundaries as there are no doors on the other elevations of the building and no wastes are stored on the south side of the building.
- The proposed fence comprises netting suspended between 6m high telegraph poles as illustrates on the enclosed photographs.
- The fencing would be regularly cleared and maintained in order to ensure its effectiveness and to minimise the visual impact of the fencing.



A further covering letter was submitted to address objections received from cosultees, which states:

- On the north western boundary the fence has been finished adjacent the palisade boundary fence and further back from the highway than originally shown.
- On the north eastern boundary the fence line is shown between the weighbridge and the transfer station building with a gap in the fence where the exit from the site is located.
- Not possible to install a 6m high fence across the full length of the north eastern boundary.
- The design of the fence is such as it needs to be anchored to provide stability and ensile strength.
- If a 6m high fence were to be installed across the north eastern boundary then anchor points and steel cables that attach them to the fence would interfere with the operation of the weighbridge and movement of articulated vehicles out of the site.
- There are no restrictions on the outside storage of waste under the planning permissions for the site. The site operates with the benefit of two Certificates of Lawful Use dated 22nd January 2007 (reference 06/1891/CP/E11) and BC64639P dated 10th October 2001. The site also operates with the benefit of an Environmental Permit. Biffa has previously submitted applications to the Environment Agency for Permit Exemptions at the Site which have registered and allow external storage of segregated recyclables, either in baled form, or in containers. Biffa is carrying out storage activities permitted by these consents.
- We have used the style of fencing that is proposed at this site on a number of our operational landfill facilities. The fencing is extremely effective at collecting litter in windy conditions. When landfill sites are operating, they have much larger areas of open waste and they are generally significantly more exposed than this site. With this in mind we have no reason to believe that the fencing proposed at Westgate will be ineffective at containing windblown materials. We do not consider it necessary to extend the height of the fencing.
- Once the fencing has been installed a member of the site management team will be given the responsibility to ensure that the fence is maintained in good and clean condition.
- The fence will be inspected on a daily basis to assess its condition and any damage will be identified. Small scale damage will be repaired on the same day by site staff or, if the damage is more extensive, contractors will be identified and instructed to carry out repairs as soon as possible.
- The fencing is designed to ensure that waste materials blown against it fall to the floor as soon as the wind speed drops, to minimise the strain on the fence. This also prevents the fence becoming unsightly with trapped wastes. All waste materials collecting at the base of the fence will be collected and removed back to the facility for processing and disposal on a daily basis.
- In addition to the specific measures identified above, and in accordance with the requirements of the Environmental Permit for the site, management will maintain good housekeeping practices.
- The doors to the facility will be kept shut whenever possible, the yard will be regularly cleaned and loose wastes removed and the number of bales of recyclable materials stored externally will be kept as few as possible. These measures along with the provision of the new litter fencing will be effective in minimising the escape of litter from the site going forward.

The agent has verbally confirmed that the poles to hold the fence in place would be wooden and the mesh will be black.

### **Relevant Planning History**

BC64639P - Certificate of lawfulness for an existing use or operation relating to manufacturing plant and offices for general industrial use. Ferro (GB) LTD, Westgate. Grant certificate of lawful existing use or development 29/11/2001.

05/0852/FL/E5 - Change of use to allow b1b research & development, b1c light industry and b8 storage & distribution uses as well as the authorised b2 general industry use with ancillary office space) alterations to external appearance of building (in association of the subdivision of existing unit to form 2 separate units) and alterations to vehicular access, car parking provision. Ferro and Rohm & Haas, Westgate. Grant permission subject to conditions 11/08/2005.

06/1891/CP/E11 - Certificate of proposed lawful use: proposed class b2 use. Ferro Dynamels LTD, Westgate. Grant certificate of lawful proposed use or development 22/01/2007.

07/0009/ND/E11 - Screening opinion for environmental impact assessment for materials recycling facility. Land off Westgate. Environmental assessment not required 26 January 2007.

07/0194/FL/E11 - Removal of existing cement asbestos sheet cladding and single-storey structures. replacement with new profiled metal cladding to match existing incorporating new access doors with concrete ramps/aprons with 1:40 gradient. Grant permission subject to conditions 30/03/2007.

08/0126/FL - Installation of an in & out weighbridge, plus 2 weighbridge offices located alongside. install water tank for fire sprinkler system. Grant permission subject to conditions 01/05/2008.

## **Relevant Planning Policy Summary**

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

The NPPF was published on Tuesday 27<sup>th</sup> March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- Enhance and improve the places in which people live their lives;
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- contribute to conserving and enhancing the natural environment and reducing pollution.

- encourage the effective use of land by reusing land that has been previously developed.

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

**7. Requiring good design**

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

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

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

**11. Conserving and enhancing the natural environment**

109. The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;

- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability;

And

- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

On planning obligations and conditions the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and

- fairly and reasonably related in scale and kind to the development.

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

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

On decision-taking the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

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

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

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

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

ENV3: Design Quality - Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV4: Canals - All development proposals likely to affect the canal network must:

- safeguard the operation of a navigable and functional waterway;
- protect and enhance its special historic, architectural, archaeological and cultural interest (including potential to record, preserve and restore such features);
- protect and enhance its nature conservation value;
- protect and enhance its visual amenity;
- protect and enhance water quality in the canal.

CSP4: Place Making – hierarchy of centres will provide a focus and concentration for essential local services.

WM1: Sustainable Waste and Resource Management

The Black Country will aim to achieve zero waste growth by 2026. Sustainable waste management will be delivered through the following measures:

2. Setting targets for landfill diversion and encouraging provision of recovery, recycling and composting facilities to reduce reliance on landfill and move waste up the “waste hierarchy”;
4. Protecting existing strategic waste management capacity and enabling existing waste management infrastructure to expand or relocate where appropriate;
6. Providing general guidance on the types of location suitable for different types of waste management facilities;
7. Supporting proposals which involve optimum uses for waste materials, and the production of waste derived products to standards which meet agreed quality protocols.

WM2: Protecting and Enhancing Existing Waste Management Capacity.

The existing strategic waste management sites in the Black Country are shown on the Waste Key Diagram and on the Regeneration Corridor Maps. They are also listed in Appendix 6. They include waste treatment, transfer and landfill facilities.

The maximum throughput capacity of existing strategic waste treatment sites (approximately 2.7 million TPA) and transfer sites (approximately 1.1 million TPA) will be protected as far as possible.

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

### **Walsall’s Unitary Development Plan (UDP) (2005)**

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

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

The relevant policies are:

3.6, 3.7 & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

3.113, 3.114, 3.115, ENV32 and 3.116: Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime’ through design, layout, landscaping and boundary treatments is encouraged.

ENV11: Light Pollution – significant external lighting will not be permitted unless minimum amount of light spillage is proposed.

ENV14: Development of Derelict and Previously-Developed Sites – encourage the development of previously developed land.

ENV18 Development will not be permitted if it would damage or destroy trees or woodlands protected by Tree Preservation Order, in a Conservation Area or identified as Ancient Woodland, or hedgerows of significant landscape, ecological or historical value unless:-

I. the removal of the trees or hedgerows would be in the interests of good arboricultural practice and there would be no unacceptable adverse impact on wildlife; or

II. the desirability of the proposed development significantly outweighs

the ecological or amenity value of the woodland, trees or hedgerows.

(b) Where developments are permitted which involve the loss of trees or

hedgerows developers will be required to minimise the loss and to provide appropriate planting of commensurate value; wherever possible, this should involve native species of local provenance.

3.64 Woodlands, trees and hedgerows are an

ENV23 New development to take full account of existing features of value for wildlife or geology. Where loss or damage of existing features is unavoidable, the Council will require mitigation measures to which adequately compensate for the features lost. The nature and extent of mitigation works required shall be appropriate to the size and quality of the feature lost or damaged. This part of this policy will apply to sites which are used by species protected by European law and/or British legislation.

T4 - The Highway Network

4.33, JP5 and 4.34 The Strategic Policy Statement introduces the concept of core employment uses, core employment areas and best quality sites (see paragraph 4.4). Core employment uses are defined as industry and distribution in Classes B1b, B1c, B2 and B8 of the Use Classes Order. Core employment areas and best quality sites will normally be safeguarded for these uses as set out in the following two policies.

(a) The core employment areas are shown on the Proposals Map. These areas will be safeguarded for core employment uses, permissions for which may be subject to conditions

to prohibit change to other uses, such as Class B1(a) offices. Proposals for other uses will only be permitted where it can be demonstrated that:-

I. A need would be met which could not be satisfied elsewhere in the

Borough; or

II. The range and quality of employment opportunities would be significantly increased.

(b) When windfall sites or buildings in core employment areas come forward for reuse or redevelopment they will normally be safeguarded for core employment uses according to the above policy.

4.34 The core employment areas are defined on the basis that they contain major concentrations of core employment uses and/or good quality buildings or development opportunities.

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

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

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

### **Designing Walsall**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

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

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

Development with the potential to affect trees, woodlands and hedgerows

NE7- All applications with the potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural impact assessment.

NE8 All planning applications proposing the retention of trees, woodlands or hedgerows within a development site should demonstrate that the trees to be retained will survive without causing significant nuisance beyond the development phase.

NE9- compensatory planting will be sought.

### **Consultations**

**Transportation-** No objection

**Natural Environment Team Trees** – No objection subject to a planning condition ensuring the trees are retained on site

**Pollution Control Contaminated Land-** No objection. While it would have been preferred the litter fence to be 6m in height along its entire length, the difficulties with anchoring being close to the weighbridge have been appreciated.

**Canal and Rivers Trust-** No objection

**Environment Agency** – No objection as the fence will follow back around towards the main building.

**Canal Navigations Society** – Objection to the proposal on the following grounds:

- windblown waste material has blown for some time despoiling the surrounding area including the Daw End Branch of the Wryley and Essington Canal.
- the present application will not resolve the issue in a satisfactory and long term manner.
- 6m high mesh fence will not capture all spillage and windblown waste and material captured in it will be an eyesore to the area.
- uncertain how the regular cleaning of the fence will be implemented and the difficulty the authority will face in enforcing any such conditions.
- Biffa should be required to retain all waste material within a building either as an extension or as a new construction.

**The Inland Waterways Association** – objection on the following grounds:

- Not been consulted on any change of use to the Biffa waste transfer site and no records on Council's website.
- Condition forbidding outside storage of waste materials as it would be susceptible to spillage and windblown waste littering of adjacent areas
- Enforcement action taken to prevent litter nuisance from continuing.
- 6m high mesh fence is not an appropriate solution.
- Fence would not prevent all waste escaping and its appearance when covered with litter will be an eyesore.
- Not clear how regular cleaning will be achieved.
- Photographs show bales stacked up to boundary.
- Amount of waste being processed should be limited.
- Biffa should be required to retain all waste material within a building either as an extension or as a new construction.
- The site is fortunately fairly well screened from the canal by trees and shrubs on the bank between the towpath and the rear of the building.
- Waste escaping into woodland
- Company should clean up adjacent polluted areas and woodland by their anti social behaviour.

The Inland Waterways have made the following additional objections on the amended details:

- Claims waste material will fall off fence as the wind drops is unconvincing.
- Wet paper will stick to fence.
- Claims outside storage permitted on certificate of lawfulness and environmental permits exemptions would be a failure of the planning system and environmental protection.
- Certificate relates to a different use and not relevant.
- 2007 certificate does cover materials recycling facility but is described as "breaking up" paper, cardboard, glass, plastics, plastic film, plastic bottles, steel and aluminium.
- No evidence operation was conducted outside of premises in the open where waste could not be contained.
- Extension of operations to include outside storage of recycling materials is not covered by the certificate.



- Planning application for external activity should be submitted or materials to be stored in containers via conditions or and exclude outside storage of uncontained or baled paper, card, plastic.
- Proposed fencing not required as nuisance can be prevented through environment agency permit conditions.

**Natural Environment Team – Ecology-** To be updated at Planning Committee.

## **Public Participation Responses**

None

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

## **Determining Issues**

- Background
- Principle of development
- Design and Visual impact of proposed mesh fence
- Impact on neighbouring commercial uses
- Impact upon the Daw End Branch Canal
- Ecology

## **Observations**

### **Background**

The existing waster transfer site accommodates a large building with associated external areas. The agent states that the building is used for the sorting and baling of recyclable materials with the bales of recyclable materials being stored outside of the building on the northern side and in the yard waiting export. They also state that the site is permitted to manage up to 300,000 tonnes of waste material per year and provides a valuable service to waste producers in the area contributing to ensuring that the recycling of industrial and commercial waste streams are maximised.

The site is currently surrounded by a 1.8m high palisade fence.

The Canal Navigations Society and Inland Waterways Association have objected to the proposal on the grounds that they have not been consulted on any change of use to the Biffa waste transfer site and no records on Council's website, condition forbidding outside storage of waste materials as it would be susceptible to spillage and windblown waste littering of adjacent areas, amount of waste being processed should be limited, claims outside storage permitted on certificate of lawfulness and environmental permits exemptions would be a failure of the planning system and environmental protection, certificate relates to a different use and not relevant, 2007 certificate does cover materials recycling facility but is described as "breaking up" paper, cardboard, glass, plastics, plastic film, plastic bottles, steel and aluminium, no evidence operation was conducted outside of premises in the open where waste could not be contained, extension of operations to include outside storage of recycling materials is not covered by the certificate.

The certificate granted under reference number 06/1891/CP/E11, referred to the breaking up of paper, cardboard, glass, plastic bottles, plastic film, steel and aluminium. The processing

of these was classed as B2 industrial processed as defined in Article 2(b) of the UCO. As the use fell within B2, the certificate was granted.

Therefore no formal change of use of the site has occurred as the works that were operating on the site then and are still operating on the site are classed as B2, as granted under the above reference number. The certificate of lawfulness process is one where the applicant provides information to demonstrate the use of the site for the last ten years and for the Council to assess that information and make a reasoned judgement. There is no process for consultation with third parties to be undertaken, which is why third parties were not consulted on the above certificate application.

The certificate would have related to the whole site not just the building or external areas.

Canal Navigations Society and Inland Waterways Association state enforcement action taken to prevent litter nuisance from continuing, photographs show bales stacked up to boundary and planning application for external activity should be submitted or materials to be stored in containers via conditions or and exclude outside storage of uncontained or baled paper, card, plastic.

The external storage can be controlled through the Environment Agency permit and through Pollution Control and Environmental Health Legislation.

Biffa, address the objection from the Canal Navigation Society and Inland Waterways by stating there are no restrictions on the outside storage of waste under the planning permissions for the site. The site operates with the benefit of two Certificates of Lawful Use reference numbers 06/1891/CP/E11 dated 22nd January 2007 and BC64639P dated 10th October 2001. The site also operates with the benefit of an Environmental Permit. Biffa has previously submitted applications to the Environment Agency for Permit Exemptions at the Site which have registered and allow external storage of segregated recyclables, either in baled form, or in containers. Biffa is carrying out storage activities permitted by these consents.

## **Principle of development**

Biffa, the company currently operating the waste transfer unit at the site have identified that there is an existing problem of lightweight wastes and litter being windblown beyond the site perimeter to other neighbouring sites and the Daw End Canal Branch. This windblown litter is not only unsightly but also having a detrimental impact upon neighbouring sites, neighbouring commercial users and the Dawn End Branch Canal. As more recyclable waste is being collected and brought to the site, the existing site is becoming busier making it difficult to collect all the waste from within the site grounds.

Biffa seek to rectify the problem of lightweight wastes and litter being windblown through the installation of a 6m high mesh fence on the along the north western and southern western boundaries of the site and a 4m high mesh fence on the on the north eastern boundary from the building to the weighbridge with a gap in the fence where the exit from the site is located.

The fence would serve to protect adjacent properties and the Daw End Branch Canal from windblown wastes. The fence would only require on these two boundaries as there are no

doors on the other elevations of the building and no wastes are stored on the south side of the building.

The application was amended to delete the 6m high fence projecting further forward of the existing boundary along the north western boundary to include a 4m high mesh fence from the building to the weighbridge with a gap in the fence where the exit from the site is located.

On these grounds it is considered the principle of the installation of a litter fence would be supported to protect neighbouring commercial sites and the Daw End Branch Canal from windblown from the existing waste transfer site.

### **Design and Visual impact of proposed mesh fence**

Both the Canal Navigations Society and Inland Waterways Association have objected to the proposal on the grounds that, windblown waste material has blown for some time despoiling the surrounding area including the Daw End Branch of the Wryley and Essington Canal, a 6m high mesh is not an appropriate solution, the fence would not prevent all waste escaping and its appearance when covered with litter will be an eyesore, not clear how regular cleaning will be achieved and the difficulty the authority will face in enforcing any such conditions, claims waste material will fall off fence as the wind drops is unconvincing and wet paper will stick to fence, 6m high mesh fence will not capture all spillage and windblown waste, material captured in it will be an eyesore to the area, waste escaping into woodland and the company should clean up adjacent polluted areas and woodland by their anti social behaviour.

They also state that Biffa should be required to retain all waste material within a building either as an extension or as a new construction. The proposed fencing not required as nuisance can be prevented through environment agency permit conditions and the present application will not resolve the issue in a satisfactory and long term manner.

The design of the proposed fence comprises netting suspended between 6m high telegraph poles and would allow views through the fence. Although the fence would be 6m and 4m high, the fencing would be stepped in and positioned off the perimeter boundary.

Biffa, state that the fencing is designed to ensure that waste materials blown against it fall to the floor as soon as the wind speed drops, to minimise the strain on the fence. This also prevents the fence becoming unsightly with trapped wastes. All waste materials collecting at the base of the fence will be collected and removed back to the facility for processing and disposal on a daily basis.

They also state the doors to the facility will be kept shut whenever possible, the yard will be regularly cleaned and loose wastes removed and the number of bales of recyclable materials stored externally will be kept as few as possible. These measures along with the provision of the new litter fencing will be effective in minimising the escape of litter from the site going forward.

The fence from the building to the weighbridge had to be reduced to 4m due to the design as it needs to be anchored to provide stability and ensile strength. If a 6m high fence were to be installed across this part of the site then anchor points and steel cables that attach them to

the fence would interfere with the operation of the weighbridge and movement of articulated vehicles out of the site.

There are existing trees along the eastern, southern and western boundaries and a small section along the north western boundary. From the Dawn End Canal, the proposed fence would be screened by the existing trees and from within the site, the proposed fence would be seen against the back drop of the trees. The Inland Waterways Association also agrees that the site is "fortunately fairly well screened from the canal by trees and shrubs on the bank between the towpath and the rear of the building".

When travelling south from Westgate and from the neighbouring commercial unit, the proposed fence would be seen against the back drop of the existing building. When travelling north along Westgate, a small section of the fence would be seen against the back drop of the neighbouring commercial premises.

The proposed 4m high fencing will be erected from the building to the weighbridge and would be set back into the site.

The existing trees along the frontage of the site would assist in screening the fence in the summer. In the winter, whilst the fence would be partly seen it would be set back from the highway frontage and would not be overly prominent in the street scene.

It is considered that the design of the proposed fence along the north western and southern western boundaries would not have a significant visual impact or visually harm the industrial character and appearance of the site and neighbouring sites to warrant refusal of the application.

Biffa in response to the objections received from the Canal Navigations Society and Inland Waterways Association have advised that the fencing would be regularly cleared and maintained in order to ensure its effectiveness and to minimise the visual impact of the fencing. They also state the proposed style of fencing proposed at this site is erected on a number of their operational landfill facilities and the fencing is extremely effective at collecting litter in windy conditions. When landfill sites are operating, they have much larger areas of open waste and they are generally significantly more exposed than this site. With this in mind, Biffa have no reason to believe that the fencing proposed at Westgate will be ineffective at containing windblown materials and they do not consider it necessary to extend the height of the fencing.

They also state once the fencing has been installed a member of the site management team will be given the responsibility to ensure that the fence is maintained in good and clean condition. The fence will be inspected on a daily basis to assess its condition and any damage will be identified. Small scale damage will be repaired on the same day by site staff or, if the damage is more extensive, contractors will be identified and instructed to carry out repairs as soon as possible.

The site management would maintain good housekeeping practices and in accordance with the requirements of the Environmental Permit for the site.

The Environment Agency have no objection to the proposal as the proposed litter fence will follow back around to the building. With regards to the objections made by the Canal

Navigations Society and Inland Waterways Association, the Environment Agency would regulate waste on the site in line with the waste permit.

### **Impact on neighbouring commercial uses**

The proposed fence would assist in eliminating waste and windblown litter from this waste transfer site to adjoining commercial sites. The proposed fence would be seen against the backdrop of the existing building from neighbouring commercial sites and would not unduly impact upon the amenities of the occupiers of these adjoining commercial users.

### **Impact upon the Daw End Branch Canal**

Policy ENV4 of the Black Country Core Strategy seeks to protect and safeguard the operation and of a navigable and functional waterway and protect and enhance its nature conservation value, visual amenity and water quality.

The proposed fence would be erected within the site boundary and away from the canal boundary. The proposal would not unduly impact upon the canal network or function. From the canal the fence would be screened by the trees, so would not visually harm the setting of the canal. The Canal and Rivers Trust welcome the litter fence to reduce the potential for contamination of the canal from windblown litter and waste.

### **Ecology**

To be updated at Planning Committee

### **Positive and Proactive Statement**

The proposed fence would assist in controlling lightweight windblown waste and litter from the application site to neighbouring commercial sites and the Daw End Canal Branch.

The proposed fence would be seen against the backdrop of the existing building and would allow views through it. It would not have a significant visual impact or visually harm the industrial character and appearance of the site and neighbouring sites.

The proposed litter fence has been effective in collecting litter in other land fill waste sites.

### **Recommendation**

Grant Permission Subject to Conditions

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

Reason; Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. The works hereby approved shall only be carried out in accordance with the following drawings:

- site location and block plan entitled "application plan" submitted on 18th May 2015.

Reason: To define the permission.

3. The telegraph poles to hold the proposed fence in place shall be wooden and the netting shall be black.

Reason: In the visual amenities of the area.

Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 09-Jul-2015

**Plans List Item Number: 6.**

**Reason for bringing to committee:** Called in by Councillor L Rattigan and contrary to policy.

### Application Details

**Location:** 2 SCHOLARS WALK, WALSALL, WS4 1SW

**Proposal:** SINGLE STOREY REAR EXTENSION AND GARAGE CONVERSION.

**Application Number:** 15/0081/FL

**Case Officer:** Paul Hinton

**Applicant:** Mr Z Hussain

**Ward:** Rushall-Shelfield

**Agent:** Mr Lee Mitchell

**Expired Date:** 06-Apr-2015

**Application Type:** Full Application

**Time Extension Expiry:** 08-May-2015

**Recommendation Summary:** Refuse



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## **Officers Report**

### **Current Status**

At its meeting on 30<sup>th</sup> April Committee deferred the application to allow the applicant to consider amendments and to address the committee if matters are not resolved under delegated powers. The application was recommended for refusal on the grounds that the extension and rear parking space would reduce the rear garden and level of amenity space and failing to provide sufficient and adequate off-street parking.

In response the application has been amended by omitting the proposed third parking space in the garden and now seeks to provide two off-street spaces at the front of the house with a retained rear garden of 80sqm. The agent comments that a small picket fence could be added around the boundary to ensure vehicles do not overspill on to the public footpath. The application continues to propose a rear extension and garage conversion.

The agent explains that the extension would be for a rehab room with sleeping for a disabled occupant. It is confirmed that the room would not be advertised as a fourth bedroom should the applicants move from the house, noting that the medical condition of the applicant requiring the room means the disabled occupant would never own a car. A ground floor shower room is crucial; the options of a stair lift and through floor lift have been dismissed by occupational therapy on medical grounds. It is further explained that the existing garage space is narrow and the likelihood of parking a car in there is minimal due to it being extremely difficult to park a car in and open the doors to get out. The agent considers it is therefore seen to be wasted space used only for storage. The agent also explains that in regard to the proposed ground floor layout, this has been designed to aid rehabilitation and the applicant is unable to compromise on floor space.

A letter from the Paediatric Physiotherapist at Walsall Healthcare NHS Trust has been received in support of the application confirming the physical impairment of the occupier of the proposed extension.

The report has been updated in response to the amended plans.

### **Application and Site Details**

Scholars Walk is a cul de sac located off the eastern side of Pelsall Lane and serves 25 dwellings. Number 22 Scholars Walk is a three bedroom detached house located on the western side of Scholars Walk. The property is located at the corner of Scholars Walk and has a front driveway, garage and a front garden that extends to the side of the house fronting Scholars Walk. The front and side of the house are open with a 1.8m high wall from the rear elevation of the property forming the side boundary of the rear garden along Scholars Walk. This boundary wall forms a continuous side boundary to 66b Pelsall Lane, the property at the rear of the site. Behind the boundary wall are conifers.

In front of the house, adjacent the driveway is a lamp post.

The rear garden boundary of the application site with number 66b Pelsall Lane is a 1.8m high close board fence. A row of conifer trees are planted in front of the fence within the rear garden of the application site.



The boundary treatment with number 4 Scholars Walk is a close board round top fence that is approximately 1.8m high at the highest point.

To the rear of the application site is number 66b Pelsall Lane, a detached house with a rear conservatory. To the southern side of the application site is number 4 Scholars Walk, a detached house that is positioned approximately 1.8m further back from the rear elevation of number 2. The ground floor of this neighbouring property has a habitable room.

The application proposes:

- The erection of a single storey rear extension that would extend out 4m from the original rear elevation of the house and would extend the whole width of the house at 6.5m. The roof would be 2.5m to the eaves and 3.8m high.
- The rear extension would provide a rehab room with sleeping for a disabled occupant and an extension to the existing lounge.
- The conversion of the garage to provide a shower room and retaining a small storage area and retention of the garage door. In the shower room a side facing top opening obscure glazed window is proposed.

A plan has been submitted showing a replacement second parking space to the front by extending the driveway.

### **Relevant Planning History**

BC57281P – Rushall Primary School, Pelsall Lane. Proposed development of 25 houses, new access road to Pelsall Lane and associated landscaping works. GSC March 1999.

Planning condition 2 restricts development within classes A, D and E.

Planning condition 3 restricts any side facing doors or windows.

Planning condition 7 restricts other vehicular access other than those shown on the approved plans

Condition 12 prevents any means of enclosure

### **Relevant Planning Policy Summary**

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

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants

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

#### 4: Promoting sustainable transport

##### 32. Decisions should take account of whether:

- Safe and suitable access to the site can be achieved for all people
- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

##### 35. Developments should be located and designed where practical to:

- Create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones.
- Consider the needs of people with disabilities by all modes of transport.

#### 7: Requiring Good Design

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

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

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

On **conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

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

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

#### **The Development Plan**

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

#### **The Development Plan**

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

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

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

The key planning policies include

TRAN1 – Priorities for the development of the transport network

All new developments will address the transport network and provide adequate access for all modes.

TRAN2: Managing Transport Impacts of New Development

Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport.

ENV3: Design Quality

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

CSP4 – Place making

The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers in terms of its local character and heritage whilst responding to current day needs, changes in society and cultural diversity.

CPS5 - Transport Strategy

The transport strategy for the Black Country is intended to...improve road safety

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

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

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

The relevant policies are:

Policies GP2, 3.6, 3.7 seek to make a positive contribution to the quality of the environment, whilst protecting people and not permitting development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

T4 – residential street are minor roads

T7- All development should satisfy the car parking standards set out in Policy

T13. This will involve providing an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified.

T13: Parking Provision

3 bedroom houses and above, 3 spaces per unit

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

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

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

### **Designing Walsall**

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

Policy DW3 refers to character.

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

### **Consultations**

**Transportation** – objects on the grounds of failing to provide sufficient suitable parking to meet the operational needs of the development.

**Pollution Control Contaminated Land Team** – no objection

**Arboricultural Officer** – no objection.

**Ecology** – no objection

### **Public Participation Responses**

A letter from number 2 Scholars Walk has been received stating no objection.

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

## **Determining Issues**

- Principle of development
- Design of extension and character of area
- Impact upon existing occupiers
- Impact upon the amenities of surrounding occupiers
- Trees
- Parking and Access

## **Observations**

### **Principle of development**

Planning permission is required for the proposed extension, as on the original planning permission BC57281P for the whole estate, permitted development rights for extensions, porches and outbuildings have been removed due to the relatively small size of the rear and front gardens. Whilst the proposal would normally be permitted development, as permitted development rights have been removed, the scheme would have to be considered under current planning policy.

Annexe D of Designing Walsall SPD requires a rear garden length of 12m and a total amenity area of 68 square metres. The retained rear garden length, 8.5m would fall short, but a retained area of 80sqm would provide sufficient amenity space for future occupiers.

The proposal seeks to install a small non-habitable window in the side elevation facing number 4; planning condition 3 of the original permission restricts any side facing doors or windows. If permission were to be approved, a condition could be used to secure obscure glazing and top opening only. This additional window would not result in a loss of amenity.

### **Design of extension and character of area**

The design of the single storey extension is considered to be acceptable and would not detract from the character or setting of the existing house or area subject to the use of matching materials which are proposed and can be secured by condition.

### **Impact upon existing occupiers**

The amended drawings provide sufficient amenity space for existing/future occupiers.

### **Impact upon the amenities of surrounding occupiers**

Number 4 Scholars Walk is positioned approximately 1.8m further back from the rear elevation of number 2. The rear of this neighbouring property has windows at both ground and first floor. The nearest window on the ground floor is a habitable room window. The proposed extension at number 2 would extend out 4.0m from the original rear elevation of the property, so in total number 2 would sit further forward by 5.8m from the rear elevation of number 4.

The depth of the proposed extension in close proximity to number 4 would have an overbearing impact on the rear habitable room window and rear garden of number 4 Scholars Walk resulting in loss of light and outlook. Consideration though is given to the presence of the existing shed in the garden of number 2. This structure lies adjacent to the boundary fence with number 4. It is approximately 2.4m from the rear of the house and

extends 1.8m into the garden resulting in the rear wall of the shed being some 4.0m from the rear of number 2, a similar distance to the proposed extension.

Although the eaves of the shed and the ridge of its roof are lower than the extension, it is positioned hard to the boundary and not set back. The extension is 0.85m away from the fence line and as a result its impact is slightly diminished. In assessing the scheme, consideration is also given to the fact that number 2 is located immediately to the north of its neighbour. This means that any impact from overshadowing will be negligible.

Having taken these points into account, it is considered that the difference between the harm arising from the existing shed and the proposed extension is limited and whilst the extension will preclude a some light entering the neighbouring property from the existing gap between the shed and the applicants house, this is restricted and accordingly can only be offered limited weight. If the scheme were found to be acceptable, it is considered neighbouring privacy can be secured through the use of a condition to prevent the installation of windows in the side elevation.

To the rear of the site is number 66b Pelsall Lane, the boundary treatment between the two properties is a 1.8m high close board fence and conifer trees within the application site. This property has a rear conservatory. The separation distance between the existing conservatory at the rear of this house and the proposed extension at number 2 would be 18.6m. If planning permission was to be granted a planning condition could be used ensuring the boundary fence between the two properties is retained and maintained to protect the privacy of both occupiers.

## **Trees**

The Arboricultural Officer had no objection to the loss of two conifer trees that form the hedge along the boundary with Scholars Walk that would have been required to be removed as part of the rear parking space. This no longer forms part of the proposal.

## **Parking and Access**

The application proposes an additional room for the purposes of sleeping and the removal of the parking space within the garage. In mitigation a second parking space is now proposed through extending the driveway. Medical grounds have been put forward explaining that one of the occupiers will be unable to have access to his own vehicle and that the room would not be advertised as a fourth bedroom should the applicants move from the house. On these special circumstances it is considered that for policy T13 a personal condition could be used to define the room to the applicant and family and as part of any other occupation in the future any permission here would not be for a fourth bedroom.

Therefore in considering a three bedroom property, the parking policy T13 requires two off-street parking spaces. While the agent explains the current garage is not large enough to be used for a parking space its dimensions on plan are larger than the standard 2.4m by 4.8m parking space and therefore is a valid space. In mitigation of the proposed garage conversion a second space is proposed within the drive to the front.

This space as shown on the submitted drawing would occupy part of the corner of the house and overhang the pavement; therefore a parked vehicle in this space would overhang the

public highway. In addition the angle of the parking space is likely to require a vehicle to manoeuvre over the public footway in order to access/egress the space particularly if there is car already parked on the driveway. The position of the existing street lighting column tight on the back of footway on the corner will also make manoeuvring into the proposed space awkward. This arrangement would result in vehicle movements on the bend in the road which would be contrary to highway safety. The agent confirms a picket fence would be erected to prevent any overhang; however this would reduce the size of the substandard space even further. Due to this design it is likely would be users would be discouraged from using the space and instead would park in the road. On street parking would be to the detriment of the free flow of traffic.

The proposal therefore fails to provide sufficient and adequate off-street parking to meet the needs of the development.

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

Officers have liaised with the applicant's agent during the application process advising of the above concerns and recommending internal arrangements that would retain the availability of the garage. Due to the personal needs of the family the drawings are unable to be amended.

### **Recommendation**

#### **Refuse**

1. The proposed second parking space in mitigation for the loss of the garage is not of a sufficient size to meet the operational needs of the development; as a consequence the development is likely to lead to increased reliance for on-street parking. The proposed parking layout is likely to result in constrained vehicle movements and conflict to the detriment of highway safety. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, TRAN1 and TRAN2 of the Black Country Core Strategy and saved policies, GP2, 3.6, ENV32, T7 and T13 of the Walsall Unitary Development Plan.



Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 09-Jul-2015

**Plans List Item Number: 7.**

**Reason for bringing to committee:** Significant Community Interest

### Application Details

**Location:** 7 LODGE ROAD, WALSALL, WS5 3JS

**Proposal:** TWO STOREY SIDE AND REAR EXTENSION.

**Application Number:** 15/0217/FL

**Applicant:** Mrs Kulwinder Kaur

**Agent:** M K Cotton

**Application Type:** Full Application

**Case Officer:** Helen Smith

**Ward:** Paddock

**Expired Date:** 13-Apr-2015

**Time Extension Expiry:** 30-Jun-2015

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



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## **Officers Report**

### **Application and Site Details**

This planning application for an amended proposal is a resubmission following a refusal of a 2014 planning application. Lodge Road has a residential character with detached and semi-detached houses and bungalows of individual design.

The application house is a semi-detached property with a projecting two storey, front gable feature which is mirrored by the adjoining semi, no. 5. There is a flat roofed garage to the side which lies alongside a similar garage at house no. 9.

This proposal would enlarge an existing lounge and provide a new kitchen, dining room and shower room at ground floor with the first floor extended and re-configured to provide 4 bedrooms.

The proposed first floor side extension would be 2.7 metres wide leaving a 1.1 metres wide first floor gap to the shared boundary with no. 9 Lodge Road (*the previous proposal was to build the first floor extension 0.1 metres from the side boundary with no. 9 Lodge Road*). The first floor front elevation would be set back 1.2 metres from the two storey gable feature at no. 7.

The initial proposed roof design has been amended to remove a large flat roof area at ridge height. A hipped roof would be added above the proposed side extension with two hipped roofs with a central valley added above the proposed rear extension.

The proposed two storey and single storey rear extensions would be 2.8 metres deep. The current proposal has reduced the depth of the single storey extension from 4 metres to 2.8 metres next to the rear garden boundary with no. 5 Lodge Road.

No. 5, Lodge Road is the adjoining semi and is orientated to the south of no. 7. This property has front and rear facing habitable room windows near to the boundary with no. 7.

No. 9 Lodge Road is to the north of the application house and has a garage with a W.C. and utility room to the rear adjacent to the shared boundary with no. 7 Lodge Road. This neighbouring house has a side facing landing window with a bathroom window to the front and a kitchen window with a bedroom window above at the rear.

No. 9 Lodge Road recently received planning permission for two storey side and rear extensions leaving a 0.9 metres wide first floor gap from the side of the approved extension to the boundary with no. 7 Lodge Road.

Residential properties on Birmingham Road face the rear elevation of the application house. There would be a habitable room window to window separation distance of 25.6 metres between the proposed rear extension and rear habitable room windows in house no. 451 Birmingham Road.

The length of the remaining rear garden at no. 7 would be 14.8 metres. The existing garage parking space would be retained and there is space for two further vehicles on the existing drive.

### **Relevant Policies**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)  
**National Planning Policy Framework (NPPF)** [www.gov.uk](http://www.gov.uk)

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

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

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

- ***NPPF 7 - Requiring good design***
- ***NPPF 11 - Conserving and enhancing the natural environment***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

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

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

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

This checklist has been published on the BCCS and Council websites. Cabinet on the 24 July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

CSP4: Place Making

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote the natural environment, special qualities, design quality and local distinctiveness of the Black Country.

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

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

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

The relevant policies are:

GP2: Environmental Protection

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

I. Visual appearance.

VII. The adequacy of the access, and parking.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development but will be particularly significant in the following locations:-
  - On a visually prominent site.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
  - The appearance of the proposed development.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
  - The effect on the local character of the area.

T7: Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses    2 spaces per unit

4 bedroom houses and above        3 spaces per unit

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

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

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

### **Designing Walsall SPD**

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

- § 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- § 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).
- § Garden dimensions: 12m in length or a minimum area of 68 square metres for houses and 20 square metres of useable space per dwelling where communal provision is provided.
- § Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

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

Provides guidance on development which may adversely affect trees, important species and habitats.

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

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

#### **7 Lodge Road**

14/0522/FL - Two storey side and rear extension and single storey rear extension - refused permission on 1/7/14 on the following grounds;

*1: The two-storey side and rear extension would be a prominent addition to the pair of traditional but distinctive semi-detached houses at Numbers 5 and 7 Lodge Road, which currently retain visual symmetry. The extension would seriously un-balance and disrupt the appearance of the pair of semi-detached houses, causing harm to the important contribution they make to the attractive street scene. The design of the two-storey extension, adding a second major forward-facing gable adjoining that existing, would create an eye-catching feature, appearing incongruous and out of keeping with the character of the existing pair of houses, and therefore emphasizing the visual un-balancing effect. The design when viewed from the rear would also appear ungainly and would cause additional harm to the visual character of the area.*

*2. In view of its size and proximity to the boundary with Number 9 Lodge Road the two storey side and rear extension would appear over-bearing in relation to that house, and would encourage a loss of first floor gaps between houses, (contributing to a 'terracing' effect), where these gaps are an important aspect of the character of the road.*

*3. The rear extension on the boundary with Number 5 Lodge Road would cause undue harm to the level of amenity enjoyed at that house, including excessive impact on day lighting and outlook enjoyed from a rear living room window, and an overbearing appearance when viewed from the rear garden.*

#### **9 Lodge Road**

14/0974/FL - Planning permission was granted for a two storey side and rear extension plus single storey front extension on 18/8/14 subject to conditions but has not been implemented

and is a valid permission. The current proposal will be assessed in relation to no. 9 with and without the approved extension.

### **Consultation Replies**

**Natural Environment Team, Ecology** - No ecological objections subject to the inclusion of a planning condition to conserve local bat populations

### **Representations**

Representations have been received from three neighbours on Lodge Road objecting to the proposal on the following grounds;

- external design not in keeping with 5 and 7 Lodge Road
- semi-detached aspect will be compromised
- design will disrupt the natural flow of both houses and will take the look of symmetry of these wonderful buildings
- first floor changes not in keeping with garage and additional front door dimensions and would look unsightly
- the property should remain unchanged (*each planning application is assessed on its own merits and the characters of areas develop over time*)
- unbalance the pair of semi's and harm the street scene
- would lose the pleasing cottage style of these two semis (*these houses are 1930's style semi-detached houses*)
- overbearing impact on no. 9 Lodge Road
- loss of sunlight and privacy to the rear garden of no. 9 Lodge Road
- overpowering impact on the small rear garden of no. 5 Lodge Road
- first floor extension encroaches on the bedroom window of no. 5 Lodge Road (*the proposal would be built wholly within the boundary of no. 7 if approved*)
- Visit requested to no. 9 to see what impact the extension would have on no. 9 (*a site visit has been made to no. 7 to assess this proposal in relation to the neighbouring houses. Furthermore the case officer visited no. 9 Lodge Road in 2014 when assessing the impact of the extension at no. 9 on the amenity of the occupiers of no. 7 and sufficient information is available to accurately assess the relationship between no. 7 and 9 Lodge Road for the determination of this current planning application*).

### **Determining Issues**

- Previous Refusal Reasons
- Other Neighbour Comments
- Protected Species
- Parking

### **Observations**

#### **Previous Refusal Reasons**

##### **Refusal Reason No. 1**

The proposed 1.2 metres set back from the existing front gable feature when combined with the removal of the second competing gable feature and the 1.1 metres set in from the side boundary at first floor next to no. 9 Lodge Road are considered would create an extension which appears subservient to the host dwelling and no longer disrupt the appearance of this pair of semis.

The subservience of the revised proposal is considered would enable the visual prominence and symmetrical appearance of no's 5 and 7 to remain the dominant characteristic of these two semis. The proposed extension would reflect the existing character and integrate with

this pair of houses and is considered would no longer visually unbalance or create an eye catching, incongruous feature harming the character of the area. The proposal is considered to have satisfactorily addressed the first refusal reason.

### **Refusal Reason No. 2**

The 1 metre reduction in width of the proposed first floor side extension, leaving a first floor gap of 1.1 metres between the proposed and the side boundary with no. 9 Lodge Road, when combined with the first floor set back of 1.2 metres are considered would prevent a terracing effect arising between house no's 7 and 9. These amendments would meet the terracing guidance referred to in Appendix D of Designing Walsall's SPD. The retention of a first floor gap is considered is considered would not harm the character of the area and has overcome the second refusal reason.

If the extension is built to the side of no. 9 the combined first floor gap of 2 metres between the two extensions at no's 7 and 9 are considered would maintain visual separation between the two houses and avoid any terracing effect.

### **Refusal Reason No. 3**

Whilst no. 9 is to the north of the application house the reduction in depth of the proposed single storey rear extension from 6 to 2.8 metres along with the increased first floor gap between no's 7 and 9 and the existing garage separation to the side of no. 9 are considered would prevent this proposal from having an unacceptable and overbearing impact on neighbours' existing light to habitable room windows and amenity to their house and rear garden.

The Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD, is designed to protect neighbours outlook and amenity from habitable room windows. The revised proposal would meet this guidance in respect of habitable room windows in no. 9 Lodge Road.

The side facing first floor window in no. 9 serves a landing which is considered to be a non-habitable room. Non-habitable room windows are afforded less protection by planning guidance than habitable room windows. The amended scheme which has reduced the scale of this proposal is considered to have overcome the second refusal reason.

### **Other Neighbour Comments**

The depth of the proposed single storey extension near to no. 5 Lodge Road has been reduced from 4 to 2.8 metres. This reduction in scale, along with the southerly orientation of no. 5, is considered would result in this extension having a limited impact on neighbours' existing light and amenity.

The proposed first floor extension would be separated from the garden boundary with no. 5 by a distance of 2.1 metres which is considered would prevent this proposal from having an overbearing and unacceptable impact on neighbours' amenity.

These extensions would meet the Council's 45 degree guidance in respect of rear habitable room windows in no. 5 Lodge Road and would no longer have an excessive or unacceptable impact on daylight and outlook enjoyed from the rear living room window and garden of no. 5. The amended proposal is considered to have overcome the third refusal reason.

### **Protected Species**

Whilst this location meets some of the criteria for requiring a bat survey, as outlined in Conserving Walsall's Natural Environment SPD, the Council's Ecologist considers that the application house is surrounded on all sides by well-lit roads that a bat survey report will not be required in this instance.

However as the proposal would affect the existing roof the inclusion of a planning condition should be included in any planning permission granted to conserve local bat populations.



## **Parking**

The proposal would increase the total number of bedroom from three to four which required the provision of 3 off-street parking spaces. The existing garage parking space would be retained and the existing front hard-surfaced driveway would provide two further parking spaces meeting the parking requirements of UDP Policy T13. A planning condition would be included to ensure this parking provision is retained.

The proposal is considered accords with the aims and objectives the relevant Council policy and guidance. There are no objections from significant consultees and no significant community interest has been expressed, which could be considered to be contrary to the recommendation.

## **Positive and Proactive Working with the Applicant**

Officers have spoken with the applicant's agent and in response to concerns raised regarding a large flat roof at ridge height, amended plans have been submitted which enable full support to be given to the scheme.

## **Recommendation**

Grant subject to conditions

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

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

- Location Plan, deposited 16/02/15
- Proposed Site Plan, drawing no. A100 Revision A, deposited 15/06/15
- Existing Ground Floor Plan, drawing no. A101, deposited 16/02/15
- Existing First Floor Plan, drawing no. A102, deposited 16/02/15
- Existing and Proposed Front Elevations, drawing no. A103 Revision A, deposited 15/06/15
- Existing and Proposed Rear Elevations, drawing no. A104 Revision A, deposited 15/06/15
- Proposed Ground Level Floor Plan, deposited 16/02/15
- Proposed First Floor Plan, deposited 16/02/15
- 3D View 1, drawing no. A205 Revision A, deposited 15/06/15
- 3D View 2, drawing no. A206 Rev. A, deposited 15/06/15
- 3D View 3, drawing no. A207A, deposited 15/06/15

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

3. (a) There is a risk that bats may be present in the buildings within the site and the following precaution shall be taken when implementing the planning permission:

1. Contractors undertaking demolition works shall be made aware that bats may



be present and undertake demolition and dismantling works in the expectation that bats may be present.

If no bats or evidence of bats are found during these operations, the approved works can continue.

(b) If bats or evidence of bats are found during these operations:

1. Bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
2. No further destructive works shall be carried out to the building until the need for Natural England licence has been established.
3. Within one week of finding bats or evidence of bats, a written report by the supervising 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.
4. 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.

Reason: To conserve local bat populations.

4. The walls and roof of the extensions shall comprise facing materials that match in colour, texture and size those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

5. A total of at least 3 parking spaces (including the garage parking space), each hard surfaced, measuring at least 2.4 x 4.8 metres and with access from the highway, shall be retained at all times within the curtilage of the dwelling.

Reason: To ensure the satisfactory provision of off-street parking, and in accordance with policies T7 and T13 of Walsall's Unitary Development Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors or rear facing window in the single storey rear extension, other than as shown on the deposited plans, shall be installed in any part of this development.

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



Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 09-Jul-2015

**Plans List Item Number: 8.**

**Reason for bringing to committee:** Councillor Hughes has called this application before planning committee because he considers the proposed development could be detrimental to the character and/or the visual amenities of the area

### Application Details

**Location:** 31 FOLEY ROAD EAST,WALSALL,B74 3HP

**Proposal:** SINGLE STOREY REAR AND SIDE EXTENSION.

**Application Number:** 15/0644/FL

**Case Officer:** Helen Smith

**Applicant:** Mr Christopher Dyche

**Ward:** Streetly

**Agent:** Upson & Co. Ltd

**Expired Date:** 25-Jun-2015

**Application Type:** Full Application

**Time Extension Expiry:**

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



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## **Officers Report**

### **Application and Site Details**

This is a detached house within a row of similar houses set back 16 metres from Foley Road East with the exception of a pair of adjacent semi-detached houses, no's 27 and 29, which are positioned 13 metres forward of the application house.

This proposal is for a single storey rear and side extension to enlarge an existing kitchen and provide a new dining room and home office. This extension would replace an existing rear sun room.

The new extension would extend 6 metres from the existing two storey rear elevation of no. 31 and would be set in 1.2 metres from the side garden boundary with the neighbouring chalet bungalow, no. 33. The extension would then reduce in depth to 3.5 metres at the side and to the rear of an existing garage at no. 31 and would be next to the side garden boundary with house no. 29.

The extension flat roof would be 3.1 metres high and include two 0.4 metres high lantern lights. An existing roof light would be re-positioned the proposed home office. There is an existing part brick green house near to the shared garden boundary with no. 29.

This application seeks consent for a reduced scheme following two previous planning applications (reference no's 14/1036/FL & 14/1722/FL). The 16/10/14 and 8/1/15 Planning Committees approved these proposals for two storey and single storey rear extensions, removal of existing side dormer, new rear dormer and a new roof subject to conditions respectively.

The rear elevations of the application house and adjoining properties face south. No. 33 has rear facing habitable room windows and a single storey extension near to the side boundary with no. 31 with a rear non-habitable room window (*neighbour has previously advised this is to become a habitable room at a later date*). There is a separation distance of 1.2 metres between no. 33, which has two obscurely glazed side facing windows, and the shared side boundary with no. 31. The obscure glazed side window towards the rear of no. 33 serves a bedroom.

No. 29 has ground floor, side facing, non-habitable room windows in a rear extension facing the rear garden boundary and a bathroom window above at first floor. No. 31 has a rear conservatory near to the shared boundary with no. 31 and first floor rear facing bedroom window.

The length of the remaining rear garden at no. 31 would be 42 metres and there is mature planting along neighbouring shared garden boundaries.

### **Relevant Planning History**

**14/1722/FL** - Proposed two storey and single storey rear extensions, removal of existing side dormer, new roof and new rear dormer (amendment to planning permission 14/1036/FL to alter roofline at ridge height and amend the design of the home office roof) -granted subject to conditions 9/1/15.

**14/1036/FL** - Resubmission of planning application 14/0558/FL for proposed two storey and single storey rear extensions, removal of existing side dormer, new roof and new rear dormer - granted permission subject to conditions 17/10/14

**14/0558/FL** - Proposed two storey and single storey rear extensions plus removal of existing side dormer roof extension and new rear dormer - refused permission 11/6/14

**BC62537P** - Loft conversion with side and rear dormers - granted subject to conditions 23/11/01

**BC01545P** - Erection of garage and bedroom extension - granted subject to condition 22/10/81

### **Planning Policy**

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

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

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

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants

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

#### **7: Requiring Good Design**

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

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

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

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

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan'

policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*”. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.”

To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

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

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

The relevant policies are:

#### **GP2: Environmental Protection**

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

#### **ENV32: Design and Development Proposals.**

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
  - The appearance of the proposed development.
  - The height, proportion, scale, and mass of proposed buildings / structures.
  - The materials proposed for buildings, external spaces and means of enclosure.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

#### **T7: Car Parking**

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

#### T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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

#### Supplementary Planning Documents (SPD)

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

#### Designing Walsall

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

- § 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- § 13m separation between habitable windows and blank walls exceeding 3m in height.
- § 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).

**The Streetly Area of Special Townscape Character** was approved by Cabinet on 03/09/03 with supplementary planning guidance to stimulate good quality, modern design solutions. These guidelines are not intended to rigidly dictate future development, but can be used as a 'toolkit' to stimulate good quality, modern design solutions. They certainly should not be used as a 'set of rules', to be ticked off in an attempt to ensure that a planning application gains approval. Just as when this area of townscape was first developed, the social implications of new housing design must be addressed. For this to be responsive, it must take cues from these special surroundings.

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF. **Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

#### Consultation Replies

None

#### Public Participation Responses

Objections have been received from residents at no's 29 and 33 Foley Road East as detailed below;

- drawings do not show the full impact of the extension (*the submitted plans are considered sufficient to assess the current proposal with certainty and are considered to be acceptable*)

- if this proposal is an interim solution there are likely to be two periods of disruption, presumably over two consecutive summers (*there is no evidence to suggest that this would be the case*)
- If these plans are a final solution they don't address the main positive comment by the earlier planning committee that the third floor dormer would be removed but instead would add a further eyesore (*the existing dormer is a lawful development and the current proposal being considered is a single storey side and rear extension. Each planning application is assessed on its own merits*)
- The lantern roofs would take the 3 metres height to a total of 3.7 metres and general UK Planning Policy is that the height of a new flat roof extension to a detached property should be 3 metres in height at the eaves and no more than 4 metres deep. This extension would be 6 metres deep and 3.7 metres high and within 1.2 metres of a boundary, the allowed doubling of these measurements until 2016 does not apply due to the objections raised (*this proposal is a planning application which will be assessed in relation to national and local planning policies and guidance rather than Permitted Development Legislation. This legislation enables most householders to extend their houses within specific limits without the need to submit a planning application to the Local Planning Authority or by using the Neighbour Consultation Scheme for Prior Approval proposals until 2019*)
- The impact on no. 29 rear garden would be worse as the new extension would be on the boundary and almost 1 metre higher than the existing garage eaves creating a greater sense of enclosure and being hemmed in. This outlook is unacceptable and affects the enjoyment of no. 29 in a major way
- the missing front elevation drawing would reveal a flat roof protrusion above the garage roofline of 1 metre which would be visible from the road creating an adverse impact on the road and contravening UDP Policy GP2 which addresses visual appearance and the effect on daylight and sunlight received by a property
- this is the 17 amendment submitted without any work being done in the last 12 months (*it doesn't matter how many amendments to a planning application are received as it is the final plans that are used for determination*)

### **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents

### **Observations**

#### **Design of Extension and Character of Area**

The proposed development is to the rear of the application house and is considered would integrate with the existing house.

A neighbour has commented that an area of flat roofing would be just visible from the street behind the pitched roof of the existing garage. This area of flat roofing is considered would be a minor addition, set back 6.6 metres from the front elevation and 21 metres from the highway, and the impact on the character of the existing street scene would be limited and insufficient to sustain a refusal reason. Furthermore this minor roof addition is considered would not have a detrimental impact on the Streetly Area of Special Townscape Character because of its small scale.

#### **Amenity of Nearby Residents**

The proposed single storey extension lies to the south of the application house. The rear elevations of neighbouring properties no's 29 and 33 face south and it is considered that this southerly orientation would result in this proposal having a limited additional impact on neighbours' existing light.



The length of the proposed extension would meet the Council's 45 degree guidance in relation to rear habitable room windows in no. 33 (*including the existing non-habitable room window in the extension to the rear of no. 33*).

The application house is set back into the site and positioned 8.8 metres further back than the existing conservatory to no. 29.

The existing application house (no. 31) breaches the Council's 45 degree guidance and predates this guidance. Whilst the proposed home office extension would extend 3.5 metres near to the shared boundary with no. 29 it is considered that the 3.1 metres high flat roof and the rear south facing orientation of these properties would limit the impact of this proposal on the living conditions of the occupier of no. 29.

The proposed reduction in scale of the extension compared with the approved extensions is considered would have a lesser impact on neighbours' amenity and existing light than the previously approved two storey proposals and is considered to be acceptable. Whilst the occupiers of no. 29 would see 2.4 metres more brickwork along the side boundary with no. 31, it is considered the proposed extensions would not be significantly worse than the existing situation.

As this proposal would not affect the main roof, safeguarding conditions are not required for protected species. It would not be the Council's custom and practice to include an hours of work condition for a single storey house extension.

The proposal is considered accords the relevant Council policy and guidance. There are no objections from significant consultees and no significant community interest has been expressed, which could be considered to be contrary to the recommendation.

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

Officers considered the submitted proposal to be acceptable and no further changes have been requested.

### **Recommendation**

Grant subject to conditions

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

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

- Location Plan, deposited 30/04/15
- Block Plan, deposited 30/04/15
- Existing and Proposed Plans and Elevations, drawing no. 1015/01A, deposited 29/06/15.

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

3. The walls and roof of the extension shall comprise facing materials that match in colour, texture and size those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

## Planning Committee

Report of Head of Planning and Building Control on 09-Jul-2015

**Plans List Item Number: 9.**

**Reason for bringing to committee:** The application property is one of two detached dwellings accessed via a gated driveway alongside no. 15 Gorway Road serving this back land development. The neighbouring property, Balmoral House (no. 1 Stablewood Grove) lies to the north of Sandringham House (no. 2 Stablewood Grove).

### Application Details

**Location:** SANDRINGHAM HOUSE, 2 STABLEWOOD GROVE, WALSALL, WS1 3DD

**Proposal:** TWO STOREY AND SINGLE STOREY REAR EXTENSIONS, SINGLE STOREY SIDE EXTENSIONS (AMENDMENT TO 10/0874/FL).

**Application Number:** 15/0546/FL

**Applicant:** Mr Sukhwinder Todd

**Agent:** Central Design Consultants Ltd

**Application Type:** Full Application

**Case Officer:** Helen Smith

**Ward:** St. Matthews

**Expired Date:** 25-Jun-2015

**Time Extension Expiry:**

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



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## **Officers Report**

### **Application and Site Details**

The application site is surrounded by mature vegetation and has two protected trees plus a 10 to 12 metres wide area of garden at the side. Wolverhampton University car park is located to the south of the application site and rear gardens serving houses on Birmingham Road are next to the rear garden boundary of no. 2. The university site includes a Site of Local Importance for Nature Conservation and includes protected trees near the application site.

The current proposal is similar to two previous planning approvals granted in 2009 and 2010, which have expired. The existing ground floor plans indicates the line of existing garage foundations which are not visible on site match the layout of the approved 2009 garage extension. The footprint of the current proposed garage extension is larger than the indicated existing line of the garage foundations, in accordance with the 2010 approval. There is a reduction in scale of the previously approved first floor and roof extension.

The current proposal would provide a double garage, gym, utility/laundry, bar and social area, W.C. and enlarge a kitchen area. At first floor an existing bedroom would be enlarged and en suite facilities added. The existing house includes prominent, central, front and rear, two storey gable features.

The proposed front and side extension has the appearance of a triple garage (part would be used as a gym) and would be 11.4 metres wide with a hipped, tiled roof. There would be a projection of 1.4 metres forward of the existing house and the new roof would be 2.3 metres high to the eaves and 5.8 metres to the ridge.

The proposed L-shaped, side and rear, single storey bar and social area extension would extend 7.4 metres further than the existing house and would be separated by a distance of between 2.4 and 3.6 metres from the side garden boundary with house no. 1. This extension would have a part hipped and part flat roof and would be 2.4 metres high to the eaves and 3.7 metres high to the flat roof.

A 3 metres deep, single storey, extension would be added at the rear between the proposed garage/gym and the existing dining area. This extension would have part hipped and part flat roof which match the height of the proposed roof to the bar/social area extension.

Canopied areas would be added at the rear of the garage and along part of the proposed rear elevation supported by brick piers. The covered area at the rear of the house would have a depth of 1.9 metres and the area at the rear of the garage, 2.3 metres deep. Decking would be installed at the rear of the property.

The proposed first floor rear extension would be built above the footprint of an existing single storey dining room extension which has a flat roof. The proposal would introduce a hipped roof feature at the rear, 1.3 metres lower than the existing ridge height. This part of the proposal is smaller in scale than the 2010 approval which also included the addition of a large flat roof area at first floor. The existing ridgeline and pitched roof would be retained by this current proposal.

The adjacent rear elevation of house no. 1 is positioned 5 metres forward of the rear elevation of no. 2 and has ground and first floor rear habitable room windows near to no. 2. There is a separation distance of 2.6 metres between the side elevation of no. 1 and the rear garden boundary with no. 2.

The depth of the remaining rear garden would be between 3.5 and 14 metres and there is 1.8 metres high fencing defining the rear garden boundaries.

This application is supported by a Bat Survey Report by Indigo Surveys Ltd, dated 3/6/15, and a Method Statement for Tree Protection prepared by the planning agent.

### **Relevant Policies**

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

**National Planning Policy Framework (NPPF)** [www.gov.uk](http://www.gov.uk)

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

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

- ***NPPF 7 - Requiring good design***
- ***NPPF 11 - Conserving and enhancing the natural environment***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

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

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

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

This checklist has been published on the BCCS and Council websites. Cabinet on the 24 July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

CSP4: Place Making

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote the natural environment, special qualities, design quality and local distinctiveness of the Black Country.

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

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

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

The relevant policies are:

GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV18: Existing Woodlands, Trees and Hedgerows.

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

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

T7: Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses    2 spaces per unit

4 bedroom houses and above    3 spaces per unit

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

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

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

### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect

distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- § 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- § 13m separation between habitable windows and blank walls exceeding 3m in height.
- § 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).
- § Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq m of useable space per dwelling where communal provision is provided.
- § Provision or retention of boundary walls or fencing at a minimum of 1.8m high for the first 4m from the rear of houses or adjacent to areas of public open space or between other land uses to safeguard the amenity of neighbours.

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

Provides guidance on development which may adversely affect trees, important species and habitats.

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

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

10/0874/FL - Two storey and single storey rear extension, single storey side extension, dormers to rear and garage extension (amendment to 09/0042/FL) - granted subject to conditions 13/09/10

09/0042/FL - Two storey and single storey rear extension, single storey side extension and dormer to rear - granted subject to conditions 4/3/09

08/1703/FL - Two storey and single storey rear extension, single storey side extension and dormer to rear - refused permission 19/12/08 because of the detrimental impact of the garage on the long term health and stability of protected trees and the loss of the habitat for foraging and commuting bats.

### **Consultation Replies**

**Natural Environment Team, Ecology** - No objections

### **Representations**

The neighbour at no. 1 has commented that the land is subject to flood when it rains and the land around these houses is a natural soak away and further building will make the flooding problem worse. No 1 is at the lowest point and will flood should the building work be allowed.

### **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Protected Species
- Protected Trees
- Parking

## **Observations**

### **Design of Extension and Character of Area**

The proposed extensions, whilst considered large by themselves, were previously considered at the time to be in proportion to the scale of the house. The proposed hipped roof above the garage/gym extension and corner feature brick detailing are considered to reflect the character of the existing dwelling.

Stablewood Grove is an enclosed gated, secluded back land development which is not directly overlooked and over 50 metres away from Gorway Road. The design of these extensions is considered would be acceptable in the context of this private setting and the wider site.

### **Amenity of Nearby Residents**

Although the neighbouring house, no. 1 Stablewood Grove is sited north of the application property and is separated by a gap of 5 metres, the proposed rear extension is single storey with a low-rise 3.7 metres high, part hipped and part flat roof and the proposal is not considered to significantly impact upon the existing light available to this neighbouring property.

Whilst the single storey rear proposal fails to meet the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall in respect of adjacent rear ground floor habitable room windows in no. 1, it is considered on balance that the impact on neighbours' light and amenity would be limited by the 5 metres separation distance between the two properties and intervening boundary treatment.

The agent has provided a plan (reference; 1001-450-SK2) highlighting a 14.1 metres distance between the rear habitable room window in no. 1 Stablewood Grove to where the 45 degree line meets the proposed single storey extension. Whilst there is no specific distance provided in Appendix D in respect of the 45 degree guidance it is considered that this plan is helpful in demonstrating that the additional impact on neighbours' amenity and light would be limited.

This situation is improved further by the reduction in scale of the proposed first floor extension and roof near to no. 1 when compared to the previous 2010 approval. The proposed first floor extension would be viewed from no. 1 against the back-drop of the existing two storey rear gable projection and is considered would have a limited additional impact on neighbours' existing light and amenity. This part of the proposal would meet the Council's 45 degree guidance.

The rear of no. 15 Gorway Road faces the application house but as this is over 50 metres it is considered this proposal would have little impact on amenity.

The established planting to the rear and south of the site would mean this proposal is not visible from houses or the University Campus.

The remaining garden area would meet the requirements of Appendix D as the length would exceed 12 metres.

The application site is not located with a Flood Zone as identified by the Environment Agency and Building regulations would consider drainage.

### **Protected Species**



The Council's Ecologist considered that there is sufficient green infrastructure within and adjacent to the application site provided by the nearby Gorway Wood and other mature trees for there to be a reasonably high prospect of finding bats in the building. In this case as the proposal involves modifications to the house, including work to the roof, if bats are present destruction or sever disturbance to their roof is possible.

A bat survey was submitted in support of the previous permission 09/0042/FL dated December 2008 but was considered to be too old to be relevant and an updated report was requested.

An ecological assessment report was subsequently provided by Indigo Surveys Ltd and a negligible risk of bats was found. The Council's Ecologist considered that this was a reasonable recommendation from the evidence presented and consequently there are no ecological objections to this proposal.

### **Protected Trees**

The application includes a method statement for tree protection in conjunction with the proposed development works. Whilst updated comments have not been received from the Council's Tree Officers it is considered as the footprint of the garage extension is the same as previously proposed and the foundations were considered acceptable at that time it is considered reasonable to impose the conditions that were recommended last time. Planning conditions could be included to address these matters.

### **Parking**

The total parking provision at this property would exceed UDP Policy T13 requirement for 3 parking spaces for a property with 4 bedrooms or more.

The proposal is considered accords with the aims and objectives the relevant Council policy and guidance. There are no objections from significant consultees and no significant community interest has been expressed, which could be considered to be contrary to the recommendation.

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

Officers have met with the applicant's agent and in response to concerns raised, amended plans have been submitted to enable full support to be given to the scheme

### **Recommendation:**

Grant subject to conditions

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

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

- Existing Ground and First Floor, Roof & Location Plans & Elevations, drawing no. 1001-450-01b, deposited 30/04/15
- Proposed Architectural Plans & Elevations 1001-450-02b, deposited 09/06/15
- Proposed Site Plan & Piled Foundation Solution in Tree Root Protection Areas, drawing no. 1001-450-03b, deposited 30/04/15

- Proposed Extension Meeting Requirements of Appendix D of Designing Walsall SPD, drawing no. 1001-450-SK2, deposited 09/06/15
- Method Statement for Tree Protection in Conjunction with Extension Works to Sandringham House, Stablewood Grove, Walsall, document reference no. 1001-450, deposited 13/04/15
- Bat Survey Report, reference 15202 by Indigo Surveys Ltd, deposited 11/06/15

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

3. (a) Notwithstanding the information provided no development shall take place on the garage and utility/laundry extension until the following details have been submitted to and approved in writing by the local planning authority:

- For the access drive, details of its position, existing and proposed ground levels including levels in relation to the finished slab levels of the proposed garage, the materials (including the sub-base) and the proposed grading and mounding of land adjacent to it.
- Details of the method of surface water discharge around the roots of the Sycamore tree, including any proposed excavations to direct water to specific areas, the dimensions and depths of any excavations and any materials to be used for the construction of the surface water discharge.

(b) The development shall be implemented in accordance with the approved details, which shall be retained and maintained as such thereafter.

Reason: To safeguard the protected trees on the site and the adjoining land, and in accordance with Policy ENV18 of Walsall's Unitary Development Plan.

4. Notwithstanding the information provided, no development shall take place, or materials or machinery for use in the development brought onto the site, until protective fencing and ground protection such as a geo-membrane or scaffold boards, details of which shall have been previously submitted to and agreed in writing by the local planning authority, have been installed on the site. This protection shall be retained in position until the development is complete, and all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within the protected areas shall not be altered, nor shall any excavation or vehicular access be made.

Reason: To safeguard the protected trees on the site and the adjoining land, and in accordance with Policy ENV18 of Walsall's Unitary Development Plan.

5. The development should be constructed to the floor slab height, and material dimensions, shown on drawing 1001-450-03b deposited 30/04/15. Notice shall be given in writing to be received by the local planning authority within one working day of the construction reaching damp-proof course level, and opportunity shall be provided to the local planning authority to inspect the site prior to the development proceeding beyond this level.

Reason: To safeguard the protected trees on the site and the adjoining land, and in

accordance with Policy ENV18 of Walsall's Unitary Development Plan.

6. The walls and roof of the extension shall comprise facing materials that match in colour, texture and size those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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