



Proposal

Extension to side of 49 Boundary Road to create larger ground floor unit and erection of 2 x 1 bed flats over and external rear staircase. (Amended description). Previously proposed glazed canopies and an access ramp have been deleted from the application.

Site and Surroundings

The application site is situated to the side of an existing shopping/flat complex adjacent to 49 Boundary Road Streetly. To the front of the site is a car parking and pedestrian area. The building is circa 1960's or early 1970's flat roofed three storey building.

The flats are accessed via the rear of the site from a pedestrian access adjacent to the application site. In addition the rear of the property serves as vehicular access to the shops and flats and parking for the flats. The parking to the front of the site is available for public and users of the shops. Adjacent to the application site is a bus stop on Hundred Acre Road which is situated opposite existing post war housing circa 1960's.

The site is situated in flood zone 1 at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning.

Relevant Planning History

17/1425 – change of use from A1 to Micropub at 49 Boundary Road – granted 2 June 2018.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**

- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 10 – Supporting high quality communications**
- **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**
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On **planning conditions** the NPPF (para 56) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

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GP2 Environmental Protection

ENV10 Pollution

ENV14: Development of Derelict and Previously-Developed Sites

ENV29 Conservation Areas

ENV32, Design and Development Proposals

ENV35 Appearance of Commercial Buildings

S6: Meeting Local Needs

T4 - The Highway Network

T7 - Car Parking

T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- CEN6: Meeting Local Needs for Shopping and Services

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- TRAN4: Creating Coherent Networks for Cycling and for Walking

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

Consultation Replies

West Midlands Fire Service – no objections

Highways – concerns raised objection additional pressure on parking, traffic movements and congestion.

Environmental Protection – suggest conditions to secure noise mitigation in relation to the commercial and residential premises above.

Planning Policy – support

Traffic Management and Coordination – concerns raised. With regard to parking around the area of the shops pushing the need for parking further into the nearby housing estate.

West Midlands Police – no objections

Severn Trent Water – no objections

Representations

21 letters of objection, two letters of support and one neutral comment on the grounds of the following;

- increase in parking and congestion/highway safety
- antisocial behaviour

- noise pollution
- Residential amenity/disturbance to a quiet residential area.
- application site space currently wasted and would benefit from being used.

Determining Issues

- Principle of Development
- Housing need
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highway Safety
- Flood Risk / Drainage
- Ground Conditions and Environment
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The application site is on a parcel of land to the side of 49 Boundary Road adjacent to a bus stop and close to the junction with Hundred Acre Road. 49 Boundary Road forms part of a local shopping parade and the premises are presently used as an independent shop/brewing house.

The revised NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. The application is mostly on commercial land in a sustainable location. The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development.

The proposal is in a sustainable location being within the built-up area of Streetly. However, the development is not a sustainable form of development if it fails to consider the environmental role - protecting and enhancing our natural, and built environment. The report considers this further.

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 as a result 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. On the basis of these policies the proposals would have a limited effect in addressing housing need in the borough.

Design, Layout and Character

The proposed development is considered to be in keeping with the existing building and proposes a full height extension with two flats above the shop unit extension similar in arrangement to the existing layout of the building. The materials would be brick and upvc windows as per the existing. The building has a flat roof and this feature is continued in the design of the development.

The development is considered to accord with GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW3 Character, of the Designing Walsall urban design document. Together with the design advice in Chapter 12 of the NPPF Achieving well-designed places and Chapter 16 Conserving and enhancing the historic environment, together with the SPD Policies in Designing Walsall DW1 Sustainability and DW3 Character and DW10 Well Designed Sustainable Buildings.

Amenity of Neighbours and Amenity of Future Occupiers

There are no objections in principle to the development in relation to the impact on the existing and future amenities of occupiers of Boundary Court. The development proposes a similar arrangement to existing flats at first and second floor and a shop unit extension on the ground floor. Many concerns from local residents relate to the potential for antisocial behaviour. The natural surveillance provided by the design of the development is not considered to erode the potential for an increase in antisocial behaviour or the potential for overlooking/loss of privacy for existing residential properties in the locality.

The Environmental Protection officer has raised concerns but has recommended conditions to secure some noise mitigation to protect future occupiers from noise in the event that permission were granted. These relate to noise insulation between the commercial and residential premises and a noise survey prior to the occupation of the apartments. However these issues would need to be resolved prior to permission being granted as it would not be reasonable to impose a condition for a noise survey prior to occupation as this would not meet the tests for the conditions circular if the recommended levels of noise if 70db between the units could not be achieved. The Environmental Protection comments mainly relate to the previously proposed front glazed canopies previously proposed to the front of the site. These have now been deleted from the application along with the disabled access ramp. The Environmental Protection Officer advises that they have no recorded noise complaints at the premises.

The development is considered to accord with 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

Concerns have been raised by third parties in the locality with regard to the likely adverse impact of more dwellings in this location in relation to congestion, parking and access and highway safety.

The development is accessed from the front and rear of the site. There is no room for any additional parking on the frontage of the site which is limited to the existing parking area and there is insufficient room for any extension to the parking area with it being so close to the junction with Hundred Acre Road. The Highways officer and Traffic Management Team raise objections with regard to concerns in relation to additional pressure on parking, traffic movements and congestion. The existing capacity for parking and turning is limited and it is considered that additional residential development and the extension to the shop units would exacerbate the situation. The development proposed would therefore be detrimental to highway safety.

Para 110 of the National Planning Policy Framework 2021 seeks to ensure that specific plans for development should provide 'safe and suitable access to the site that can be achieved for all users' and that, under para 112, applications for development should 'give priority first to pedestrian and cycle movements, address the needs of people with disabilities and reduced mobility, create places that are safe and secure and attractive which minimise the scope for conflicts between pedestrians, cyclists and vehicle movements, allow for the efficient delivery of goods and access by service and emergency vehicles'.

The application fails to accord with the BCCS Policy TRAN2 Managing transport impacts of new development, and "saved" policies T7 Car Parking, T13 Parking

provision for cars of the Walsall UDP and paragraph 110 (d) and 111 of the National Planning Policy Framework 2021.

Flood Risk and Drainage

The application site is situated in Flood Zone 1 an area at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning. There are no objections to the proposal from Severn Trent Water Authority. In accordance with the Black Country Core Strategy Policy ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island.

Drainage could be dealt with by a planning condition to secure details for the disposal of foul and surface water if the application were recommended for approval.

Ground Conditions and Environment

The application site is situated in a low risk area for coal mining and there are no further investigations considered necessary.

Crime and Antisocial Behaviour

The proposal is not considered to have the potential to result in harm to the amenities of the locality from crime and antisocial behaviour. The design of the development gives opportunities for pedestrian access through the site due to the use of the ground floor as a shop/brew house. There will be natural surveillance throughout most of the day from users of the ground floor and the accommodation above from the habitable windows and balconies. The situation is no different to the existing shop units/flats

This application is considered to accord with Saved Unitary Development Plan Policy GP2 (Environmental Protection), Site Allocation Document Policy HC2 (Development of Other Land for Housing), the aims of Appendix D (Numerical Guidelines for Residential Development) of the Designing Walsall SPD and the National Planning Policy Framework 2021.

Local Finance Considerations

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

This application proposes 2 new homes.

The Government has indicated that, for 2020-2021 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

Refuse

Given that there are no material planning considerations to overcome the policy concerns in relation to highway safety in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and there has been additional information put forward however in this instance the information has not overcome the policy concerns with regard to highway safety and officers are unable to support the proposal.

Recommendation - REFUSE

1. The development will have an unacceptable impact on road safety and have a negative impact on the operation of the strategic road network. There is insufficient information put forward in the submission to demonstrate that the proposal would result in a public benefit, and insufficient evidence put forward in the submission to demonstrate that the proposal is required that would overcome the policy concerns in relation to the likely impact on highway safety and limited parking provision for the existing apartments and shop units. The proposed use of the site for residential and retail development in its present form would put an additional pressure on parking, traffic movements and congestion. The additional residential development and extension to the shop units would exacerbate this situation. The development proposed would therefore be detrimental to highway safety, contrary to the aims and objectives of the National Planning Policy Framework in relation to sustainable development and the Black Country Core Strategy Policy, TRAN2 Managing transport impacts of new development, and "saved" policies T7 Car Parking, T13 Parking provision for cars of the Walsall UDP and paragraph 110 (d) and 111 of the National Planning Policy Framework 2021.

END OF OFFICERS REPORT