



## Planning Committee

Thursday 31 October 2022 at 5.30 pm

Council Chamber, Walsall Council House

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

### MEMBERSHIP:

Councillor M. Bird (Chair)  
Councillor G. Perry (Vice Chair)  
Councillor B. Allen  
Councillor B. Bains  
Councillor H. Bashir  
Councillor P. Bott  
Councillor S. Cheema  
Councillor S. Cooper  
Councillor N. Gandham  
Councillor A. Harris  
Councillor A. Hussain  
Councillor I. Hussain  
Councillor K. Hussain  
Councillor R. Larden  
Councillor J. Murray  
Councillor A. Nawaz  
Councillor S. Samra  
Councillor M. Statham  
Councillor A. Underhill  
Councillor V. Waters

### QUORUM:

Seven Members

# A G E N D A

## Part I – Public Session

1. Apologies.
2. Declarations of interest.
3. Deputations and petitions.
4. Minutes of the previous meetings – 6 October 2022 – **enclosed** (Pages 5-11)
5. **Local Government (Access to Information) Act 1985 (as amended)**:  
  
To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Application list for permission to develop:
  - a) Items subject to public speaking;
  - b) Items 'called-in' by members
  - c) Items not subject to 'call-in'  
- Copy **enclosed** (Pages 13 - 70)

## The Relevant Authorities (Discloseable Pecuniary Interests) Regulations 2012

### Specified pecuniary interests

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

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

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

### **Access to information: Exempt information**

#### **Part 1**

#### **Descriptions of exempt information: England**

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

## **Planning Committee**

**Thursday 6 October 2022 at 5.30 pm**

**Council Chamber, Council House, Walsall**

### **Present:**

Councillor M. Bird (Chair)  
Councillor Bains  
Councillor Bashir  
Councillor P. Bott  
Councillor Cheema  
Councillor Cooper  
Councillor Gandham  
Councillor A. Hussain  
Councillor K. Hussain  
Councillor Larden  
Councillor Murray  
Councillor Nawaz  
Councillor Samra  
Councillor M. Statham  
Councillor Waters

### **In attendance:**

N. Alcock	Solicitor
M. Brereton	Group Manager – Planning
A. Cook	Regeneration Officer
E. Cook	Assistant Democratic Services Officer
C. Dean	Senior Environmental Protection Officer
K. Gannon	Developmental Control and Public Rights of Way Manager
C. Gibson	Regeneration Officer - Trees
N. Gough	Democratic Services Officer
T. Morris	Senior Planning Officer
D. Smith	Senior Legal Executive
S. Wagstaff	Principal Planning Officer

### **127/22 Apologies**

Apologies for absence were submitted on behalf of Councillors B. Allen, A. Harris and G. Perry.

### **128/22 Declarations of Interest**

Cllr Bird informed the Committee that he lived near to the property under consideration at plans list item 3 – 21/0956, however he had no interest to declare. Councillor Bird subsequently advised the Committee that as he knew one of the speakers on this item he would leave the room whilst it was considered and would not participate in the vote.

Cllr K. Hussain declared an interest on plans list item 4 – 21/0804.

129/22      **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

130/22      **Minutes of previous meetings**

The Committee considered the minutes of the previous meeting.

**Resolved:**

That the minutes of the meeting held on 8 September 2022, a copy having been previously circulated to each member of the Committee, be approved and signed as a true record.

131/22      **Local Government (Access to Information) Act 1985 (as amended)**

**Exclusion of the Public**

**Resolved:**

That there were no items in the private session.

132/22      **Application to Remove one protected lime tree at 4 Carrick Close, Pelsall, Walsall, WS3 5BE**

The Regeneration Officer introduced the report of the Head of Planning and Building Control. An overview was provided, including the location, images of the tree and the justification for the decision to refuse. The reasons for refusal are that the tree is healthy and that the claimed detrimental effect of the tree on amenities are natural factors of a tree and have limited effects.

Responding to questions the Regeneration Officer confirmed that there is no evidence of root damage and that the lime is a native tree.

It was moved by Councillor Bird and seconded by Councillor Murray and upon being put to the vote, it was;

**Resolved (unanimously):**

That Planning Committee:

1. Refuse consent for the works as specified in the application, to fell Lime T1, for the reasons set out by Officers in the report;

2. Grants consent for a crown lift of Lime T1 to give 4.5 metres clearance above ground level and to crown thin by 30%, subject to the following conditions:
  - a. All tree surgery shall be carried out by a person who is appropriately insured and competent in such operations, to ensure satisfactory standard of work;
  - b. All tree surgery work shall be in accordance with British Standard 3998: 2010 "Tree Work – Recommendation". To ensure satisfactory standard of work;
  - c. This permission expires 2 years from the date of this decision and any works not undertaken by the date of expiry shall be the subject of a further application, in order to give the Local Planning Authority an opportunity of reassessing the condition of the tree in the event of the works not being carried out.

133/22

**Confirmation with modifications of tree preservation order no. 06 of 2022 at 25 to 27 Little Aston Road, Aldridge, Walsall, WS9 0NP**

*Councillor Bashir arrived during consideration of this item and took no part in proceedings.*

The Regeneration Officer introduced the report of the Head of Planning and Building Control. It was noted that the incorrect title address had been given on the agenda and in the officer's report. An emergency tree preservation order (TPO) was put in place covering 5 individual trees and others in the land of 25 and 27 Little Aston Road, following requests from residents related to the ongoing removal of trees on the site. Two letters had been received against the TPO and 1 letter and a 35-signatory petition had been received in support of the TPO.

There was one speaker against the application, Ms Sarah Hargreaves (resident of 27 Little Aston Road), and one against the application, Ms Rebecca Watson (representing her parents, residents of Branton Hill Lane).

Ms Hargreaves explained that the garden at number 27 was overgrown and as a result it was difficult to sell the property. She stressed that it was a garden, not a nature reserve and the responsibility of maintaining the garden lay with the property owners. Local residents had previously requested for the largest sycamore to be cut back due to safety concerns. The current TPO was too all-encompassing.

Ms Watson explained that a 2005 planning inspection had identified that the trees made a significant contribution to the local area and that now it was an even more magnificent visual amenity. Many local residents were elderly and at home lots of the time, benefitting from this amenity. It was a shame no ecological report was done prior to works commencing she believed there to be a large group of bats living in the trees. The trees were also valuable for the climate.

There followed questions to speakers. Ms Hargreaves explained that very high winds had forced work to be paused and therefore, if not for the wind, the trees would have been removed prior to the TPO. It was explained that an application for a TPO had not been previously made as there was not a perceived threat to the trees.

There then followed a period of questioning to officers. The Regeneration Officer explained that emergency TPOs were rare but were used if urgent decisions were required, to give provisional protection and allow time for representations to be received. Most emergency TPOs were upheld. Group TPOs were not particularly rare. Usually TPOs were made following development applications or via concerned residents, but there was not a proactive survey of all trees in the Borough. Enforcement could be employed if TPOs were not followed and while the responsibility for trees lay with the land owner, planning permission was required for any interferences. The TPO was applied to numbers 25 and 27 as this was where the expediency existed. An explanation was given about the TEMPO assessment procedure, in response to a concern as to the efficacy of the procedure being overly dependent on 'expediency'.

It was moved by Councillor Gandham and seconded by Councillor Bird and upon being put to the vote, it was;

**Resolved (12 in favour, 1 against):**

That Planning Committee modify the Tree Preservation Order No. 06 of 2022 to allow the removal of the two sycamore trees identified as T1 and T2 in the report, and to protect the remainder of the trees under the order.

*Councillor Bird left the room for the next item and Cllr M. Statham took the chair.*

**134/22 Plans List Item 3 – 21/0956 – 20 Charlemont Road, Walsall, WS5 3NG**

The Senior Planning Officer introduced the report of the Head of Planning and Building Control. An overview of the application was provided, including aerial views and area plans. Some neighbouring properties had two-storey extensions and there had been light-related objections, but nearest affected properties were not habitable. There had been amendments and conditions applied following objections. Fall-back permitted development rights had been taken into consideration.

There was one speaker against the application, Dr Agrawal of 3 Charlemont Close. Dr Agrawal raised concerns that the outbuilding was too close to her property, and would block light and air flow. The gap between the fence and outbuilding would provide a burglary risk and that the outbuilding may not be used as a gym, but as a cricket area. Responding to questions, Dr Agrawal explained that privacy would be compromised as they would now face a brick wall and windows.



There followed questions to officers. The officer confirmed that there was no evidence received of negative air quality impacts nor any police objections. The proposed outbuilding elevation facing 3 Charlemont Close had no windows, was 7m from the boundary fence and 11m from the neighbouring property. Neither that, nor the facing building at 3 Charlemont Close had facing habitable rooms. No work contravening planning restrictions had yet taken place and the proposal was in keeping with the street scene, as most work was to the rear of the property and there were other properties locally with modernised appearances. As the proposal was a modification rather than a new development, there were no mandatory energy efficiency requirements.

It was moved by Councillor Statham and seconded by Councillor Gandham and upon being put to the vote, it was;

**Resolved (11 in favour, 2 against):**

That Planning Committee delegate to the Head of Planning & Building Control to grant planning permission for application 21/0956 subject to conditions and subject to:

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

*Councillor Bird returned to the room and re-took the Chair. It was confirmed by the speakers on plans list item 5 – 22/0229 – 30 Lake Avenue, Walsall, WS5 3PA, that he had not discussed the item with them whilst out of the Chamber.*

135/22

**Plans List Item 5 – 22/0229 – 30 Lake Avenue, Walsall, WS5 3PA**

The Principal Planning Officer introduced the report of the Head of Planning and Building Control. An outline of the proposals was given including the area plan, existing elevations and proposed elevations. The existing two-storey extensions was approved in 1989, prior to the current development plan. A previous similar application was refused due to harm to visual amenities. The current proposal had not altered the distance from the neighbouring window or adherence to the 45 degree code and would reduce natural light.

There were two speakers against the application, Mrs Barbara Clarke and Mr Dennis Clarke, and one speaker in support of the application, Mr Zulfiqar. Mrs Clarke explained that loss of light was the biggest issue, with the side-facing window being the only window in a living room and this was already being affected by reduced light due to a historic extension. Mr Zulfiqar claimed that planning officers had not followed current policy

correctly as the affected window was side-facing and therefore the 45 degree code did not apply. Furthermore, the window was already facing a gable end.

There followed questions to speakers and then officers. Mr Zulfiqar explained that the applicant hoped to move elderly family into the property in the future and the extra space was required in case this did happen. The Chair clarified that Members had to consider the plans before them, not a hypothetical future situation. Officers explained that there would be a detrimental effect to light in the neighbouring property's habitable room and that the 45-degree code does apply. Furthermore, the 45-degree code was only part of the consideration for the impact on light, with proximity also being an issue. The separation between the window and existing wall was 3.6m. In the local area, at least 6m would be required if planning application was requested, as side-facing windows were a feature.

During debate, some members raised concerns that with minor adjustments the 45-degree code could be met and therefore it may be approved in future, wasting officers' time. Members were reminded that they were considering the proposal laid out in the application, not a hypothetical future application.

**Resolved (8 in favour, 6 against):**

That Planning Committee refuse planning permission for application 22/0229 for the reasons set out in the officer's report.

136/22

**Plans List Item 1 – 21/1639 – Land West of Moat Farm, Sutton Road, Walsall, WS9 0QL**

The Committee received the report of the Head of Planning and Building Control. Clarity was requested regarding concerns relating to parking. The Developmental Control and Public Rights of Way Manager explained that it was unlikely there would be more than four drivers looking to use the parking spaces at any given time and that the drive entrance had been widened to 5m to allow passing. Traffic management confirmed there had been no issues at a similar site. Removal of waste from the proposed site would be the responsibility of the property owner.

**Resolved (unanimously)**

That Planning Committee delegate to the Head of Planning and Building Control to grant planning permission for application 21/1639 subject to conditions, as set out in the officer's report.

137/22      **Plans List Item 2 – 20/1401 – Boundary Court, Boundary Road, Streetly, Walsall, B74 2JR**

The item was removed from the Planning Committee agenda prior to the meeting. The planning application has been formally withdrawn by the applicant/agent and no decision will therefore be made on this application.

138/22      **Plans List Item 4 – 21/0804 – 74 Mellish Road, Walsall, WS4 2EB**

The item was removed from the Planning Committee agenda prior to the meeting at the applicant's request.

**Termination of meeting**

There being no further business, the meeting terminated at 7:48 pm.

Signed .....

Date .....



## Development Management Planning Committee

Report of Head of Planning and Building Control on 31/10/2022

### CONTENTS

Item	Page	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation
1	13-33	21/0951	FORMER KINGS HILL JMI, JOYNSON STREET <b>Ward:</b> Darlaston South	Proposed residential development on land between Joynton street and Old Park road, Darlaston for 35 units.	GRANT PERMISSION SUBJECT TO CONDITIONS AND SECTION 106 AGREEMENT
2	34-52	20/1640	LAND BETWEEN 15 AND 19 GOSCOTE ROAD <b>Ward:</b> PELSALL	One detached 4 bedroom dwelling house to the side of 15 Goscote road, Walsall with detached twin garage to the rear of the site to serve the proposed new dwelling and 15 Goscote road.	GRANT SUBJECT TO CONDITIONS WITH UNILATERAL UNDERTAKING FOR SAC
3	53-62	21/0804	74 MELLISH ROAD <b>Ward:</b> ST MATTHEWS	Re-submission application of 20/0453: replacement 6 bedroom dwelling house.	REFUSE PERMISSION
4	63-70	21/1693	11 DELVES ROAD <b>Ward:</b> PALFREY	First floor side extension; single storey rear extension; single storey front and porch extension plus loft conversion with rear dormer and garage conversion	REFUSE PERMISSION

## Planning Committee

Report of Head of Planning and Building Control on 31 October 2022

Plans List Item Number: 1

### Reason for bringing to committee

The application has been brought to Planning Committee as the proposal is for a major application.

### Application Details

**Location:** FORMER SITE OF KINGS HILL JMI, JOYNSON STREET, WALSALL, WS10 9HZ

**Proposal:** PROPOSED RESIDENTIAL DEVELOPMENT ON LAND BETWEEN JOYNSON STREET AND OLD PARK ROAD, DARLASTON FOR 35 UNITS. THE PROPOSAL INCLUDES A NEW-BUILD BLOCK OF 29 FLATS WITH BIN AND BIKE STORES, 4 NEW HOUSES, AND THE CONVERSION OF AN EXISTING HOUSE INTO 2 FLATS. THE SCHEME ALSO PROPOSES 48 CAR PARKING SPACES, AND LANDSCAPING AREA FOR RESIDENTS.

**Application Number:** 21/0951

**Case Officer:** Sally Wagstaff

**Applicant:** Sarwan Samrai

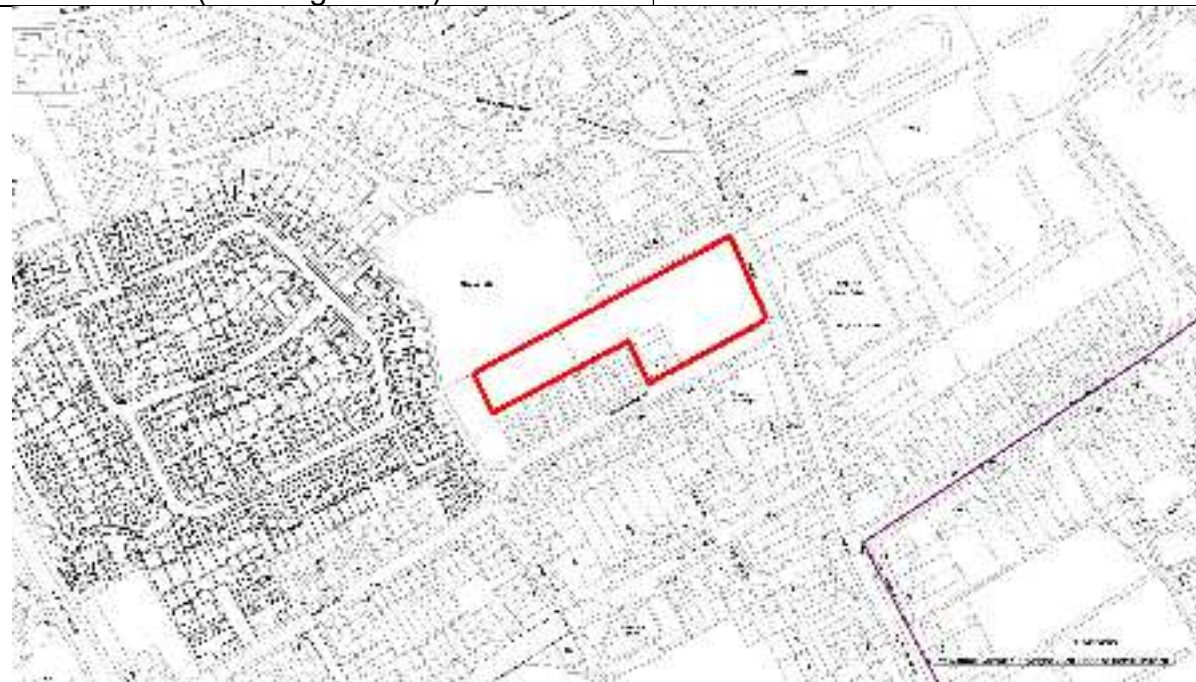
**Ward:** Darlaston South

**Agent:** Design Studio Architects Limited

**Expired Date:** 15-Oct-2021

**Application Type:** Full Application: Major Use Class C3 (Dwellinghouses)

**Time Extension Expiry:**



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## Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a s106 agreement to secure affordable housing contributions, urban open space contributions plus an ongoing landscape management scheme and subject to:
  - Resolving any potential LLFA objections to the proposal based on material planning considerations.
  - Amendments to the scheme as set out by the Local Highway Authority.
  - Amendments to the scheme as set out by Housing Standards.
  - No new material considerations being received within the consultation period.
  - The amendment and finalising of conditions.
  - No further comments from a statutory consultee raising material planning considerations not previously addressed.

## Proposal

This application seeks full planning permission for a proposed residential development on land between Joynson Street and Old Park Road in Darlaston, site of the former Kings Hill JMI School. The total number of new dwellings created by the proposal is 35 and the proposal is made up of the following main elements:

- Erection of 1 x three-storey residential block, comprising 29 flats (26 x one-bedroom and 3 x two-bedroom), located at the eastern boundary of the site.
- Erection of 3 x two-storey, four-bedroom townhouses, located at the western boundary of the site and to the rear of 11-15 Joynson Street.
- Erection of 1 x two-storey, four-bedroom townhouse, located adjacent to the existing house to be converted (see below) and the proposed site entrance off Joynson Street.
- Conversion of the existing house (1 Joynson Street) into 1 x one-bedroom flat and 1 x two-bedroom flat, located adjacent to the proposed site entrance off Joynson Street.
- Creation of 48 car parking spaces, including 5 accessible spaces.
- Provision of private and shared gardens, hard and soft landscaping, boundary treatments and access.

The application is supported by the following documents:

- Air Quality Assessment.
- Bird and Bat Survey.
- Design and Access Statement.
- Energy Statement.
- Geo-Environmental Investigation Report.
- Noise Survey.
- Sustainable Drainage System Strategy Report.
- Tree Survey.



## Site and Surroundings

The application site comprises a roughly I-shaped parcel of land bound by Old Park Road to the north and the east, Joynson Street to the south and a vacant parcel of land fronting Joynson Street to the west. The west side of the site partly fronts Joynson Street and Old Park Road and the site also encompasses land to the rear of existing dwellings at 1 to 15 Joynson Street. The site boundary currently comprises metal palisade fencing and is generally in an overgrown and disused state. The overall site area is approximately 0.5 hectares.

The surrounding area is primarily residential in nature, comprising existing dwellings of varying age and architectural style. The site is also in close proximity to the Kings Hill Primary School which is located to the east of the site, and the school field is located to the north of the site. There is also a Telephone Exchange Building opposite the site to the south. Number 1 Joynson Street within the application site is an older building of significant age and character.

The site is allocated for housing in the Site Allocations Document. It is located within the Coal Development High Risk Area and is outside of flood zones 2 and 3. The site is outside of the Cannock Chase Special Area of Conservation (SAC) zone of influence. The nearest centre is the Darlaston District Centre located approximately 350m to the north-west of the site.

## Relevant Planning History

### *Application Site:*

20/0759 - Proposed residential development on land between Joynson Street and Old park Road, Wednesbury for 23 new built units (14 houses and 9 flats) and the conversion of an existing dwelling into 2 flats, plus bike storage, bin store and 44 car parking spaces – Application Withdrawn. 28/01/2021.

12/0665/FL - Erection of a two storey Care Home (use class C2) with associated car parking, landscaping and servicing with demolition of 1 Joynson Street, as an amendment to planning permissions 09/0731/FL and 09/0732/FL and resubmission of 11/1462/FL – Grant Permission Subject to Conditions 14/12/2012.

11/1462/FL - Erection of 60 bed & 16 bed care homes (use class C2) with associated landscaping & car parking. (Amendment to 09/0731/FL & 09/0732/FL) and demolition of existing buildings including 1 Joynson Street – Application Withdrawn 20/06/2012.

09/0732/FL - Erection of a 54 bed nursing home with associated car parking and landscaping – Permission Granted Subject to Conditions 07/12/2009.

### *Land to the rear of 2-6 Joynson Street:*

09/0731/FL - Erection of 2 houses for persons with learning difficulties with access from Old Park Street – Permission Granted Subject to Conditions 07/12/2009.

## Relevant Policies

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

**[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)**

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

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

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

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

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

### **National Planning Policy Guidance**

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

### **Reducing Inequalities**

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

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity



- race
- religion or belief
- sex
- sexual orientation

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

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

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H1: Renewal of Existing Residential Areas
- H4: Affordable Housing parts g, h, i and j NOTE
- T1 - Helping People to Get Around
- T6 - Traffic Calming
- T7 - Car Parking

- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

## **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

- HC1: Land allocated for New Housing Development
- HC2: Development of Other Land for Housing
- HC3: Affordable Housing and Housing for People with Special Needs
- OS1: Open Space, Sport and Recreation
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- T2: Bus Services
- T4: The Highway Network
- T5: Highway Improvements

## **Supplementary Planning Document**

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

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

Page 18 of 70

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

Development with the potential to affect trees, woodlands and hedgerows

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

## **Designing Walsall**

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

## **Open space, sport and recreation**

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

## **Affordable Housing**

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

## **Air Quality SPD**

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

**City of Wolverhampton Council (Archaeology)** – No objections.

**Clean and Green** – No objections.

**Ecology** – No objections.

**Environment Agency** – No objections.

**Environmental Health** – No comments.

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

- Submission of a remediation strategy in relation to land contamination/ground gas
- Installation of acoustic glazing, acoustic ventilation and acoustic barrier treatments in all plots
- Installation of electric vehicle charging points
- Submission of a Construction Management Plan

**Highways England** – No objections.

**Historic England** – No comments.

**Housing Standards** – No objections, subject to the following conditions:

- For all bathrooms to include extractor fans.
- For the layout of flats 4, 8, 13 and 17 to be amended so that occupants do not need to pass through a kitchen (room of higher fire risk) to escape from any of the bedrooms.

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

*Amendments required to visibility splays:*

- The 2.4m x 43m visibility splay shown at the Joynson Street/Old Park Road junction shall be revised to show the 43m splay line across the site frontage following the nearside kerb line and not extending out into the centre of the carriageway.
- The 2.4m x 43m visibility splay shall be shown at the northern Old Park Road /Old Park Road Service Road junction extending across the site frontage following the kerb line.

*Amendments Required to footway crossings:*

- The footway extending along the western side of the access road shall be extended for the full width around the northern boundary of the proposed 4 bedroom dwelling to provide an accessible pedestrian link and crossing to the northern side footway leading to the 3 townhouses.

*Amendments required to parking spaces:*

Page 20 of 70

- The 'end on end' parking spaces along the northern side of the access road shall be lengthened to 6m and the two end spaces shall have angled entry/exit.

**Conditions:**

- For all access ways and parking spaces to be fully completed prior to occupation of any dwellings.
- For the redundant footway crossing in Joynson Street to be reinstated to full kerb height prior to the occupation of the former schoolhouse building.
- Submission of cycle shelter details prior to first occupation of the flatted block.
- Submission of a Construction Management Plan prior to development commencing.
- For the 2.4m x 43 metre visibility splays at the Joynson Street/Old Park Road and Old Park Road/Old Park Road Service Road junctions to be kept free of structures and planting exceeding 600mm in height above highway levels at all times.

**Local Lead Flood Authority** – To follow.

**Natural England** – No comments.

**Network Rail** – No comments.

**Severn Trent Water** – No objections, subject to the following conditions:

- No development to commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority,
- For the development to be implemented in accordance with the approved details before the development is first brought into use.

**Sport England** – The proposal is not within the remit of Sports England and therefore general advice has been provided.

**The Coal Authority** – No objections, subject to the following conditions:

- No development to commence until a scheme of further investigations of 3 recorded mine entries and the potential unrecorded mine entry, in order for the applicant's technical consultants to adequately assess the condition of these mining features
- For any remediation works and/or mitigation measures to address land instability arising from coal mining legacy (shallow coal mining / mine entries), as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. This should include the submission of the approved layout plan which illustrates the location and calculated no build zone of all on-site mine entries in order to demonstrate how these features relates to the approved layout.
- Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive

site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

**West Midlands Fire Service – No objections.**

**West Midlands Police – No objections.**

## **Representations**

None received.

## **Determining Issues**

- Principle of Development
- Design, Layout and Character
- Amenity of Future Occupiers
- Amenity of Neighbours
- Access and Parking
- Flood Risk / Drainage
- Ecology
- Trees / Protected Trees
- Ground Conditions and Environment
- Planning Obligations
- Local Finance Considerations

## **Assessment of the Proposal of Development:**

### **Principle of Development:**

The application site comprises a vacant/overgrown section of land which was previously occupied by the former Kings Hill JMI School which has since been demolished. The site covers an area of approximately 0.5 hectares and is bound by the Kings Hill Primary School field and existing dwellings on Old Park Road to the north, the Kings Hill Primary School main building at Old Park Road to the east and existing dwellings and a Telephone Exchange building at Joynson Street to the site. The wider area is primarily residential in nature and comprises existing dwellings of varying age and character.

The proposal seeks to develop the site to provide a total of 35 new dwellings, as well as ancillary development including the creation of private and shared gardens, parking spaces, boundary treatments, landscaping and access. The new dwellings will be formed of a mix of new buildings, including the erection of a three-storey block of flats and the erection of 4 x two-storey townhouses, as well as the conversion of an existing dwelling (1 Joynson Street) to 2 flats. The overall mix of accommodation at the site is summarised as follows:

- 27 x one-bedroom flats
- 4 x two-bedroom flats
- 4 x four-bedroom houses

Considering the suitability of the site for residential development, the site is allocated for housing as set out in Walsall SAD Policy HC1, identified as site HO39a.

Residential development is therefore acceptable at the site, subject to the further

requirement of SAD Policy HC1. Furthermore, the surrounding area is primarily residential in nature and the proposed residential use of the site is therefore considered to be compatible with adjacent uses. The site has also historically been granted planning permission for the erection of residential care home uses, albeit these permissions have lapsed and were not implemented. In providing 35 new dwellings at the site, the proposal will also contribute to the regions overall housing targets as set out within the Black Country Core Strategy.

In addition, the latest available figures show that the Council does not currently have a five-year housing land supply and in addition, the Council failed the Housing Delivery Test published in January 2022, based on low levels of delivery over the last 3 years. As a result, the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect. The lack of five-year housing land supply therefore affords the proposal additional weight within the decision making process.

In summary, the principle of the proposed residential development at the site is broadly acceptable, subject to the proposal complying with other material planning considerations and site specific issues.

### **Design, Layout and Character**

The proposed layout of the site consists of the new block of flats located at the eastern boundary to Old Park Road, three new houses located to the rear of 11 to 15 Joynson Street toward the western boundary and one new house located adjacent to the proposed entrance off Joynson Street and next to the existing schoolhouse to be converted to flats.

The proposed layout of the site is such that the largest of the new buildings (block of flats) will reintroduce a built form to the street frontage at this section of Old Park Road which is currently of an untidy and disused appearance. The height of the block of flats at three-storey is also reflective of the approximate height of the school building on the opposite side of Old Park Road. The proposed houses are lower in height at two-storey albeit with forward facing dormer windows, and this height is considered to appropriate given the new houses will be located adjacent to existing two-storey houses.

With regards to the appearance of the development, the proposed houses are of a relatively traditional design, featuring gable roofs with chimneys, forward facing dormer windows and rear facing rooflights, UPVC windows and doors and facing brickwork. The proposed block of flats is of a more contemporary design, featuring a flat roof, projecting windows and some external cladding. However, the external surfaces of the proposed block of flats will primarily be formed of bricks and where cladding is used this is limited to windows and around the entrance. The appearance of the new buildings are therefore considered to be reflective of the local context and in keeping with the character of the area.

It is also acknowledged that the existing house at 1 Joynson Street will be retained and converted to two flats as part of the proposal. Whilst not listed, the house is an attractive building of significant age and character, and its retention will help to retain some of the special characteristics of the area.

The proposal is also complemented by a comprehensive landscape scheme for the site, which includes grassed areas, trees, ground planting, hedgerows, wildflower meadow area and woodland planting. The landscape proposals will help to integrate



the development into the wider context where pockets of green space as will be provided at the site are common. The ongoing landscape management will be secured as part of the s106 agreement, to be agreed with the agent.

In summary, the design and layout of the proposed development is acceptable and is considered to be sympathetic to its surroundings and in keeping with the character of the area.

### **Amenity of Future Occupiers:**

The proposal will provide a mix of residential accommodation as set out above, including a total of 35 new dwellings, consisting of 27 x one-bedroom flats, 4 x two-bedroom flats and 4 x four-bedroom houses.

The proposed 4 x houses will comprise four bedrooms set across three floors, with the floor areas of the bedrooms 18sqm, 10sqm, 9sqm and 5sqm. Whilst the floor area of 5sqm falls short of the minimum requirement of 7.5sqm for a single bedroom, counting it as a bedroom, the houses will provide four bedrooms for five persons. The Technical Housing Standards – Nationally Described Space Standards requires a minimum floor area of 103sqm for houses of this size. The proposed houses comprise overall floor areas of approximately 118sqm, therefore in excess of these standards. The houses include private gardens to comprising areas ranging from 73sqm to 120sqm, all in excess of the minimum standard of 68sqm, as stated within the Designing Walsall SPD.

Of the proposed 26 x one-bedroom flats, 24 of these comprise double bedrooms and gross internal floor areas of approximately 50sqm, meeting the minimum requirement of 50sqm for a one-bedroom, two-bedroom dwelling, as set out within the Technical Housing Standards. 2 of the 26 x one-bedroom flats comprise single bedrooms and gross internal floor areas of 37sqm, meeting the minimum requirement of 37sqm for a one-bedroom, one-person dwelling, as set out within the Technical Housing Standards. It is noted that Housing Standards have made some suggestions with regards to the internal layout of four of the flats, due to fire safety reasons. These minor amendments to the internal layout are included within the recommendation.

The proposed 3 x two-bedroom flats within the proposed residential block comprise one double bedroom and one single bedroom and gross internal floor areas of 6sqm to 65sqm, meeting the minimum requirement of 60sqm for a two-bedroom, three-person dwelling, as set out within the Technical Housing Standards.

The existing building at 1 Joynson Street will be converted to 1 x two-bedroom flat at the ground floor and 1 x one-bedroom flat at the first floor. It is noted that both of the bedrooms at the two-bedroom flat are single bedrooms and the gross internal floorspace of this flat (53sqm) falls short of the 61sqm minimum requirement for a two-bedroom, three-person dwelling, however, this is acceptable on balance given the rest of the accommodation at the site is acceptable and the element of the proposal relates to the conversion of an existing building. The one-bedroom flat at the first floor meets the minimum requirement of 37sqm for a one-bedroom, one-person dwelling, as stated within the Technical Housing Standards.

With regards to the gardens of the proposed flats at the site, the Designing Walsall SPD requires 20sqm per dwelling where communal provision is provided. There will be a total of 31 flats at the site as a result of the development. Two of these flats provided by the conversion of the existing dwelling will contain their own garden



comprising an area of 100sqm. The proposal is therefore required to provide a minimum of 580sqm (29 x 20sqm) of communal garden space. Whilst not specified as garden space on the proposed site plan, the proposal includes approximately 480sqm of useable communal amenity space to the side and front of the proposed flats, as well as a narrow strip of less useable space of 115sqm, adjacent to the western boundary of the site at Old Park Road. In addition, a further proposed soft landscape area comprising 406sqm will be provided adjacent to the northern boundary of the site and this will take the total amount of useable communal amenity space to approximately 855sqm, which is in excess of the minimum requirement of 580sqm for the 29 flats.

In summary, the internal and external layout of the dwellings and the site is acceptable and will provide a good standard of amenity. The proposal is therefore considered to be acceptable with regards to the amenity of future occupiers.

### **Amenity of Neighbours:**

Considering the impact of the proposed development of neighbour amenity, the site is located within an established residential area and the proposal is therefore considered to be broadly compatible with neighbouring uses, subject to complying with distance separations requirements contained within the Designing Walsall SPD and the Council's 45 Degree Code.

All of the windows within the proposed block of flats will either face the street (north, east, south) or face into the application site itself (west) and will not therefore overlook any existing neighbouring gardens. Similarly, the windows of the three proposed houses at the northern boundary of the site will either face into the application site toward the landscape area (east) and towards the adjacent vacant parcel of land (west), again, not overlooking any neighbouring gardens.

The rear elevation of the fourth proposed house located adjacent to the existing house to be converted will face the rear garden of 2 Joynson Street, with the distance between the proposed rear elevation of the new house and the boundary of the garden of 8.4m. This arrangement may be unacceptable in some circumstances due to the loss of neighbour privacy; however, the circumstances of the site mean that this arrangement is acceptable in this location. The new dwelling will comprise a bedroom and a study window at the first floor which will face the rear garden. The bedroom window will however face the roof of an outbuilding at the neighbouring property, rather than any useable garden space. In addition, the new dwelling will comprise a study window at the first floor, again, facing the rear garden of 2 Joynson Street.

The windows within the proposed house conversion (1 Joynson Street) are existing windows and do not overlook any existing gardens and will not therefore exacerbate any existing overlooking issues at the site.

The proposed development also complies with the Council's 45 Degree Code and will result in no adverse impact in terms of loss of daylight and outlook at neighbouring properties.

In summary, the proposed development will result in no significant issues with regards to the impact on the amenities of neighbouring properties, including no loss of daylight and outlook. It is also acknowledged that no objections from neighbours have been received. The application is therefore acceptable with regards to the impact on the amenity of neighbours.

## **Access and Parking:**

The proposal includes the creation of a new pedestrian and vehicular access into the site off Joynson Street, positioned in the new location of the previous access to the school. Two further pedestrian access points will be provided further to the west along Joynson Street and from Old Park Road on the north side. An internal access road will be created from the entrance off Joynson Street, leading to the car parking areas and the three proposed houses on the western side of the site. The proposed site layout is considered to be acceptable with regards to highways and pedestrian safety, subject to some minor revisions which are detailed with the recommendation section.

With regards to parking spaces at the site, for the proposed 35 dwellings, a total of 48 car parking spaces, including 5 accessible spaces will be provided. This consists of 31 spaces for the new block of 29 flats, 8 spaces for the 4 proposed houses, 2 spaces for the 2 converted flats and 7 guest spaces. This level of parking represents a 137% provision and is considered to be appropriate for a development of this nature and is therefore acceptable.

In summary, the proposed development is acceptable with regards to access and parking, subject to revisions as recommended by the Local Highways Officer and the relevant conditions included in the recommendation.

## **Flood-risk and Drainage:**

The site is located within flood zone 1, which is an area of low probability of flooding. However, as the application is classed as a major planning application, the Lead Local Flood Authority (LLFA) are a statutory consultee. The application is supported by a Sustainable Urban Drainage Strategy (SUDS), however, the LLFA have not yet provided comments on the application and any flood-risk matters. In the absence of comments from the LLFA, the recommendation of this report is based on the requirement that the LLFA comments will be provided before a decision is issued and any material planning considerations raised by the LLFA would be addressed.

## **Ecology:**

The application is supported by a Preliminary Bat Roost Assessment and Bird Survey Report. No objections have been raised by the Council's Ecologist regarding the impact of the proposal on ecology at the site. The working methods contained within the submitted report are acceptable. The roof and external features of the existing building to be converted to two flats will not be removed or renovated, therefore no potential bird/bat habitat will be harmed by the proposal. The application is therefore acceptable with regards to ecology matters.

## **Trees and Protected Trees:**

The site is currently in a disused and overgrown state and there are some trees present, none of which are protected by a Tree Preservation Order. The application is supported by a Tree Survey which identifies 5 individual trees and 3 groups of trees at the site. The trees are however considered to be poor quality specimens of limited sustainability and visual amenity. The proposal is also supported by a comprehensive landscape plan which will incorporate replacement trees and green space within the site. The application is therefore acceptable with regards to the impact on trees.

## **Ground Conditions and Environment:**

The site is located within the Coal Development High Risk Area and is supported by a Geo-Environmental Report. The Coal Authority have confirmed that the site lies within an area of both recorded and historic unrecorded shallows coal mining with the presence of 3 recorded mine entries. The proposed site layout has been designed to reflect this, with the new buildings located away from the recorded mine entries. Further investigation of mining entries at the site is however required prior to the commencement of development and this is detailed within the planning conditions.

The submitted report also identifies that the site is affected by ground gas and land contamination issues. On this basis, details of land mitigation measures are required to be confirmed by submission of a Remediation Statement prior to development commencing and this will be secured by planning condition.

In summary, the proposed development is acceptable with regards to ground conditions and environmental matters, subject to the relevant planning conditions.

## **Planning Obligations:**

### *Affordable Housing*

The Affordable Housing SPD 2008 states that there is a requirement to provide affordable housing on all new developments of 15 dwellings or more, subject to certain criteria set out within the policy. In this case, the application requires an affordable housing contribution of 4 x 4-bedroom houses as social rent, and a commuted sum for the rest of the development of £188,593.75, to be secured via a Section 106 agreement. At present this has not been agreed, however a letter was sent to the agent notifying them of the contributions on the 22nd August 2022.

### *Urban Open Space*

The requirements of the Urban Open Space SPD specifies that urban open space contributions are required for developments of 10 dwellings or more. The proposed development comprises a total 50 bedrooms and this requires a financial contribution of £693 per bedroom, which equates to a total contribution of £36,036. This contribution toward urban open space will be secured via a Section 106 agreement and this is included within the recommendation (again, the agent has been notified of the required contribution, but this is yet to be agreed)

## **Local Finance Considerations:**

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

This application proposes 35 new homes.

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

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

## **Conclusions and Reasons for Decision**

The application site is allocated for housing within the Walsall SAD 2019 and the principle of residential development at the site is therefore acceptable. The layout and appearance of the development is in keeping with the character of the area and the standard of amenity provided by the new dwellings is acceptable. No significant impact on neighbour amenity has been identified and no objections from local residents have been received. The outstanding issues in relation to highways safety and ground conditions can be resolved via amendments to the scheme and the recommended planning conditions. As is noted in the report, the recommendation is subject to the Planning Authority receiving no objections raising material planning considerations from the LLFA. In addition, the Council's lack of five-year housing land supply affords additional weight in the decision making process and it is acknowledged that the proposal will contribute to housing targets in the region. The overall benefits of the scheme are therefore considered to be significant and will outweigh any harm the proposal will cause. Taking into account the above factors it is considered that the application should be recommended for approval.

## **Positive and Proactive Working with the Applicant**

Officers have confirmed to the applicant's agent that the submitted details are acceptable, subject to the amendments which are detailed above, subject to the conditions which are included within the recommendation and subject to a s106 agreement to secure affordable housing and urban open space contributions.

## **Recommendation**

Grant permission subject to the amendments detailed above and the following conditions.

## **Conditions**

### **1. Time Limit**

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

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

### **2. Approved Plans**

- a. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:
  - DSA-19140-PL-PRO-01-A (Proposed Site Layout)
  - DSA-19140-PL-02 (Location Plan)

- DSA-19140-PL-PRO-04 (Type A Proposed Ground Floor & First Floor Plans)
- DSA-19140-PL-PRO-05 (Type A Proposed Second Floor & Roof Plans)
- DSA-19140-PL-06 (Type A Proposed Elevations and 3D View)
- DSA-19140-PL-08 (Type B Proposed Plans & Elevations)
- DSA-19140-PL-09 (Type C Proposed Floor Plans & Roof Plans)
- DSA-19140-PL-10 (Type C Proposed Elevations)
- DSA-19140-PL-11 (Proposed Site Sections)
- 20-003-01 Rev D (Detailed Landscape Proposals)
- Paving Design Proposal for: Wednesbury Residential, 23/06/2021 (No Drawing Number)

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. Construction Management Plan**

- a. The applicant shall agree measures for controlling noise, dust, flying debris, and drag-out from engineering and construction activities at the site in writing with the Local Planning Authority.
- b. Where the parking and turning facilities for site operatives and construction deliveries will be located
- c. Full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.
- d. All agreed measures shall be implemented and maintained throughout the duration of demolition operations and construction activities.
- e. No construction, demolition, 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 otherwise 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; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).

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

### **4. Drainage**

- a. Prior to the commencement of development hereby permitted drainage plans for the disposal of foul and surface water flows have been submitted in writing to and approved in writing by the Local Planning Authority.

- b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.
- c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and to reduce the risk of creating or exacerbating a flooding problem in accordance with policy ENV5 of the Black Country Core Strategy Policy ENV5 and saved policies GP2 and ENV40 of Walsall's Unitary Development Plan.

## **5. Contaminated Land**

- a. In order to address contaminated land and ground gas issues as identified within Geo-Environmental Investigation Report, by GIP Ltd, Ref. KCD/29138a, the Applicant shall address the following:
  - 1. Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (See Note for Applicant CL2)
  - 2. The remedial measures as set out in the 'Remediation Statement' required by part b) of this condition shall be implemented in accordance with the agreed timetable.
  - 3. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered, development shall cease until the 'Remediation Statement' required by part b) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
  - 4. A Validation Statement confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (See Note for Applicant CL3)

Reason: To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

## **6. Coal**

- a. No development shall commence until;
  - 1. A scheme of further investigations of the 3no. recorded mine entries and the potential unrecorded mine entry, in order for the applicant's technical consultants to adequately assess the condition of these mining features.
  - 2. Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy (shallow coal mining / mine entries), as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development



proposed. This should include the submission of the approved layout plan which illustrates the location and calculated no build zone of all on-site mine entries in order to demonstrate how these features relates to the approved layout.

3. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
- b. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

## **7. Acoustic Impacts**

- a. Prior to built development commencing, the Applicant shall agree acoustic glazing, acoustic ventilation, and acoustic barrier treatments to be installed in all Plots in writing with the Local Planning Authority.
- b. Prior to Occupancy a Validation Statement confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority.

Reason: In order to protect the amenities of the future occupiers of the premises in accordance with saved policies GP2 and ENV32 of the Walsall's Unitary Development Plan.

## **8. Air Quality**

- a. Prior to construction commencing the Applicant shall agree a Low Emission Scheme in writing with the Local Planning Authority to install electric vehicle charging points in accordance with the Air Quality Supplementary Planning Document.
- b. The agreed scheme shall be fully implemented, in accordance with the approved details, before the development is first brought into use.
- c. Prior to occupancy, the Applicant shall provide a written Low Emission Scheme Validation Statement to the Local Planning Authority that demonstrates scheme has been installed as agreed.

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

## **9. Materials**

- a. Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces of the development hereby approved,

- including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

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

## **10. Boundary Treatment**

- a. Prior to the commencement of building operations above damp proof course of the development hereby permitted, details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.
- b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.
- c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall's Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of Walsall's Unitary Development Plan.

## **11. Parking and Access Ways**

- a. Prior to the first occupation of any dwelling on the development, all access ways and parking spaces serving that dwelling shall be fully implemented, the area being fully consolidated, hard surfaced and drained so that surface water run-off from the area does not discharge onto the highway or into any highway drain. All parking bays shall be clearly demarcated on the ground.
- b. The access ways and parking spaces shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with saved policies GP2, T7 and T13 Walsall's Unitary Development Plan.

## **12. Footway Crossings**

- a. Prior to the main access road first coming into use, the existing vehicle footway crossing in Joynson Street shall be suitably modified and adjusted to align with the new access to the satisfaction of the Highway Authority.
- b. Prior to the first occupation of the former School House conversion, the existing vehicle footway crossing in Joynson Street made redundant by the



development, shall be reinstated back to full kerb height to the satisfaction of the Highway Authority.

- c. All works within the public highway shall be in accordance with all statutory requirements (See also Highway Authority – Notes to Applicants)

Reason: To ensure the satisfactory completion and operation of the development and in accordance with saved policies GP2, T7 and T13 Walsall's Unitary Development Plan.

### **13. Cycle Storage**

- a. Prior to the first occupation of the flatted block, full details of a cycle shelter for the use of residents and visitors, and which shall be secure, covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.
- b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with saved policy T13 of Walsall's Unitary Development Plan and policy TRAN4 of the Black Country Core Strategy.

### **Notes for Applicant**

None.

**END OF OFFICERS REPORT**

## Planning Committee

Report of Head of Planning and Building Control on 31 October 2022

Plans List Item Number: 2

### Reason for bringing to committee

Significant Community Interest

### Application Details

**Location:** LAND BETWEEN 15 AND 19, GOSCOTE ROAD, WALSALL, WS3 4LE

**Proposal:** ONE DETACHED 4 BEDROOM DWELLING HOUSE TO THE SIDE OF 15 GOSCOTE ROAD, WALSALL WITH DETACHED TWIN GARAGE TO THE REAR OF THE SITE TO SERVE THE PROPOSED NEW DWELLING AND 15 GOSCOTE ROAD.

**Application Number:** 20/1640

**Case Officer:** Helen Smith

**Applicant:** Bariana

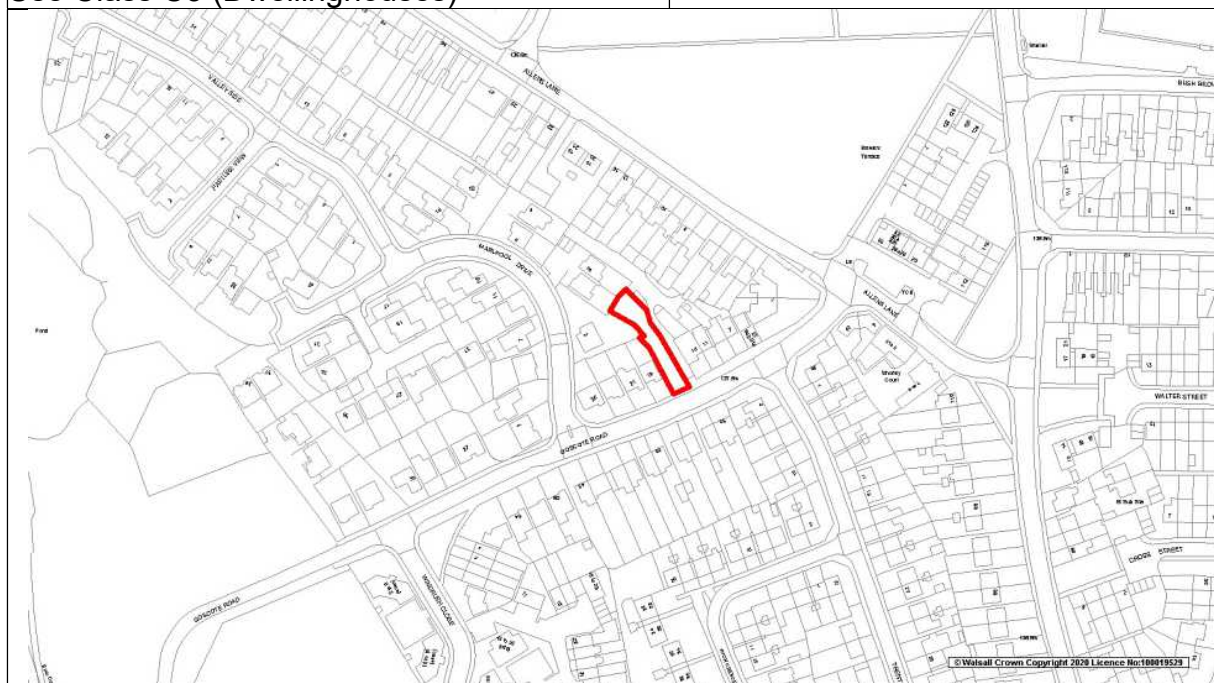
**Ward:** Pelsall

**Agent:** Sheila Porter

**Expired Date:** 11-Feb-2021

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

**Time Extension Expiry:** 16-Dec-2022



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## Recommendation:

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

## Proposal

This is a resubmission of a previously approved planning application following a successful planning appeal that was never implemented. This application is similar to the detailed submission for reserved matters for a detached dwelling house and garage, granted permission on 10/10/12. The plans were amended to include the access to the garage as this had originally been included with the blue ownership line.

The key dimensions and features of the proposal are;

- 2.5 storey new detached 4 bedroom dwelling house
- 9.3 metres high to the ridge
- 5.1 metres high to the eaves
- Gable roof design with a chimney
- Two rear dormer windows with gable hoods
- Side facing non-habitable room window serving a landing
- Private rear amenity area of 68.8 sq. metres
- Side pedestrian access between 1.4 and 0.9 metres wide
- 1.8 metres high close boarded fencing to rear garden boundaries
- 600mm high picket fence to front garden boundaries
- Proposed detached double garage to the rear of the site to provide separate garage parking for the proposed new dwelling and for 15 Goscote Road, the host dwelling.
- Proposed garage positioned 22.9 metres from the rear of the new dwelling and 23.5 metres from the rear elevation of 15 Goscote Road
- 31.5 metres garage floor area
- Garage would have a 4 metres high gable roof
- Driveway between the rear garden boundary and the garage would be hard-surfaced and have sustainable drainage
- 600mm high picket fence to front boundaries

The submitted street scene drawing shows that the proposed roof height of the new dwelling would not exceed the ridge height of 15 Goscote Road. The new dwelling would be 1.9 metres higher than the ridgeline of 19 Goscote Road.

The 2012 planning approval had a different first floor layout to the current proposal.

The red outline defining the application site has been amended to include part of an access on land to the side of the proposed new dwelling to enable vehicles to reach the proposed detached garages. This land is not in the applicants ownership and

ownership certificate B has been completed and the requisite notice served on owners and interested parties.

The Planning Agent has provided the following documents in support of the planning application;

Design and Access Statement dated November 2020 which states;

- The proposal is in keeping with its surrounding
- Adequate amenity space is provided
- Sufficient parking provision for both the proposed and the host dwelling
- Provides an additional house in a sustainable area

Coal Mining Risk Assessment dated 22/2/21

## **Site and Surroundings**

The site is situated on the northern side of Goscote Road and is the garden land associated with 15 Goscote Road. The site is predominantly level with no significant level changes between the application site and adjacent properties.

The plot is separated from 19 Goscote Road by an adjacent shared driveway which gives vehicle access to rear garages serving houses facing onto Allens Lane and Goscote Road. There is an existing wooden double garage to the rear of the application site which is in poor condition.

No's 7 to 15 Goscote Road are a block of 1940's terraced dwelling houses and 15 Goscote Lane sits on the opposite side of the access drive to the application site. This neighbouring house has front, rear and side facing habitable room windows.

No's 19 to 25 Goscote Road are 1980's detached houses which sit to the south-west of the application site. No. 19 has a blank side elevation next to the application site and front and rear habitable room windows.

There would be a 39 metre habitable room window to window separation distance to 4 and 4a Marlpool Drive at the rear.

The previous outline consent (planning reference no. 10/0301/OL) approved the erection of a detached dwelling with garage set to the rear, with access and layout approved following an appeal.

The subsequent reserved matters application (planning reference no. 12/0231/RM) dealt with the appearance, landscaping and scale of the proposed house and garage, with the layout and access arrangements matching those of the approved outline consent.

## **Relevant Planning History**

12/0231/RM - Reserved Matters to 10/1301/OL: Erection of a single dwelling house and associated works – GSC 10/10/12

10/1301/OL, outline for the erection of a single dwelling house and associated works, access and layout only for consideration, refused 07-12-10. Subsequent appeal

allowed on 31-10-11 subject to conditions (Appeal reference no. APP/V4630/A/11/2152577).

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

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

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

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

### **Reducing Inequalities**

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites

Page 37 of 70

- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP4: Place Making
- DEL1: Infrastructure Provision
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

HC2: Development of Other Land for Housing  
T4: The Highway Network

### **Supplementary Planning Documents Designing Walsall**

- DW1 Sustainability
- DW3 Character
- DW10 Well Designed Sustainable Buildings

### **Air Quality SPD**

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

### **Consultation Replies**

**Coal Authority** – No objections subject to the inclusion of planning conditions in respect of intrusive site investigations and remedial measures in order to ensure the safety and stability of the proposed development, if approved.

**Fire Officer** – No objections subject to compliance with Building Regulations Approved Document B Vol 1 (2019)

**Environmental Protection** – No objections subject to the inclusion of planning conditions and informative notes in respect of ground gas, air quality, construction management and solid fuel stoves, if approved.

**Severn Trent Water** – No objections and require the inclusion of an informative note as there may be a public sewer located within the application site.



**Strategic Planning Policy** - No objections as the site has previously has planning permission for a single detached house

**Local Highway Authority** – No objections subject to the inclusion of planning conditions in respect of parking and an informative note relating to highway safety, if approved.

**Ecology** - Habitat Regulation Assessment Stage 2 required and appropriate mitigation secured.

## Representations

### ***(Local Planning Authority comments in brackets and italics)***

Objections were received initially from two neighbours on the following grounds;

- Plot too narrow *(the proposed layout was approved by the Planning Inspectorate in 2012 and this is unchanged by the current planning application)*
- Adjacent driveway is muddy and access would be needed at all times
- Bus stop, telegraph pole and tree impeding access to the plot *(vehicle access would be via the existing shared driveway and would not be affected and there is space for pedestrian access from the footpath to the front)*
- Removal of gate and gatepost by applicant which was unauthorised as neighbours have keys *(this is a private matter and not a material planning consideration)*
- Does the “space around dwellings” rule still apply? *(the Local Planning Authority relies on current planning legislation, policies and guidance when determining applications)*
- Width of driveway must be maintained especially for emergency vehicles
- Will directly face the new houses at the rear
- Only three storey house in the surrounding area

Following neighbours re-notification of the amended plan which included access from the highway 9 objections were received from neighbours on the following grounds;

- Object to the driveway being narrowed and access for vans and delivery vehicles being restricted
- Off-road parking at the rear
- Private right of way
- Access has been maintained over the last 30 years by residents
- Loss of access for emergency services
- Access should not be restricted or blocked off temporarily or permanently
- The applicant doesn't own the drive
- Loss of the drive amenity would devalue their homes *(financial property values are not a material planning consideration in this instance)*
- Concerned that the drive would be restricted by building materials

Following the above objections a letter was sent to the objectors advising that the red outline shown on the drawings is to clarify that the access to the garage needs to be included within the proposed development site, hence the amendment. This is a procedural requirement for the planning application to show that access to the proposed garage can be made and would not preclude access to neighbours' garages

and to the land at the rear of adjacent houses. Neighbours were asked to confirm whether they wished to maintain their objection in writing following this clarification and three residents' replied confirming they wished to maintain the following objections;

- Concerns about builders access and material storage as bus stop is an obstruction to the right of way (*the lamp post and bus stop would be in front of the proposed new dwelling rather than the existing drive access*)
- Could block access to neighbours garages (*no evidence to support this statement has been provided*)
- Width of access road reduced by fences (*the proposal indicates that existing boundaries would be maintained and any new boundary treatment could be conditioned to provide details before installation*)
- Dwelling encroaches onto neighbours land (title WM434154) (*land ownership matters are a private legal matter and not a material planning consideration in this instance*)
- No right of way granted and new dwelling has no legal right to use the right of way as beneficiaries of the existing right of way are identified (*land ownership matters are a private legal matter and not a material planning consideration in this instance*)

## **Determining Issues**

- Principle of the Development
- Design and Character of the Area
- Amenity of Adjacent Neighbours
- Ground Stability
- Ground Contamination
- Air Quality
- Parking and Access
- Cannock Chase Special Area of Conservation
- Local Finance Considerations

## **Assessment of the Proposal**

### **Principle of the Development**

The application site sits within a well-established residential area which is close to local services and there is a bus stop in front of the site.

The National Planning Policy Framework supports the development of windfall sites and gives great weight to the benefits of using suitable sites within existing settlements for homes (para. 68). Paragraph 70 suggests that Local planning Authorities may make an allowance for windfall sites, national and local policy guidance require efficient use of land, the provision of residential on this site would be considered an efficient use of this windfall site subject to a satisfactory residential environment being achieved. Policy HC2 of the SAD supports the development of other land for housing subject to design details

Furthermore, the principle of a new detached single dwelling house and garage on the site was established under the previous appeal decision on planning application no. 10/1301/OL. The Planning Inspector allowed the appeal subject to conditions.



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

The surrounding area is residential in character with a mix of house designs, form and ages. The design of the property is considered would reflect the design of other properties in the immediate vicinity with the proposed gable roof, chimney and simple front elevation.

The layout of the proposed new dwelling together with the ancillary detached garage to the rear to provide a garage for 15 Goscote Road and the new property was agreed by the planning inspector.

The ridge and eaves height of the property would be similar to the ridge height of the host dwelling, 15 Goscote Road. The ridge height of 19 Goscote Road is 1.9 metres lower than the proposed new dwelling and roof heights step down in a westerly direction the street scene. The planning agent was asked to reduce the roof height for this proposal however this was resisted as planning permission had previously been granted in 2012 for the same height. On balance, it is considered that the proposed roof height of the new dwelling would blend with the mixed character of the area and 2.5 storeys would sit comfortably within the street scene.

Safeguarding planning condition can be included in respect of levels and facing materials to meet the 6 tests and ensure these would match those of the surrounding properties, if approved.

The layout would provide a private rear amenity space of 68.8 sq. metres exceeding the 68 sq. metres required by Appendix E of Designing Walsall.

The proposed double garage with a gable roof is considered would reflect the style of the proposed new dwelling and neighbouring properties. This would be set back 41.5 metres from the highway and would have a limited impact on the visual amenity of the existing street scene.

The proposals would remove an existing overgrown vacant site within the residential street by providing a residential property that would continue the frontage and fit well with the general character of the area. It is considered that the proposals would improve the general street scene.

The existing vehicle access adjacent to the site and used by local residents for access to garages etc. would be retained and the proposal states resurfaced although this land is shown to be in the ownership of a different party. This may cause some disruption to the access for local residents during any resurfacing works.

## **Amenity of Adjacent Neighbours**

The proposals would have no adverse impact on the amenities of the surrounding occupiers. The property would sit within the existing building line and fully comply with the 45 degree code in relation to neighbouring houses. The proposed dormer windows would overlook the proposed garages to provide passive surveillance and these elements are considered would create limited additional overlooking of adjoining properties.

Some disruption to access to existing garages may be caused during the resurfacing of the existing access drive adjacent to the site however this would be subject to the landowners' agreement. This could be included as a pre-commencement condition as the driveway is not within the ownership of the applicant and the landowners permission would need to be sought which would be a private legal matter.

Any disruption to neighbours during construction, if approved, would be short term as the proposal is for a single dwelling unit and ancillary garage only.

Permitted development rights could be removed to limit any additional extensions to the property if approved to ensure no adverse impact on ground stability given coal mining constraints and to ensure that the proposed garages remain ancillary to the host dwellings at all times to protect residents' amenity.

### **Ground Stability**

The application site falls within the defined Development High Risk Area. The Coal Authority's information indicates the application site lies in an area where historic unrecorded underground coal mining activity is likely to have taken place at shallow depth. The applicant has submitted a Coal Mining Risk Assessment report (22 February 2021, prepared by the Coal Authority's commercial arm) in support of their application.

Based on a review of appropriate sources of coal mining and geological information, the report concludes that due to the potential presence of unrecorded shallow mine workings in two coal seams, the risk to the site from legacy mining features is medium. Accordingly, it goes on to make appropriate recommendations for the carrying out of intrusive ground investigations in order to investigate the mining situation beneath the site and to inform any necessary remedial measures.

The applicant is requested to note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb Coal Authority property, i.e. coal seams and associated workings. An informative note can be included with a decision notice, if approved.

The submitted report concludes that the risk to ground stability at the site from recorded mine entries is low. However, it identifies the potential for unrecorded mine entries to be present within the site and recommends a watching brief be maintained during site works. The Coal Authority take this opportunity to highlight that should any previously unrecorded mine entry be encountered during development, appropriate treatment of the feature will be required, in accordance with a Coal Authority Permit.

The Coal Authority advise that it should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development.

As such, should planning permission be granted for the proposed development, The Coal Authority recommends the inclusion of safeguarding conditions, if the application is approved.

### **Ground Contamination**

Previous consultation responses for development on this site and the adjoining area have advised the Developer about concerns from historical uses on the site and the nearby landfill sites.

Concerning contaminated land, Environmental Protection is aware that the site has previously been used for ice cream van storage and repair activities. This may have resulted in minor land pollution from spills and leaks, whilst we are not recommending conditions requiring intrusive ground investigation and assessment, they have taken this opportunity to incorporate a suitable advisory note to be attached to any approval granted.

The site of the proposed development is located within 250 meters of a known gassing former landfill site (an in filled brick pit known as Marlpool Drive) and there is the risk that mine gas may be present. Under these circumstances, Pollution Control recommends basic gas protection measures in the development.

In addition to the above Environmental Protection officers require the inclusion of a planning condition to require a Construction Management Plan given the proximity of residential dwellings and the road infrastructure, if approved.

### **Air Quality**

The Air Quality Supplementary Planning Document (SPD) is relevant for all new houses. A planning condition is required for the Applicant to agree and install an electric vehicle charging point in accordance with the Air Quality SPD.

The adverse health effects from particle emissions from solid fuel stove, fire or heating appliance and associated chimney and flue arrangements are widely known and we have concerns regarding low discharge heights of the chimney flues serving them. A condition is required for the details of any installation of any solid fuel stove, fire or heating appliance and associated chimney and flue arrangements to be agreed in writing with the Local Planning Authority to ensure any discharge from chimneys/flues will be adequately dispersed.

### **Parking and Access**

The application looks to construct a new 4 bedroom dwelling with access from an existing shared private that serves as rear access to a number of properties.

A garage and parking for the new dwelling and no.15 Goscote Road are proposed.

The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2018 paragraph 109.

### **Cannock Chase Special Area of Conservation (SAC)**

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

Approximately 20% of Cannock Chase falls within the Cannock Chase Special Area of Conservation ("SAC"), allocated primarily for its dry heathland. Council areas in the

vicinity of the SAC have formed a Partnership and commissioned reports to assess impacts upon the SAC and how they arise. The evidence indicates that development which would increase visitors within 15km of the SAC may have a significant impact.

Walsall Council joined the Cannock Chase SAC Partnership on 17th October 2022 and has implemented Black Country Core Strategy Policy EQ2 which enables the collection of payments to mitigate against impacts arising from new relevant development falling within the 15km Zone of Influence of the Cannock Chase SAC. The mitigation payment of £290.58 per each net new dwelling is non-negotiable. Permission must be refused where appropriate mitigation is not provided pursuant to the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations").

The applicant/agent did not submit any additional information. The Project has been screened to identify whether potential effect pathways between the Project and the SAC are present which are likely to result in significant effects upon the SAC. The screening exercise carried out on April 1st 2022 by the SAC Partnership authorities found likely significant effects on the SAC arising as a result of increased recreational activity from new residential development and related population growth that is likely to disturb the ground. A 21/12/12 Cannock Chase SAC Visitors Survey investigating visitor access patterns found that the majority (75%) of visitors originated from within a 15km distance of the SAC (also supported by 2018 visitor survey data) and The Cannock Chase SAC Planning Evidence Base Report Stage 2 (12/07/21) determined that within this 15km 'zone of influence', measures to reduce recreational pressure would be most effective.

The Habitat Regulation Assessment Stage 1: Screening Assessment has been undertaken using the available information associated with this planning application. The screening assessment is designed to check if an application is likely to have a significant effect on Cannock Chase SAC's conservation objectives, based on available evidence. Should it be determined that no significant affects are likely, no further assessment in respect to the SAC is required. Please note as per guidance and CJEU ruling (case C323/17), mitigation measures cannot be taken into account at the screening stage of the HRA assessment.

The proposed application is situated within the 15 km Zone of Influence of the Cannock Chase SAC and proposes a net increase of 1 dwelling. This development would result in an increase in recreational disturbance resulting in significant harm of the SAC and should progress directly to Stage 2 the undertaking of an Appropriate Assessment.

While Walsall Council, as the Competent Authority, will carry out HRA Stage 2: Appropriate Assessment, which will include the consultation of key stakeholders including Natural England, it will be the responsibility of the applicant to provide and secure suitable mitigation on which to base the Appropriate Assessment. Suitable mitigation should be in the form of the necessary mitigation payment of £290.58 per each net new dwelling which can be secured by a Unilateral Undertaking, or within a Section 106 Agreement when other obligations are required.

The applicant has not yet agreed to provide the SAC mitigation payment via Unilateral Undertaking / S106 which will need to be completed prior to planning approval being granted. This requirement is considered can form part of the recommendation prior to any planning approval being granted.

## **Local Finance Considerations** Page 44 of 70

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

This application proposes one new home.

The Government has indicated that, for 2021-22, it will award £350 for each affordable dwelling, but the payment for all new homes (including both affordable and others) varies. There is no fixed payment of £1,000 per home: the sum will vary from £0 to an undisclosed figure. Essentially there is a fixed pot of money each year that is divided between all authorities depending on how many homes in total have been completed across the country.

The money is worked out based on performance in previous years (18 months in arrears), so the payment in 2022-23 will be based on the number of homes completed between October 2020 and October 2021.

### **Conclusions and Reasons for Decision**

In weighing the material planning considerations, taking into account the local and national planning guidance, previous planning and appeal history and neighbour comments, it is considered the proposed new dwelling and detached garage would reflect the design of the existing dwelling and other properties around the area. Land ownership issues are a private legal matter and not material planning considerations in this instance.

The proposal is considered would have a limited impact on the character of the wider area and the amenity for neighbouring occupiers. The use of safeguarding conditions in respect of the materials to maintain its appearance will further ensure that the neighbours amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP4, HOU2, TRAN2, ENV1, ENV2, ENV3 and ENV8 of the Black Country Core Strategy and saved policies 3.6 to 3.9, GP2, ENV10, ENV14, ENV23, ENV32, T7 and T13 of Walsall Unitary Development Plan and Supplementary Planning Documents Designing Walsall and Air Quality.

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

### **Positive and Proactive Working with the Applicant**

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



## Recommendation

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

## Conditions and Reasons

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

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

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

- Location Plan, Block Plan, Floor Plans and Elevations, Drawing No. 20/1420/101 Rev. B, deposited 21/04/21
- Dwelling Roof Plan, Garage Details and Street Scene, Drawing No. 20/1420/102, deposited 17/12/2020
- Location Plan, Block Plan and Street Scene, Drawing No. 11/4010/103, deposited 17/12/2020
- Design and Access Statement, November 2020 and deposited 17/12/2020

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 commencement of the development hereby permitted:

- I. Details of intrusive site investigations for past coal mining activity shall be submitted in writing to and approved in writing by the Local Planning Authority;
- II. the approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring shall be submitted in writing to the Local Planning Authority;
- III. details of remedial works shall be submitted to and approved in writing by the Local Planning Authority;

3. b) Prior to the carrying out of building operations of the development hereby permitted the approved details of remedial works shall be carried out

3. c) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.



Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

4. a) Prior to commencement of the development hereby permitted details of ground-gas ingress protection measures to be installed in the proposed structure(s) shall be submitted to and agreed in writing with the Local Planning Authority.

4. b) Prior to the use of the development hereby permitted details a validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority

Reason: In the interest of the safety of current and future occupants in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

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

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

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

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

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

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

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

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

7. a) Prior to commencement of the development hereby permitted, details shall be submitted in writing to and approved in writing by the Local Planning Authority for the hard surfacing of the access drive to the detached double garage on the application site to provide off-street parking for 4 cars (including 2 garage parking spaces) in total with each space measuring a minimum of 2.4m x 4.8m each.

7. b) The parking spaces shall be hard surfaced and drained to prevent surface water from the driveway running on to the public highway or into any highway drain.

7. c) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the parking spaces shall thereafter be retained for the purposes of parking vehicles and for no other purpose for the lifetime of the development.

Reason: To ensure provision of adequate car parking and to avoid increased surface flooding to comply with Walsall's Unitary Development Plan saved policies T13, T7 GP2 and ENV40.

8. a) Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

8. b) The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

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

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

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

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

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

10. Prior to the occupation of the development hereby permitted a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

11: a) Prior to commencement of the development hereby permitted an air quality low emission scheme to install an electric vehicle charging point shall be submitted in writing to and approved in writing by the Local Planning Authority. The assessment shall include details of recommendations for mitigation measures.

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

12: b) Prior to occupation of the development hereby permitted a written validation statement shall be submitted in writing to and approved in writing by the Local Planning Authority to demonstrate that the scheme has been installed as agreed and that the approved mitigation measures shall be carried out to the satisfaction of the Local Planning Authority.

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

13. Prior to the first occupation of the new dwelling the proposed rear garage shall be fully implemented and brought into use.

Reason: To ensure the satisfactory completion of the development and in accordance with UDP T17 and T13.

14. a) Prior to the installation details of any solid fuel stove, fire and/or heating appliance, including associated chimney and flue arrangements and their proposed location, in writing with the Local Planning Authority.

14. b) No solid fuel stove, fire or heating appliance or associated chimney or flue shall be installed otherwise than in accordance with the approved details for the lifetime of the development.

Reason: To safeguard local air quality in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy and the Air Quality SPD

15. Notwithstanding the details submitted the detached double garage hereby permitted shall not be used otherwise than by the occupiers of the new dwelling house and 15 Goscote Road for purposes incidental to those dwelling houses and the development hereby permitted shall not be occupied separately from that dwelling house.

Reason: To define the planning permission, safeguard the amenities of adjoining dwellings and to comply with the NPPF, Walsall's Unitary Development Plan saved policy GP2 and Designing Walsall SPD appendix D.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no additional side facing windows, doors, or other openings other than those shown on the approved plans, shall be installed in any part of this development.

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

17: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house shall be permitted including ;

- Class A (enlargement, improvement or other alterations),
- Class AA enlargement of a dwellinghouse by construction of additional storeys
- Class B (additions to the roof),
- Class C (other alterations to the roof),
- Class E (building incidental to the enjoyment of a dwelling house),

shall be installed in any part of this development.

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

## **Notes for Applicant**

### **Contaminated Land**

The area of this proposed development has previously been utilised for ice cream van storage and repair activities. This may have resulted in localised ground contamination that could present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. 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 construction work at the site of the proposed development.

## **Air Quality**

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

The electric vehicle charging point parking provision for share parking is 10% of points to comply with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. For this development, based on 71 car parking spaces, it will require for 7 charging points. Wherever possible the power supply and charging point should both be phase 3 compatible. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded. The charging unit is to be supplied by its own independent radial circuit.

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

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

## **Highway Authority**

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

## **Coal Authority**

The applicant is requested to note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb Coal Authority property, i.e. coal seams and associated workings.

## **Severn Trent Water**

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

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

Please note if you wish to respond to this email please send it to  
Planning.apwest@severntrent.co.uk where we will look to respond within 10 working  
days. Alternately you can call the office on 0345 266 7930

**END OF OFFICERS REPORT**



## Planning Committee

Report of Head of Planning and Building Control on 31 October 2022

Plans List Item Number: 3

### Reason for bringing to committee

Called in by Councillor Amo Hussain on the grounds of further discussion needed in relation to the deviation of the planning approval 20/0453. The application was deferred from the planning committee meeting of the 6th October 2022 at the applicant's request as their agent was unable to attend. The applicant's agent has also made some further comments which are addressed in the report below which is updated.

### Application Details

**Location:** 74, Mellish Road, Walsall, WS4 2EB

**Proposal:** RE-SUBMISSION APPLICATION OF 20/0453: REPLACEMENT 6 BEDROOM DWELLINGHOUSE. AMENDMENTS INCLUDE INCREASED ROOF HEIGHT AND ALTERATION TO ROOF DESIGN, ADDITION OF REAR BOX DORMER, RE-DESIGNED SINGLE STOREY REAR EXTENSION, REMOVAL OF SIDE FACING WINDOWS, ADDITIONAL TWO STOREY FRONT EXTENSION AND CHANGE TO WINDOW DESIGN ON FRONT ELEVATION.

**Application Number:** 21/0804

**Case Officer:** Ann Scott

**Applicant:** Manjid Zeb

**Ward:** St Matthews

**Agent:** PAUL CLIFTON ASSOCIATES

**Expired Date:** 14-Oct-2021

**Application Type:** Full Application: Minor Use Class C3 (Dwellingshouses)

**Time Extension Expiry:**



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## Recommendation

Refuse permission

## Proposal

Re-submission application of 20/0453: for the retention of a Replacement 6-bedroom dwelling house. Amendments include increased roof height and alteration to roof design, addition of rear box dormer, re-designed single storey rear extension, removal of side facing windows, additional two storey front extension and change to window design on front elevation.

## Site and Surroundings

The application site is a detached dwelling on the south side of Mellish Road and is situated in a row of existing detached and semi-detached dwellings fronting the highway. The site is situated in flood zone 1 at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning.

## Planning History

19/0762 - Replacement four-bedroom detached house – GSC on 02/04/2020

20/0453 – Replacement 6-bedroom house over 2 and a half storeys to include the loft.  
– Granted 13-07-2020.

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)

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

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 12 – Achieving well-designed places**

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

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

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure

developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Reducing Inequalities**

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

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

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

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

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- H1: Renewal of Existing Residential Areas
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth

Page 55 of 70

- HOU2: Housing Density, Type and Accessibility
- ENV3: Design Quality

## Supplementary Planning Documents

### Designing Walsall

- DW1 Sustainability
- DW3 Character
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

### Air Quality SPD

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

### Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

## Consultee Comments

Highway Authority – no objections suggest condition in relation to parking being retained.

West Midlands Fire Officer – comment on fire safety matters.

Severn Trent Water – no objections.

## Neighbour and interested Parties Comments

2 no. objections from third parties regarding the following;

- Overlooking
- Dominance
- Size of dwelling
- Antisocial behaviour
- Noise and disturbance
- Loss of amenity

## **Determining Issues**

- Cannock Chase SAC and HRA
- Principle of development
- Residential amenities of existing and future occupiers
- Highway safety
- Flood risk and drainage
- Ecology/Trees
- Any other issues
- Local finance considerations

## **Assessment of the Proposal**

### **Cannock Chase SAC and HRA**

Whilst the application is within the 15 km zone of influence for the Cannock Chase SAC the application is for a replacement dwelling so there is no net increase in the number of dwellings and therefore the SAC does not apply to this application.

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

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

Walsall Council joined the Cannock Chase SAC Partnership on 17th October 2022 and has implemented Black Country Core Strategy Policy EQ2 which enables the collection of payments to mitigate against impacts arising from new relevant development falling within the 15km Zone of Influence of the Cannock Chase SAC. The mitigation payment of £290.58 per each net new dwelling is non-negotiable. Permission must be refused where appropriate mitigation is not provided pursuant to the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations").

The applicant/agent did not submit any additional information. The Project has been screened to identify whether potential effect pathways between the Project and the

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

The Habitat Regulation Assessment Stage 1: Screening Assessment has been undertaken using the available information associated with this planning application. The screening assessment is designed to check if an application is likely to have a significant effect on Cannock Chase SAC's conservation objectives, based on available evidence. Should it be determined that no significant affects are likely, no further assessment in respect to the SAC is required. Please note as per guidance and CJEU ruling (case C323/17), mitigation measures cannot be taken into account at the screening stage of the HRA assessment.

The proposed application is situated within the 15km zone from the Cannock Chase SAC and proposes a net increase of 0 dwellings. This development would not therefore result in an increase in recreational disturbance resulting in significant harm of the SAC. As such there is no need to progress directly to Stage 2 the undertaking of an Appropriate Assessment in this case.

While Walsall Council, as the Competent Authority, will normally carry out HRA Stage 2: Appropriate Assessment, which will include the consultation of key stakeholders including Natural England, it will be the responsibility of the applicant to provide and secure suitable mitigation on which to base the Appropriate Assessment. Suitable mitigation should be in the form of the necessary mitigation payment of £290.58 per each net new dwelling which can be secured by a Unilateral Undertaking, or within a Section 106 Agreement when other obligations are required. This is however not required in the case of this application as there is no net increase in the number of dwellings.

### **Principle of development**

The application is revised following grant of permission for a replacement dwelling approved under reference 20/0453. This application seeks to retain a dwelling which has not been built in accord with the previous approved plans.

The alterations provide for the increase in the height of the roof to enable the rear box dormer and alterations to its design, adding a large rear dormer, and large single storey rear extension, removal of side facing fenestration and a two storey front extension, and alterations to fenestration details on the front elevation.

Whilst in principle the development already has a permission granted this proposal seeks to provide a new replacement dwelling as the existing dwelling is not yet occupied. The site is within the 15 km zone of the Cannock Chase SAC but as there is no net increase in dwellings there is no requirement to provide mitigation.



## **Housing Need**

Chapter 5 of the NPPF relates to delivering a sufficient supply of homes. Paragraph 60 seeks to ensure the governments' objective of significantly boosting the supply of homes. Paragraph 61 relates to strategic housing supply policies and should be informed by local housing need. The council has an emerging housing supply shortfall and has recently failed the Housing Delivery Test because of low housing delivery over the last three years. Paragraph 73b of the NPPF seeks to ensure that the supply of new homes should be well located and designed and supported by the necessary infrastructure and facilities including a choice of transport modes. Walsall is connected by bus and rail services to the wider area and provides a sustainable location for the proposed development. The application site is closely located to the Walsall Town Centre.

Paragraph 74 relates to maintaining supply and delivery of housing sites over the development plan period. Local Planning Authorities should update annually a supply of deliverable sites against their housing requirement set out in adopted strategic policies.

The Black Country Core Strategy Policy HOU1 Delivering Sustainable Housing Growth seeks to create a network of cohesive, healthy and prosperous communities and for the provision of sufficient land to provide for sustainable housing growth.

The present Housing Delivery Test indicates that Walsall only achieved around 70% of its housing delivery over the period 2018-2021. Where applications involving the provision of housing, situations where the Local Planning Authority cannot demonstrate a 5 year supply of deliverable housing sites, with the buffer set out in paragraph 74, or where the Housing Delivery Test was below 75% of the housing requirement over the previous three years the presumption is in favour of granting permission as indicated in Paragraph 11d. The application does not result in an increase in the delivery of an additional dwelling to count towards housing needs of the district as it is a replacement dwelling.

## **Residential amenities of existing and future occupiers**

The proposed development is considered to adversely impact on the amenities of adjoining properties by reason of the height, which is approximately 8.7 metres high to the ridge and in terms of its cumulative bulk size and siting of the proximity to the boundaries with 72 and 76 Mellish Road. The proposed rear extension runs along the boundary with number 76 Mellish Road whilst single storey the rearward projection of the development infringes the 45-degree rule by approximately 3.2 metres to the rear ground floor window of 72 Mellish Road. The dwelling to be retained is less than 0.9 metres from the boundary with adjoining properties. Contrary to the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

## **Highway safety**

The Local Highways Authority supports the application subject to conditions in relation to parking being retained.

There are no other highway safety concerns and the proposal accords with the application is considered to accord with "saved policies" T7 - Car Parking

## **Flood Risk and Drainage**

The application site lies in Flood Zone 1 at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning and at low risk of surface water flooding. The development is considered subject to suitable conditions to secure means of sustainable drainage is not likely to increase flood risk or surface water flood risk to adjacent sites.

Paragraph 154 of the National Planning Policy Framework requires that new development should be planned for in ways that avoid increased vulnerability from flood risk to the range of impacts arising from climate change, and care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure. Whilst most of the built development is not proposed within the flood risk areas, flood risk is an issue that should be considered carefully as the development would result in a “more vulnerable” use of the site. Details of surface water, flood risk and drainage can be secured by appropriate conditions.

The proposal subject to conditions in respect of the above is considered to accord with Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Paragraph 14.

## **Ecology/Trees**

The application forms advise that one seeded birch tree has been removed to facilitate the development. The tree was not protected by a preservation order.

Previous comments regarding the potential for bats was raised in the earlier approval. However, as the existing dwelling was demolished to make way for the current dwelling which has resulted in this revised application. This matter is not considered to be an issue for the current proposal.

## **Any other issues**

The application was deferred from the meeting of the 6th October at the applicants request to enable the agent to speak at the committee meeting in support of the proposal. Further comments have been received from the agent to advise they were not advised that the application was included in the 15 km zone of influence for the Cannock Chase SAC. Where possible the LPA did advise applicants by letter of this information and this information was not communicated in this instance. However, the agent considers that the application would have avoided the SAC legislation if the decision had been made earlier. Nevertheless, as this proposal is for a replacement dwelling and does not result in a net increase in dwellings on the site there is no requirement for mitigation. There have been a number of issues that have resulted in a delay to the decision however, the application is under consideration due to the deviation of the built development from the previously approved plans which have resulted in the need for this current application. The previous reason for refusal on the impact on the SAC is therefore not included in this instance. as there is no net increase in dwellings despite the proposal being within the SAC zone of influence.

The agent advises that they consider the report focus on amenities of adjoining properties advising that the current proposal demonstrates very little change from the previous approval under 20/0453. The proposed retrospective dwelling to be retained does differ from the original approval in relation to the size and siting of the single storey rear extension and rear dormer which increases the level of impact on the amenities of adjoining occupiers and does raise policy concerns in relation to the impact of the development as it goes against the criteria in the Council's own adopted Designing Walsall SPD.

### **Local Finance Considerations**

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

This application proposes 1 new home but is a replacement dwelling so there is no net increase in the number of dwellings.

The Government has indicated that, for 2020-21, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling.

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

### **Conclusions and Reasons for Decision**

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

### **Positive and Proactive Working with the Applicant**

Negotiations have taken place, but the scheme is not acceptable. Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

### **Decision Recommendation**

Refuse Permission

### **Reasons for Refusal**

1. The proposed development is considered to adversely impact on the amenities of adjoining properties, by reasons of its cumulative bulk size and siting in proximity to the boundaries with 72 and 76 Mellish Road, and is detrimental to the existing amenities by reason of an overbearing impact and undue sense of dominance and enclosure. The proposed rear extension runs along the boundary with number 76 Mellish Road whilst single storey, the rearward projection of the development infringes the 45-degree rule by approximately 3.2 metres to the rear ground floor window of 72 Mellish Road. The dwelling to be retained is less than 0.9 metres from the boundary with adjoining properties. Contrary to the Saved Unitary Development Plan Policy GP2 (Environmental

Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

**END OF OFFICERS REPORT**

## Planning Committee

Report of Head of Planning and Building Control on 31 October 2022

Plans List Item Number: 4

### Reason for bringing to committee

Called in by Councillor Nasreen on the grounds that the design of the proposal requires wider consideration

### Application Details

**Location:** 11, DELVES ROAD, WALSALL, WS1 3JZ

**Proposal:** FIRST FLOOR SIDE EXTENSION; SINGLE STOREY REAR EXTENSION; SINGLE STOREY FRONT AND PORCH EXTENSION PLUS LOFT CONVERSION WITH REAR DORMER AND GARAGE CONVERSION

**Application Number:** 21/1693

**Case Officer:** Rebecca Rowley

**Applicant:** Mr Sayf Ali

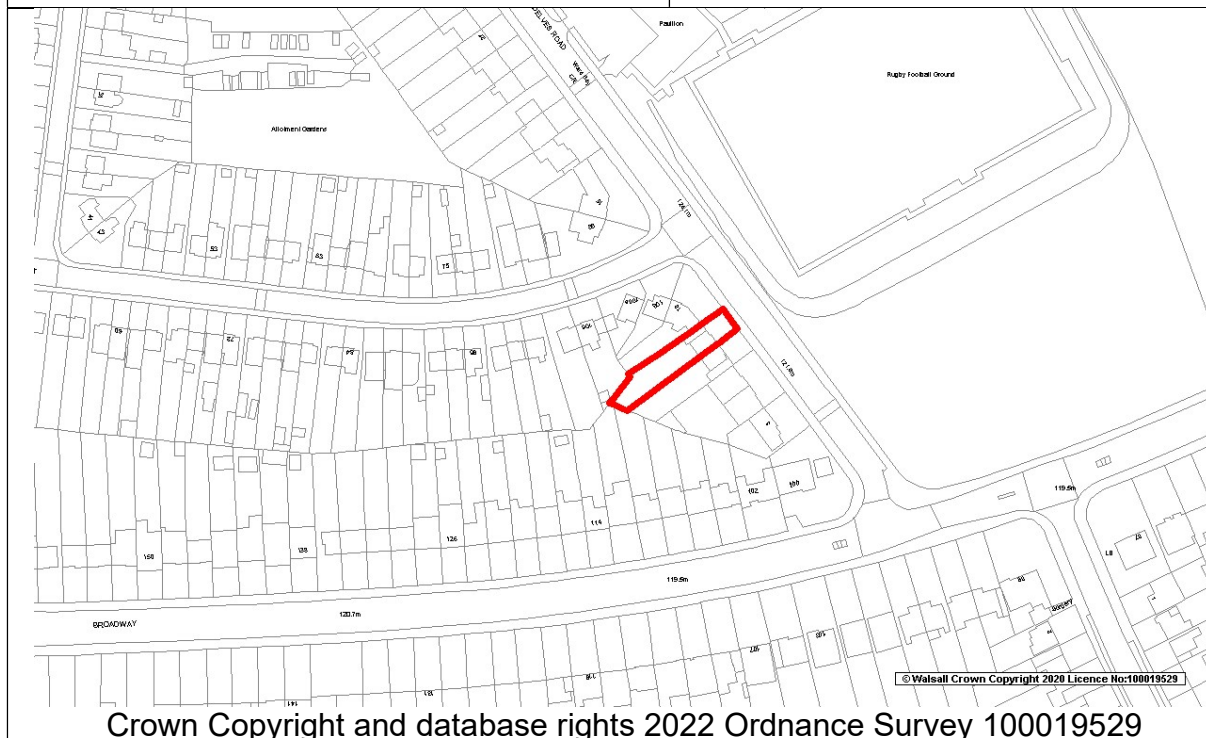
**Ward:** Palfrey

**Agent:**

**Expired Date:** 13-Jan-2022

**Application Type:** Full Application: Householder

**Time Extension Expiry:** 04-Nov-2022



### Recommendation

Refuse Permission

## Proposal

### **Two storey side extension with hipped roof**

To create ground floor study (loss of existing garage) and toilet and first floor ensuite bedroom

Width: 3.1m

Depth: 7.4m

Height to eaves: 5.8m (as existing)

Height: 8.1m (as existing)

### **Single storey rear extension with pitched roof**

To create kitchen and utility room

Depth: 5m

Width: 8.9m

Height to eaves: 2.9m

Height: 3.5m

### **Ground floor front and porch extension**

Depth: 1.6m

Width: 5.1m

### **Loft Conversion with rear dormer**

To create bedroom no.s 4 & 5 and bathroom

Dormer depth: 3.1m

Dormer width: 5.8m

Dormer height: 1.9m

## Site and Surroundings

The application dwelling is a traditional inter war right hand semi-detached property with a hipped roof, front gable feature and bay window with attached side garage.

It is sited on a street scene of similar original design. Historic development has led to a character of terracing effect with extensions resulting in limited gaps between pairs of semi-detached houses and lack of subservient features.

The attached semi at no. 9 is of the same original design and has a small single storey extension at the rear of the attached side garage. The neighbouring dwelling to the north western side, no 13 Delves Road is angled towards the application site at the rear as Delves Road turns a corner onto Trees Road so rear windows have views towards the application site garden.

There are no residential buildings opposite the application site, which is occupied by the grounds of Walsall Rugby Club and The University of Wolverhampton beyond.

## Relevant Planning History

None

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)



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

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

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

On **planning conditions** the NPPF says:

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

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

### **National Planning Policy Guidance**

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

### **Reducing Inequalities**

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

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

those specified in drawing no. 22/033/P01 – Proposed Plans and Elevations

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

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and

victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

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

### **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Saved Unitary Development Plan**

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

### **Supplementary Planning Document**

#### **Designing Walsall**

- DW3 Character
- Appendix D

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

## **Consultation Replies**

### **Environmental Protection**

No comments to make

### **Local Highway Authority**

20/01/22

To take account of the loss of the garage and the increase in bedroom numbers, the Highway Authority will require parking for 3 cars on the property frontage.

A parking layout plan will therefore be required showing three 2.4m x 4.8m spaces

Note: Three side by side parking spaces will not be permitted so the 3 parking spaces

will need to be arranged around the existing access which can be widened by an additional 2 metres.

### **Tree Preservation Officer**

No response received

## **Representations**

The following concerns have been raised by 2 neighbouring occupants (*case officer's comments in italics*)

To the original scheme:

- Overpowering scale
- Does not conform to Walsall Council's planning policies
- Breach of 45 degree policy at ground and first floor in respect of both adjacent neighbours
- Extreme impact on light – front and rear
- Projection past the front building line
- Visual contrast to the adjoining and neighbouring properties.
- Lack of gap to the side boundary – terracing effect
- No set back at the front, no subservience of the roof
- Restrictions imposed on the potential parking
- Requirement to consolidate the frontage and widen the dropped kerb not addressed
- Lack of clarity on the plans regarding downpipes
- Potential encroachment of the boundary at the eaves and by an opening side window (*this window has been removed in the amended plans*)
- Disposal of asbestos garage roof (*this is not a material planning consideration*)
- Devaluing neighbouring property (*this is not a material planning consideration*)
- Party Wall matters and no permission to be given for scaffolding on neighbouring site (*this is not a material planning consideration*)
- Discrepancies in the drawings
- Conflict between the floor plans, elevations and the section.
- The block plan is misleading as it does not show window positions at both ground and first floors.
- The application states that no trees etc. are effected. A mature Oak tree, located some 6m from the rear of the property was cut down in September 2021, presumably in an attempt to avoid issues with conservation. (*There was no Tree Preservation Order in place so the site owner could lawfully remove this tree without permission*)

In response to the first set of amended plans (comments from the same 2 neighbouring occupants)

- Scale and mass
- Lack of separation to the boundary - terracing effect
- Impact on street scene
- Breaching the front building line
- Despite the reduction in the length of the ground floor it still breaches the 45 degree policy
- Not addressed the severe impact on light

- Plans fail to consider Walsall's building policies and with total disregard for their neighbours
- The down pipe at the bottom of the extension on number 13's side may be inadequate for such a roof.
- Drainage of a consolidated frontage
- Disposal of asbestos (*this is not a material planning consideration*)
- We would require assurances that, during any build, our property would remain secure and weatherproof, and that any damage done be repaired immediately. (*this is not a material planning consideration*)
- Inaccuracies in the plans
- Both the original drawings and the more recently submitted drawings have the same numbers and are undated. This needs to be addressed to avoid any confusion.
- Devaluing of our property (*this is not a material planning consideration*)

In response to the second set of amended plans comments were received from one of the original neighbouring occupants raising the same concerns in relation to scale and massing, lack of subservience, potential terracing effect, impact on the street scene, impact on outlook and light availability from the rear extension and other non-material matters.

### **Determining Issues**

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

### **Assessment of the Proposal**

#### **Design, Layout and Character**

A hipped roof design would be retained. Concerns raised regarding the scale and mass of the extensions and the impact on the character of the street scene as well as the projection of the front extension past the front building line. First floor side extensions and ground floor front extensions reflect the design of a number of other extensions in this street scene and in this instance are considered would integrate with the evolving character of Delves Road. Extensions at the rear of the property would be of limited visibility from the public vantage point. Proposed facing materials would reflect the appearance of the existing dwelling and this can be secured by a planning condition.

Concerns have been raised regarding the lack of subservience of the proposed extensions. It is acknowledged that the extension would not be subservient. However, this is reflective of the character that has evolved along this section of Delves Road as a result of historic development prior to the adoption of current local planning policies and would not sustain a refusal reason in this instance.

Concerns have been raised regarding terracing effect and potential encroachment of the eaves across the boundary. The site plan demonstrates development 0.3m within the site boundary. The Local Planning authority are not responsible for determining the exact position of the boundary line and any disputes would be a civil matter to resolve between neighbouring landowners. It is acknowledged that the separation distance would not comply with the requirements of the SPD Designing Walsall Appendix D. However, this is reflective of the character that has evolved along this section of Delves Road as a result of historic development prior to the adoption of

current local planning policies. Furthermore, the lower land level of the application site to No.13 would help to minimise the terracing effect. A refusal reason on this ground would not be warranted in this instance.

### **Amenity of Neighbours and Amenity of Future Occupiers**

The 5m deep ground floor rear extension would breach the 45 degree code in respect of the nearest habitable room windows at both adjacent neighbouring occupants.

The ground floor rear extension, breaching the 45 degree code is considered would cause significant detriment to the occupants of no. 9 Delves Road in terms of visual amenity due to the excessive depth past their rear patio windows serving a habitable living room. There is an increase in land level from the application site to the site of the opposite side neighbour at no. 13 Delves Road, so it is acknowledged that the visual impact would be less for these occupants than those at no. 9, however the angle of no 13 towards the application site at the rear would alter their outlook to a level that is considered unacceptable, plus impact on light availability to their ground floor habitable kitchen windows during the afternoon given the siting of the proposed rear extension to the southern side of these windows. This acknowledges concerns raised by neighbouring occupants regarding both visual and light amenity as well as the clear breach of the 45 degree code.

Concerns were also raised regarding loss of privacy. Proposed rear windows are reflective of the relationship that could be expected between habitable room windows and neighbouring gardens in such residential areas and the proposed rear dormer windows are in a position similar to that which could have been constructed lawfully using permitted development rights were it not part of this wider project.

A number of non-material planning concerns were raised by neighbouring occupants which should be dealt with through Party Wall legislation and concerns regarding the disposal of asbestos on site, for which an advisory note to the applicant should be included.

### **Protected Species**

A preliminary bat survey found negligible evidence of value for roosting bats due to a lack of potential roosting features and no habitats on site which could be used by foraging or commuting bats. Likewise no opportunities for nesting birds. If this application were supported, installation of a bat box and bird box could enhance biodiversity and a condition would be required for soft demolition and to cease working if evidence of bat is discovered.

### **Highways**

The applicant has demonstrated three parking spaces on the frontage of the site to address concerns raised by the Local Highways Authority regarding parking provision and the loss of the garage parking space, which accords with the requirements of saved UDP policy T13 for a 4+ bed dwelling. This provision would require a planning condition to consolidate the frontage and ensure adequate drainage which addresses another concern that was raised. A Grampian condition would also be required to widen the existing dropped kerb access to facilitate entry for the proposed parking arrangement.

## **Conclusions and Reasons for Decision**

The proposal has failed to demonstrate compliance with the 45 degree code and that the amenity of neighbouring occupants would be preserved and thus fails to comply with policy CSP4 of The Black Country Core Strategy, saved Policies GP2 and ENV32 of Walsall's Unitary Development Plan and Appendix D of the Supplementary Planning Document Designing Walsall.

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

### **Positive and Proactive Working with the Applicant**

Officers have sought amendments to address concerns in relation to the impact on neighbouring amenity, specifically reductions to the depth of the rear extension. Reductions have been made to the original scheme but the amendments provided do not address all of the concerns.

### **Recommendation**

Refuse Permission

### **Reason for Refusal**

1. The proposed 5m deep single storey rear extension, by way of its excessive depth would breach the Council's adopted 45 degree code causing significant additional harm to the visual amenity of neighbouring occupants at no. 9 in relation to their ground floor habitable rear living room and no.13 Delves Road in relation to their ground floor habitable rear kitchen window and obscuring natural light to the ground floor habitable rear kitchen window of no 13 Delves Road during the afternoon. The proposal fails to preserve the amenity of neighbouring occupants and thus fails to comply with Policy CSP4 (Place Making) of The Black Country Core Strategy, saved Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of Walsall's Unitary Development Plan, Appendix D of the Supplementary Planning Document Designing Walsall and the aims and objectives of the National Planning Policy Framework.

### **Notes for Applicant**

None

**END OF OFFICERS REPORT**