



## Development Control Committee

13<sup>th</sup> August 2009

### Report of Head of Planning and Building Control, Regeneration

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1	1	09/0832/FL	LAND BETWEEN CHARLES STREET AND WALSALL CANAL (WATERFRONT SOUTH)	Replacement of 61 apartments and 13 family houses with 17 apartments and 22 family houses to west zone of planning permission ref: 07/0618/FL/W7 with public realm, landscaping, car parking and associated works (amendment to 07/0618/FL/W7).	Grant Permission Subject to Conditions and a Planning Obligation
2	19	09/0756/FL	LAND AT LITTLETON STREET EAST/HATHERTON ON STREET/TEDDESLEY STREET, WALSALL	Erection of 4,018 square metre office building together with associated public realm, landscaping and car parking. Access from Hatherton Street and Teddesley Street (Part of Walsall Gigaport).	Grant Permission Subject to Conditions and a Planning Obligation
3	35	09/0781/FL	Albion Road and Elm Street School Sites, Willenhall	Demolition of existing Primary Schools at Elm Street and Albion Road. Construction of new Barcroft Primary School on Elm Street site and staff car park and school playing fields on Albion Road site.	Grant Subject to conditions and withdrawal of Environment Agency Objection
4	53	09/0705/FL	81-85 PARK STREET, WALSALL, WS1 1LA	Change of use from A1 (retail) to form a mixed use building comprising A1 (retail), A3 (restaurant/cafe), A5 (hot food takeaway) and A2 (financial and professional services) on the ground floor. A1 (retail), D2 (Assembly and leisure) and B8 (Storage	Grant Subject to conditions

				or Distribution) on the first floor, with alterations to the building including additional fenestration and entrances, an external seating area and extension to form cold store.	
5	63	09/0585/FL	THE HAWTHORNS,H IGHGATE DRIVE,WALSAL L,WS1 3JW	Conversion and extension of The Hawthorns to provide 9 apartments, a new build block of 3 apartments and a single detached dwelling.	Grant Permission Subject to Conditions and a Planning Obligation
6	81	09/0067/FL	LAND TO THE EAST OF GOSCOTE LANE (ADJ. BRIDGE FARM SHOWMENS SITE),PELSALL, WALSALL	Change of use of land to form a showmens permanent family yard	Grant Subject to Conditions Subject to Referral to Government Office
7	100	09/0738/FL	CAR PARK,BEECH TREE ROAD,WALSAL L WOOD,WALSAL L	Change of use from lorry park to public car park	Grant Subject to conditions
8	107	09/0366/FL	THE ABBERLEY HOTEL (27-29),BESCOT ROAD,WALSAL L,WS2 9AD	Change of use from hotel to house in multiple occupation (28 rooms).	Grant Subject to conditions
9	113	09/0376/FL	328 BIRMINGHAM ROAD,WALSAL L,WS5 3NE	Convert house to four 2 bedroom flats	Grant Subject to conditions
10	123	09/0453/FL	83 BROOKLAND ROAD,WALSAL L WOOD,WS9 9LY	Self contained single bedroomed flat resubmission of application 09/0035/FL	Grant Subject to conditions
11	131	09/0505/FL	23 HIGH CROFT,ALDRID GE,WS9 8XL	Front extension to ground floor.	Grant Subject to conditions
12	137	09/0691/FL	JUBILEE HOUSE,SPRING LANE SOCIAL CLUB,SPRING LANE,WILLENH ALL,WV12 4HB	Installation of horizontal extraction flue and retention of existing ventilation 'pods'.	Grant Subject to conditions
13	145	09/0635/FL	31 RUTTER STREET,WALSA LL,WS1 4HN	Front first floor extension to domestic dwelling	Refuse
14	151	09/0722/FL	3 CHURCH STREET,DARLA STON	Change of use to restaurant (A3 use) and installation of extraction	Grant subject to conditions and, in respect of the Listed

				flue to the rear.	Building application providing that no further material comments are received during the remaining period of advertisement of the Listed Building application.
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**To: DEVELOPMENT CONTROL  
COMMITTEE**

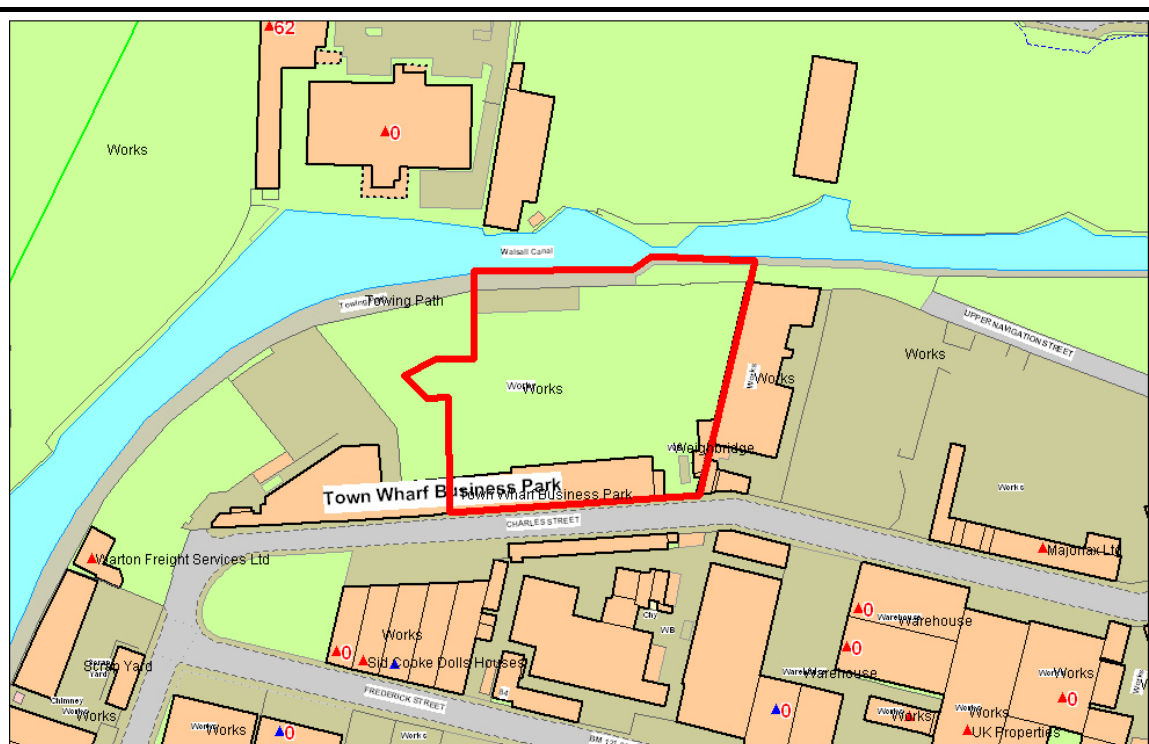
**Report of Head of Planning and Building Control, Regeneration Directorate on**  
13 Aug 2009

**Application Number:** 09/0832/FL  
**Application Type:** Full application  
**Applicant:** Jessup  
**Proposal:** Replacement of 61 apartments and 13 family houses with 17 apartments and 22 family houses to west zone of planning permission ref: 07/0618/FL/W7 with public realm, landscaping, car parking and associated works (amendment to 07/0618/FL/W7).

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652403  
**Agent:** S.P. Faizley  
**Location:** LAND BETWEEN  
CHARLES STREET AND WALSALL  
CANAL (WATERFRONT SOUTH)

**Expired:** 22/09/2009

**Recommendation Summary:** Grant Permission Subject to Conditions and a Planning Obligation



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### **Application and Site Details**

Members will recall application 07/0618/FL/W7 was approved on 29<sup>th</sup> June 2007 which was a mixed use development application for the southern side of the Waterfront Development. This application follows the changing economic climate and discussions with housing strategy officers, and with Accord Housing Association and seeks to amend the mix of the approved scheme.

The application site currently comprises areas of demolished buildings, and a variety of warehouses and former factory buildings, many in a poor state of repair and vacant. To the canal frontage are a mix of high brick walls and corrugated steel fencing.

The previous application site comprised 1.75 hectares on land between the southern boundary of Walsall Canal and Charles Street. The application site is in two distinct parts, an East Zone and West Zone. Between the two Zones, but outside the application site is the Kirkpatrick's foundry. The site also includes the towpath where it is not already part of the Urban Splash development.

The East Zone (119 apartments and commercial units) is unaffected by the current proposals.

The application proposes to amend the West Zone. The proposals in the West Zone previously comprised 238 units

- 113 2-bed apartments
- 112 1-bed apartments
- 13 houses  
(eleven 3 bedroom units, one 4 bedroom unit and one 5 bedroom unit).

The amended scheme would alter this to 203 units

- 91 2-bed apartments
- 90 1-bed apartments
- 22 houses  
(fifteen 3 bedroom, five four bedroom and two five bedroom units)

Previously 163 car parking spaces were approved for the residential units on the West Zone of the development, a parking provision of 72%, and including 62 of those spaces in a decked car park.

The decked car park remains unaltered providing 62 spaces for the West Zone with the overall West Zone parking provision now proposing at 153 spaces or 75%.

The parking provision will provide 109 spaces for the 164 apartments (unaltered from the previous scheme) a ratio of 66%. For the reworked apartments next to the Kirkpatrick's foundry the proposal include 14 spaces for 17 units (86%) and the 22 houses would have 30 spaces (136%).

### **Relevant Planning History**

07/0618/FL/W7 - Redevelopment for residential (357 dwellings) and commercial buildings (shops, offices, restaurants, leisure uses) and car park. Granted June 2007

### **Opposite the site**

06/1450/OL/W7 - the Urban Splash development - Outline application for a mixed use scheme including leisure, offices, retail, apartments and associated multi storey parking (consisting of 12 buildings, 7 of which were submitted as reserved matters) (excluding landscape proposals). Granted December 2006

## **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

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

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

6.3 and H3: encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

H9: Housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, however higher densities are encouraged in locations close to town and district centres and in locations with good accessibility to a choice of means of transport.

7.1: Seeks to promote an efficient highway network;

T7: All development should satisfy the car parking standards set out in Policy T13. All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated

1, 2 & 3 bedroom houses – 2 spaces per unit

Flats with communal parking - 1.5 spaces per unit.

LC1: seeks to retain and enhance existing urban open spaces and readdress any deficiencies in the provision or accessibility of these. Residential developments will be required to make financial or other contributions, which will enable the provision of new, or the improvement of existing urban open spaces.

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities



## **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

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

### **Designing Walsall SPD**

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;  
DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;  
DW3 – Character -design to respect and enhance local identity;  
DW4 - Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;  
DW5 Ease of movement- create places that are easily connected, safe to move through;  
DW6 – Legibility - new development should contribute to creating a place that has a clear identity;  
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;  
DBW 10 – new development should make a positive contribution to creating a sustainable environment.

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

### **Natural Environment SPD**

Policies N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.  
Protection is proposed for protected animals, plants etc.

### **Urban Open Space SPD**

Sets out the thresholds and contributions sought towards urban open space from residential developments.

### **Healthcare SPD**

Sets out the thresholds and contributions sought towards healthcare from residential developments.

### **Education SPD**

Sets out the thresholds and contributions sought towards education from residential developments.

### **Affordable Housing SPD**

Sets out the thresholds, tenure, mix and type of affordable housing sought from residential developments.

### **Regional Spatial Strategy for the West Midlands (RSS 11)**

The Regional Spatial Strategy has been revised and republished on 15<sup>th</sup> January 2008 to reflect the first Phase of Review. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. The next phases of review are underway.

The focus for the Black Country policies are to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

- a) to reverse out-migration accommodating within the Black Country all of the generated household growth from 2011 and meeting at least the levels of housing provision identified in Policy CF3 table 1;
- b) to raise income levels raising demand and household incomes (average earnings, GDP per head and reducing unemployment) to the UK average by 2033;
- c) to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix by increasing the proportion of social grades A and B to match the national profile by 2033 or earlier; and
- d) to transform the Black Country environment by protecting and enhancing the sub-region's environmental and heritage assets and biodiversity and implementing the Black Country as Urban Park concept.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space. Policy CC1, EN1, EN2 seeks to conserve energy and address climate change.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

There is no need for this application to be considered under the Conformity Protocol.

### **National Policy**



Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Applications for residential on employment land should be given favourable consideration, subject to criteria. PPS3 also indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. This includes high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

Circular 05/2005 (Planning Obligations) is of relevance with regard to the appropriate level of planning contributions that will be sought.

### **Consultations**

**Transportation** – The Highway Authority has no objections to the principle of residential development on the site. However, there are areas of concern that need to be resolved to remove objections to the detail. These relate to the road layout and travel plan.

### **Pollution Control**

**Scientific Team** – No objection subject to previous conditions being applied.

**Contaminated Land** - No objection subject to previous conditions being applied.

**Strategic Policy** – No objection - The current proposal does not change the use of this part of the site or the general layout of the development compared with that which has already been approved. Other than the dwelling mix, the current application does not raise any strategic policy issues.

It is noted that the current application will result in the loss of a total of 35 dwellings compared with the existing approval. However, the application has been submitted following discussions with Housing Services about the affordable housing mix that is needed to support a funding bid to the Homes and Communities Agency. If this bid is successful, the application proposals will therefore achieve an early start to the regeneration of this key part of the town centre. This benefit will outweigh the loss of dwellings and, in view of the overall scale of the development site of which this forms part, the reduction in dwelling numbers does not raise any strategic planning issues. The density will remain in accordance with UDP and national policy.

It is noted that the gardens of the proposed houses appear to be below the minimum dimensions referred to in the SPD Designing Walsall. However, it was accepted for the previous application that the site lies within the Town Centre where standards of

amenity and privacy are treated more flexibly than for suburban locations. This argument still applies to the current application. The omission of substantial private gardens for the proposed houses also avoids the dilution of the design concept that has already been approved.

A revised Section 106 agreement or other appropriate delivery mechanism will be required to update the agreement made in respect of the previous application, to secure provision for schools, healthcare, affordable housing and a travel plan in accordance with UDP policy and the various SPD's.

**Fire Service** - Unsatisfactory for fire service access to part of 3rd floor and all of 4th floor. There should be vehicle access to within 45 metres of all points within the apartments.

**Seven Trent** – No objection subject to a condition

**Delivery and Development Team** – Support - The proposed amendments were developed to take into account the requirements of Accord Housing, and the housing mix was advised by the Council's Housing Strategy Team.

We welcome this amendment as it is more suited to the current housing market where the demand for apartments is in decline and the demand for family homes is rising, therefore making the revised scheme a more viable option.

We are keen to see the Waterfront South scheme come forward as soon as possible. It is part of a landmark development and swift progress on the ground would illustrate that the development market is still strong in Walsall in spite of a challenging national, regional and local climate.

**Walsall Children Services (Serco)** - In this case the level of surplus places is below 10% in both the primary and secondary sectors. We would therefore look for a contribution towards provision for both phases.

The contribution calculation is sensitive to the type and mix of dwellings to be built. It involves combining the expected pupil yield for the development by a Building Cost Multiplier provided by the DCSF at the start of every financial year.

Based on current prices, we would seek a contribution of £153,435.40.

**Landscape Team** – No objection subject to shrub planting areas topsoil specification states 300mm topsoil – I would prefer this to be 450mm depth minimum. Bark mulching 50mm thick - I would prefer this to be 75mm depth minimum and where residents gardens are to be provided, any potential planting areas (i.e. non paved areas) should be minimum 450mm depth topsoil, with suitable drainage provision, so that soil conditions are conducive to vegetable/fruit growing, not just for first occupiers but also for future ones.

**Centro** – We provided comments in response to the previous application 07/0618/FL/W7. At that time, we confirmed that there would be no adverse impact on the public transport infrastructure as a result of the proposal and that the development site is within the minimum standards for accessibility by public transport with several frequent bus services operating along Wolverhampton Street and Bridgeman Street within walking distance of the development site. This continues to be the case.

**Inland Waterways Association** – Objects on the following grounds

- Development too high and impact on the canal
- Development is too close to the canal.
- Like the Urban Splash development, the proposals will be unsympathetic to the canal.
- Objects to the colour treatment and potential materials finishes.

**British Waterways** – No objections to the proposed development, subject to the imposition of suitably worded conditions and/or the applicant first entering into a legal agreement.

**District Valuers Service (DVS)** – An appraisal into the costs of the development has been submitted to the DVS for comment. A full report will be available shortly and will be reported in the supplementary paper.

Built Environment (Conservation)- No objection - The development overall complies with the relevant national and local policy as well as the aspirations of the Walsall Locks Conservation Area Appraisal and Management Plan which supports the employment of high quality contemporary architecture and design.

### **Public Participation Responses**

None

### **Determining Issues**

- Differences between planning permission reference 07/0618/FL/W7 and the proposals
- Car parking provision and impact on the highway
- Revisions to the affordable housing, and education and open space contributions
- Provision of public art, towpath works and the proposed bridge

### **Observations**

#### **Differences between planning permission reference 07/0618/FL/W7 and the proposals**

The application amendments are immediately to the West of the Kirkpatrick's Foundry. The approved building immediately adjacent to the Foundry is reduced in size by 8 units to take account of an existing substation building. The substation is surrounded by landscaping and car parking. The design of the remaining building is unaltered.

Whilst altered in type, houses continue to front the proposed boulevard which was a key feature in the approved scheme. Houses now also continue to Charles Street and opposite the decked car park and along the canalside frontage. To compensate for the small back gardens a communal area, modelled on a London Edwardian Square is now proposed to offer greenery and relief to the built up environment and can be used communally being well overlooked on all sides.

The comments of the Fire Service are noted however this can be overcome through an appropriate fire service strategy agreed through the Building Regulations process. Although it should be noted that the architect has confirmed that there is vehicular access to within 45 m of all points of the houses and flats. The Inland Waterways Association objection is a continuation of their objection to the design of the proposals. Officers consider that neither objection is sufficient to the application nor raises new material considerations that would raise a reason for refusal or cannot be dealt with under separate legislation.

### **Car parking provision**

As highlighted above, the approved scheme proposed 163 car parking spaces for the residential units on the West Zone of the development, which equated to a parking provision of 72%, and included 62 spaces in a decked car park.

The decked car park remains unaltered. The parking provision will provide 109 spaces for the 181 apartments a ratio of 60%. For the reworked apartments next to the Kirkpatricks foundry the proposal include 14 spaces for 17 units (82%) and the 22 houses would have 30 spaces (136%). The overall West Zone is now proposed at 153 spaces or 75% provision.

This is a slight increase over the approved car parking ratio. As such, taking into account the slight change and the town centre location, officers continue to support the application.

The current road layout is not to adoptable standards however, the road is not proposed to be adopted. The footways are shown as below the two metres normal minimum standard. When the street lighting columns are installed, this will result in significant obstructions however there is space to improve the width to the adoptable standard. The road will be shared and the residential dominance and lack of through route will mean that streets can be actively used by pedestrians however the amendments can be secured and are conditioned.

It would be preferable if the vehicular access to The Boulevard was provided with a dropped kerb, rather than a full kerbed bell mouth. This will result in less pedestrian/vehicular conflict with the adjacent pedestrian route to the canal and bridge. This is conditioned.

A Residential Travel Plan Framework was submitted with the original application, and remains part of the S106 Legal Agreement.

### **Revisions to the affordable housing, and education and open space contributions and provision of public art**

The previous S106 agreement agreed

- 29 affordable housing units across the scheme (10.6%)
- £223,069 towards secondary school provision in the area
- £215,592 towards healthcare provision
- As well as on site provision of the boulevard, canal bridge, towpath improvements and public art provision.

Since the completion of the previous application it is now confirmed that the scheme will be delivered in partnership with Accord Housing Association and with Manor Hospital (delivering key worker housing). With a high level of affordable housing (now at 159 units) and the need to secure funding through the Housing and Communities Agency the applicant requests therefore that Affordable Housing be removed from the S106 agreement.

In addition the high level of affordable housing being offered and the current economic climate, the applicant also considers that healthcare and education contributions are unviable and should therefore also be removed from the S106 agreement.

The proposals however intend to include the following improvements as part of the proposals:

- the boulevard feature between Charles Street and the Canal.
- improvement works to the canal tow path

- public art on the decked car park and on a canalside "Art wall"
- canal bridge for pedestrians and cyclists

The applicant has also offered a financial contribution of £10,000 to aid the delivery of other public art locations identified as part of the approved plans (on the canalside of the boulevard and in front of the office building). The report of the District Valuers Service will consider the reasonableness of the offer from the applicant against the viability of the scheme.

With regard to the above features it may be that the delivery timescale is altered from the approved S106 to take account of the delivery timescale of the project and also the Urban Splash development, in the case of the canal bridge.

### **Conclusion**

Overall the proposals offer an improved mix and continue the ethos of the approved scheme. The proposals will now deliver a high level of affordable housing which will be secured through condition rather than through a S106. The proposals will secure a significant element of regeneration to the Town Centre.

### **Summary of Reasons for Granting Planning Permission**

The principle of residential development is accepted in this location with the principal changes (compared to the previous approval on the site) being alterations to the house types to include a higher level of family housing. The proposals have taken account of their town centre location and whilst the proposals do not offer a large area of private amenity space, the proposals will provide a level of communal open space that will benefit from good surveillance by the surrounding housing. The level of car parking is considered appropriate for the town centre location. The proposals will be offered as affordable housing in partnership with the Manor Hospital and Accord Housing Association.

Overall, having taken into account all consultation and public participation responses, the proposed development is considered to comply with the relevant policies of the development plan, in particular policies WA12, 3.6, ENV32, ENV33, S1, S2, S3, S4 and GP7, and on balance, having taken into account all material planning considerations, the proposal is acceptable.

### **Recommendation: Grant Permission Subject to Conditions and a Planning Obligation**

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

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

2. This permission relates to the area outlined in red under application 09/0832/FL and does not set aside conditions in relation to the remainder of the land under application 07/0618/FL/W7.

*Reason:* To define the permission.

3. This development shall not be carried out other than in conformity with the approved plans and documents, except as may be required by other conditions of this permission or by any subsequent approved amendment/permission.

*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).

4. Before work commences on site details of measures to control water run off from the site during construction (including details of the timing of construction of the proposed measures, and of their removal) shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approval, unless otherwise agreed by the Local Planning Authority.

*Reason:* To protect the water environment.

5. For the duration of the reclamation of the site, and the construction period, the accesses to the site shall include wheel washing equipment in accordance with details previously agreed in writing by the Local Planning Authority.

*Reason:* To prevent mud being deposited on the public highway.

6. Site clearance and building works will take place in accordance with the details set out in the Nature Conservation Plan submitted with the application, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To protect breeding birds.

7. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 13.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* In the interests of the amenity of adjacent occupiers.

8. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from service vehicle areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

*Reason:* To protect the water environment.

9. No development shall be carried out until details of existing and proposed levels of the site, accessway and floor levels have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land, and any drainage or other works necessary to facilitate this development.

*Reason:* To ensure the satisfactory appearance and functioning of the development.

10. No built development will be commenced until-

- a) A site investigation, ground contamination survey and assessment of landfill gas, having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken. A copy of the findings of the



site investigation, ground contamination survey and landfill gas assessment, together with an assessment of the hazards arising from any land contamination and/or landfill gas shall be forwarded to the Local Planning Authority as soon as they become available.

- b) Details of remedial measures to deal with any identified and potential hazards of any land contamination and/or landfill gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.
- c) The agreed remedial measures shall be implemented in accordance with the agreed timetable and 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 prior to the development being brought into use.

*Reason:* To secure safe development and occupation of the site, and to prevent pollution of the water environment, and to prevent the possibility of surface and/or groundwater pollution

11. No development shall be carried out until drainage details, incorporating:-

- a) sustainable drainage principles
- b) an assessment of the hydrological and hydrogeological context of the development
- c) the provision and implementation of a surface water run-off limitation and on site attenuation as appropriate, and a programme for implementation and completion

have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and completed in accordance with the approved details.

*Reason:* To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution

12. Unless otherwise agreed in writing by the Local Planning Authority, no development shall be carried out until details of security oriented design measures and physical security measures for all buildings and public spaces have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented concurrently with the relevant element of the development, and thereafter retained.

*Reason:* To ensure the safety of the occupiers and users of the development.

13. Prior to the commencement of any development on site details shall be submitted to and approved in writing by the Local Planning Authority for the conservation and efficient use of energy and natural resources and sustainable development, to a minimum of 3 stars standard as amplified by the Code for Sustainable Homes (January 2007) or subsequent document, micro energy generation, on site composting, grey water systems, SUDS and locally produced building materials. The development shall then be implemented in accordance with the approved details.

*Reason:* To ensure the development is energy efficient.

14. Prior to the first occupation of each dwelling, noise mitigation measures shall be installed so that internal noise levels of each dwelling, measured in accordance with

British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 (or relevant subsequent legislation) shall not exceed:-

- (a) within the bedrooms a Continuous equivalent Noise Level,  $L_{Aeq(5\text{ minutes})}$  of 35 dB together with a maximum instantaneous level of 45 dB  $L_{AFmax}$  between the hours of 23.00 to 07.00;
- (b) within the living rooms a Continuous equivalent Noise Level,  $L_{Aeq(1\text{ hour})}$  of 45 dB between the hours of 07.00 to 19.00; and
- (c) within the living rooms a Continuous equivalent Noise Level,  $L_{Aeq(1\text{ hour})}$  of 40 dB between the hours of 19.00 to 23.00;

*Reason:* To safeguard the amenities of the occupiers of development.

15. No development shall be carried out until full details of the proposed boundary treatment of the site (including the boundary treatment to the proposed public realm and roof gardens) have been approved in writing by the local planning authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

*Reason:* To ensure the satisfactory appearance of the development.

16. No development shall be carried out until a detailed landscaping scheme for the site (including the proposed roof gardens) has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition;
- (b) planted areas shall be maintained in a tidy condition;
- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

*Reason:* To ensure the satisfactory appearance of the development.

17. Prior to the occupation of the buildings hereby approved, the location of communal satellite dishes to serve the apartments units shall be submitted to and agreed by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the building, to ensure amenities of future residential occupiers, to prevent a proliferation of satellite dishes on the building and to ensure satisfactory functioning of the development

18. Prior to the commencement of development the details and locations of cycle stores, covered parking areas submitted to and approved by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

19. Prior to the commencement of development, details of the proposed balconies shall be submitted to and approved in writing by the Local Planning Authority. The balconies shall be implemented in accordance with the approved details.

*Reason:* To ensure the satisfactory appearance of the development and to preserve and enhance the Conservation Area.

20. Prior to the commencement of development details of street furniture (including proposed signage) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the completion of development.

*Reason:* To ensure the satisfactory appearance of the development and to preserve and enhance the Conservation Area.

21. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:

- i. The numbers, type and location of the site of the affordable housing provision to be made;
- ii. The timing of the construction of the affordable housing;
- iii. The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
- iv. The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.

*Reason:* In order to define the permission.

22. Prior to the commencement of development details of the proposed public art on the proposed scheme shall be submitted to and approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development and to preserve and enhance the Conservation Area.

23. Prior to the commencement of development:

- (a) An air quality survey and modelling has been undertaken, which demonstrates the impact or otherwise on air quality objectives in respect of Nitrogen Dioxide and PM<sub>10</sub> required by the provisions of the Environment Act 1995.
- (b) the methodology for such a survey and modeling has been submitted to and agreed in writing by the Local Planning Authority. The survey and modelling shall be undertaken in accordance with the approved details
- (c) Suitable mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the approved timetable, which should be no later than the first occupation of the development.

*Reason* To ensure the satisfactory development of the site.

24. No individual building shall be commenced until samples of the facing materials to be used have been approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

25. No building shall be brought into use until detailed measures to implement the Travel Plan Framework submitted with the application documents under planning permission 07/0618/FL/W7 (or such other document as the Local Planning Authority may agree can be substituted) and a timetable for implementation, and mechanisms for securing compliance from future occupiers have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented in accordance with the approved measures.

*Reason:* To promote green travel patterns, and minimise the use of the car.

26. Other than those shown on the approved plans, no additional fences, walls, barriers, gates or other forms of boundary treatment shall be installed or erected on the site until full details have been approved in writing by the Local Planning Authority. Installation or erection, and subsequent retention, shall be in accordance with the approved details.

*Reason:* To ensure the satisfactory appearance and functioning of the development.

27. At all times, when construction is not underway, there will be unrestricted pedestrian access to the canal arm, and all of the hard surfaced areas in the landscaping scheme.

*Reason:* To secure public access, in the interests of promoting improvements to the environment of the town centre.

28. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site, other than through the accesses shown on the deposited plans, without the prior approval of a planning application.

*Reason:* To ensure the satisfactory functioning of the development, and in the interests of highway safety.

29. Other than associated with construction on the site, no materials, goods or refuse shall be stored or deposited in the open on any part of the site.

*Reason:* To ensure the satisfactory appearance of the development.

30. Prior to the commencement of development a plan showing the following amendments shall be submitted to and approved in writing by the Local Planning Authority:

a) The internal footways are widened to two metres.

b) The vehicular access to The Boulevard shall be a dropped kerb, rather than a full kerbed bell mouth.

The scheme shall be implemented in accordance with the approved details.

*Reason:* In the interests of pedestrian safety.

31. Unless an alternative timescale is agreed by the Local Planning Authority, no development shall be carried out until the applicant has secured the implementation of a programme of archaeological work in accordance with a brief written by the council's conservation officer, and a written scheme of investigation which has been

submitted by the applicant and approved in writing by the Local Planning Authority. The approved programme shall include the submission of one copy of all results to the Local Planning Authority.

*Reason:* To safeguard and record the archaeological value of the site.

#### NOTES FOR APPLICANT

A) In relation to the conditions on ground conditions, the Environment Agency advise that activities carried out at this site in the past may have caused contamination of soils, subsoils and groundwater. They recommend that the site report includes the following:

- (i) a desk study to identify historical land use with relation to potential ground contamination; and,
- (ii) a limited soils investigation to identify the level of soil contamination on the site and the potential to cause pollution to the aquatic environment. The requirements of this investigation to be based upon previous land use information. In the event that contamination of this site is confirmed the developer should liaise with the Agency on measures required to protect surface water and groundwater interests.

B) There are a number of large projects in the town centre, each with areas of new public realm. The Council and Walsall Regeneration Company are working on a strategic framework for public realm works and this should be used to guide the details of landscaping and surface materials.

C) Building works may not be undertaken, and a public highway may not be closed in the absence of the appropriate consent, which must be obtained through the Local Highway Authority. Those consents may require a public local inquiry if there are objections.

D) You are advised that although this permission has been granted you must also respect any ownership rights or other legal agreements including rights of way.

E) You are advised to refer to the agreement under Section 106 of the Town and Country Planning Act 1990 which was completed in conjunction with the development.

F) 'Habitable rooms' for the purposes of this condition shall be interpreted as living rooms and bedrooms.

G) Party wall and floor structures should have reasonable resistance to airborne and impact sound in accordance with Approved Document E of the Building Regulations 2000, (As Amended).

H) If your application includes demolition work, it may be necessary for you to also notify **Building Control Services** of your intention to demolish (Section 80 of the Building Act 1984). This should be done as soon as possible but **not less than 6** weeks before commencement of the demolition work. Helpline number 01922 652408.

I) Your attention is drawn to the Party Wall etc. Act 1996. If you intend to carry out building work which involves:

- Work on an existing wall shared with another property;
- Building on the boundary with a neighbouring property;

You must find out whether that work falls within the scope of the Act. If it does, you must serve the statutory notice on all those defined by the Act as adjoining owners. You may wish to seek professional advice. However, two guidance booklets have been published entitled 'The Party Wall etc. Act 1996: Explanatory Booklet' or 'A Short Guide to the Party Wall etc. Act 1996', both are available from the DOE Publications Despatch Centre, Blackhorse Road, London, SE99 6TT. Tel. 0181 691 9191. Fax. 0181 694 0099.

J) This consent is given on the basis that all parts of the development including the guttering (foundations and fascia) are carried out on land within the ownership of the applicant.

K) For the avoidance of doubt, the term 'affordable housing' means subsidised housing at below market prices or rents intended for those households who cannot afford housing at market rates. It is usually managed by a registered social landlord.

L) The applicant/developer is advised to contact British Waterways third party works engineer in order to ensure that any necessary consent is obtained and that the works comply with British Waterways' "Code of Practice for Works affecting British Waterways".

M) Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in Planning Policy Statement 23 - Planning and Pollution Control; British Standard BS10175: 2001 'Investigation of potentially contaminated sites - Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Waste Management Paper No. 27 'Landfill Gas'; or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

N) When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA) model 2002 or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

O) For the avoidance of doubt, no water should be discharged into the canal without first obtaining written consent from British Waterways.

P) The Council consider the scheme should meet the terms of the Secured by Design concept, and will expect the submissions under this condition to meet that concept, or provide compelling justification for not doing so.







ITEM NO: 2.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 09/0756/FL  
**Application Type:** Full application  
**Applicant:** Walsall Housing Group  
**Proposal:** Erection of 4,018 square metre office building together with associated public realm, landscaping and car parking. Access from Hatherton Street and Teddesley Street (Part of Walsall Gigaport).

**Ward:** St. Matthews

**Recommendation Summary:** Grant Permission Subject to Conditions and a Planning Obligation

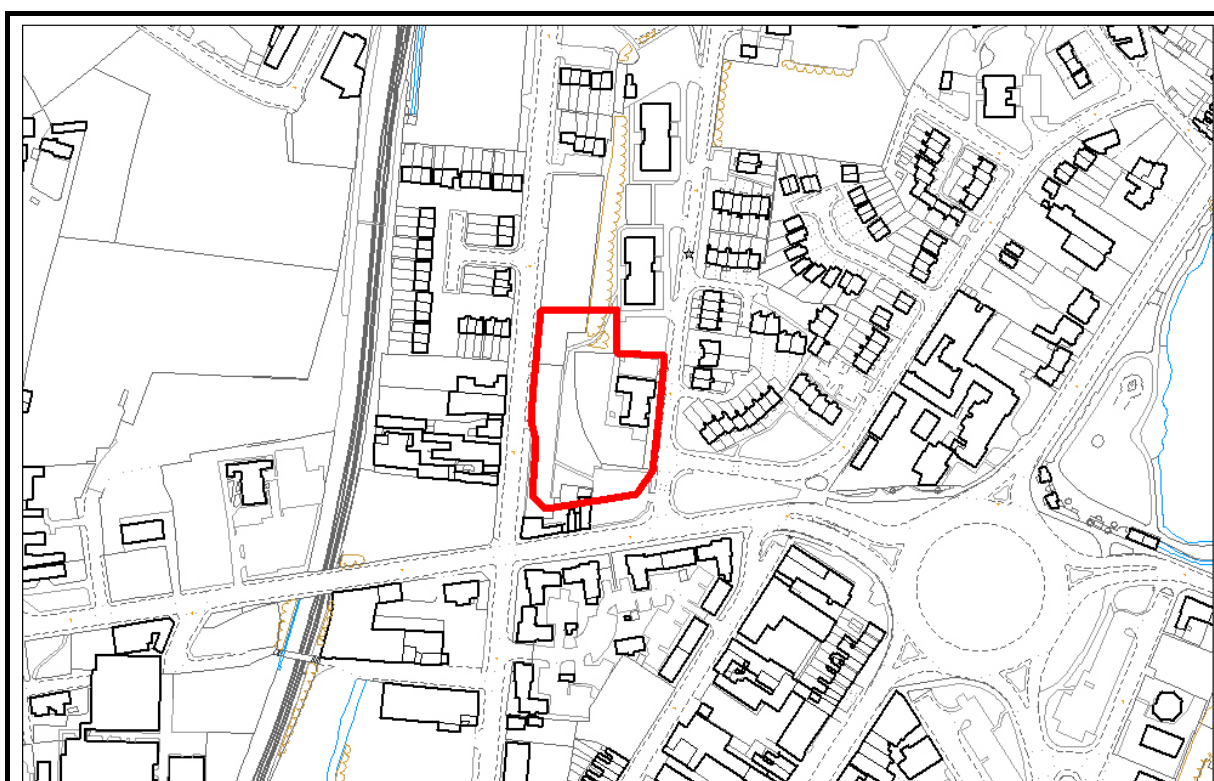
**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652403

**Agent:** The Tyler Parkes Partnership

**Location:** LAND AT LITTLETON  
STREET EAST/HATHERTON  
STREET/TEDDLESLEY  
STREET, WALSALL

**Expired:** 03/09/2009



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### **Application and Site Details**

The application is the development of the new Town Centre office headquarters for Walsall Housing Group. The application encompasses some 4,018 square meters of floorspace, landscaping and public realm and 72 car parking spaces (including 7 disabled car parking spaces).

The proposed 4 storey building would sit on the Littleton Street West frontage. The ground rises across the site so the building is lower on its eastern end. The southern elevation uses a stylised tree graphic to build links to the Arboretum and is accessed via a central atrium feature that will allow views into the building.

The proposed office building would be capable of being accessed from both sides and is surrounded by pedestrian routes that would provide the initial element of the east-west link which forms an important part of the Gigaport framework.

The proposals are supported by the following key documentation

### **Design and Access Statement**

This shows the evolution of the design of the proposals from the Gigaport indicative plan, taking into account the site's constraints and how the development has built public realm into the scheme, e.g. the east-west link. The proposals also show how access into the site will be considered and how sustainability is incorporated into the design. The Statement also details how the stylised graphic will deliver a tenable link to the Arboretum.

### **Planning Statement**

This shows the compliance of the scheme to Development Plan policy building upon the outline planning permission and the need for strong and vital town centres. The proposals are considered by the applicant to meet many of the regional and local policy requirements.

Other technical reports include a transport statement and associated green travel plan, an ecological appraisal, a noise assessment, a sustainability statement, landscape proposals and ground contamination reports.

### **Relevant Planning History**

Although there have been numerous applications and other events within the application site, none are considered relevant other than the following to the consideration of this application.

#### **Cabinet Resolution 18<sup>th</sup> April 2007**

Discussed further below but agreed the boundary of the office corridor (now Gigaport), to support a statement of intent that will seek to deliver office developments over other uses on land that is identified within the office corridor. The Cabinet also agreed to a programme of strategic acquisition of land within the office corridor.

#### **Walsall Gigaport**

08/0951/OL – Outline planning permission for the area establishing the quantum of development capable on the site with an emphasis towards high quality offices, live work and associated commercial development. Granted 18<sup>th</sup> December 2008.

### **Relevant Planning Policy Summary**

The overall aim of the UDP is to regenerate and change the direction of Walsall Town Centre into a vibrant and economically successful town centre. The policies encourage offices in appropriate locations.

The UDP indicates the need to secure appropriately designed solutions, high quality environments, preserving and enhancing the historic environment, and ensure that the developments are comprehensive in manner. The need to consider appropriate measures for flooding, highway improvement, and car parking are also considered.

The UDP seeks good quality development, appropriate to its area, reflecting a wide range of ecological, traffic (both vehicular and non-vehicular), environmental, and economic aims embodied in Policies GP1, GP2, GP3, GP4, GP5, GP6, GP7, T1, T2, T3, T4, T5, T6, T7, T8, T9, T10, T11, T12, T13, ENV9, ENV10, ENV11, ENV13, ENV14, ENV17, ENV18, ENV19, ENV21, ENV22, ENV23, ENV25, ENV26, ENV27, ENV29, ENV31, ENV32, ENV33, ENV34, ENV35, ENV39, ENV40, JP2, JP3, JP7(d), S1, S2, S3, S4, S5, S7, LC1, LC2, LC6, LC7, LC8, WM1, WM4, WA3, WA4, WA5, WA6, WA13, WA15, WA16, WA17, WA18, WA19, and paragraphs 4.6, 4.13 and 4.14 of Walsall Unitary Development Plan, March 2005.

### **Walsall Local Development Framework**

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. It allocates this area of the town for office led development and being part of Walsall Town Centre Inset Boundary as shown on its Key Diagram. The JCS advances the regional requirements and within its own plan period of 2006 to 2026 aims to deliver 220,000 square metres of offices in Walsall Town Centre. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Further consultation is anticipated in early 2009.

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

#### **Designing Walsall SPD**

Designing Walsall (February 2008) is considered relevant as it is adopted. Its role is to promote high quality design through established urban design principles and promotes innovation and respect of the character of an area. The adopted SPD also seeks a level of contribution towards public art.

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

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

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

DW4- Continuity - attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement - create places that are easily connected, safe to move through;

DW6 – Legibility - new development should contribute to creating a place that has a clear identity;

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

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

The Natural Environment SPD is also relevant in assessing the implications of the proposals on the natural environment, ensuring that protection, mitigation and improvements to the natural environment are safeguarded through the application process.

### **Regional Planning Policy**

The Regional Spatial Strategy has been revised and republished on 15<sup>th</sup> January 2008 to reflect the first Phase of Review. The 2<sup>nd</sup> Phase of review is nearing the completion of its Examination in Public. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country in the overall performance of the West Midlands Region.

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

- a) to reverse out-migration accommodating within the Black Country all of the generated household growth from 2011 and meeting at least the identified levels of housing provision;
- b) to raise income levels raising demand and household incomes (average earnings, GDP per head and reducing unemployment) to the UK average by 2033;
- c) to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix by increasing the proportion of social grades A and B to match the national profile by 2033 or earlier; and
- d) to transform the Black Country Environment by protecting and enhancing the sub-region's environmental and heritage assets and biodiversity.

The four strategic centres of the Black Country (including Walsall) are to be the main locations for major office (B1(a)) development. The Policy considers that each centre has both potential and capacity to absorb an equal proportion of proposed growth and each to accommodate up to 186,000sqm of office development from 2004 to 2021. This figure should be regarded as indicative and will be subject to review in the light of monitoring of the actual level of development and progress in implementing the Joint Core Strategy.

Overall in the Black Country growth totalling up to 845,000sqm gross of B1(a) office floorspace (including commitments) will be provided in the Black Country in the period 2004 to 2021.

As part of the ongoing review of the RSS to produce regional targets to 2026, the RSS Phase Two Revision Preferred Option that has recently completed its Examination in Public and indicates that between 2006 and 2026, Walsall should be looking to accommodate some 220,000sqm of office development within or on the edge of its strategic centre. This application clearly makes a contribution towards this.

For the record, the relevant policy references supporting these propositions are: Policies PA1, PA2, PA3, PA4, PA5, PA6, PA10, PA11, UR1, UR1A, UR1B, UR1C, UR3, UR4, QE1, QE2, QE3, QE4, QE5, QE7, CC1, EN1, EN2, T1, T2, T3, T4, T5, T7, T8, T9, CF1, CF4, and CF6 of the Regional Spatial Strategy for the West Midlands (RSS11).

### **National Policy**

PPS1 seeks to encourage a high quality environment with design and sustainability at the heart of all proposals. The guidance seeks to reduce the use of the private car and by creating 24 hour environments will promote alternative modes of transport. The guidance also seeks to ensure that the requirements of climate change are addressed.

PPG4 seeks to encourage a modern working environment and to encourage enterprise and innovation. Recognition of the role of IT and new technologies are important considerations.

PPS6 seeks to strengthen and promote town centres. Paragraph 2.39 is the most relevant to this application. It considers that the need for new office floorspace over the development plan document period should be defined as part of the plan preparation and review process, and updated regularly. At regional level this should involve the forecasting of future employment levels and the identification in regional spatial strategies of suitable broad locations where regionally significant office development should be located. The physical capacity of centres to accommodate new office development and the town centre's role in the hierarchy should also be relevant to planning for new office development.

PPS9 seeks to ensure that biodiversity is considered as part of the application.

PPG13 guides that the reliance on the private should be reduced and that developments should accommodate opportunities for walking, cycling and use of public transport. The level of car parking in town centres should be managed and wherever possible reduced.

PPG14 seeks to ensure that development takes account of unstable land, while PPG15 and PPG16 seek to ensure that appropriate action is taken to ensure that the historic environment and archaeology are preserved and/or enhanced.

PPS22 encourages the use of renewable energy and seeks to reduce the energy requirements of new developments.

PPS23 and PPS24 consider the requirements of development to take account of pollution, contamination and noise.

PPS25 seeks to ensure that appropriate safeguards from flooding are incorporated into new development. The use of Sustainable Drainage Systems and other methods to reduce rainwater runoff are encouraged.

Circular 02/99 (Environmental Impact Assessments) and 05/2005 (Planning Obligations) are considered to be relevant.

### **Consultations**



**Transportation** – No objection subject to conditions.

**Pollution Control**

**Scientific Team** – No objection to this application in principle. An acoustic survey has been carried out by Acoustic Associates, reference AAL/BS09021 that indicates areas where minor noise concerns may arise when the building becomes operational. In view of this and to ensure that noise does not affect nearby residential accommodation during the construction phase, please attach conditions to any permission granted

**Contaminated Land** – No objection subject to additional site investigation work being carried (as required by the Phase I and Phase II Geo-Environmental and Geotechnical Report reference 36588-01) and remedial measures installed to deal with any contaminated land/ground gas identified. Conditions to address these concerns have been provided.

**Midlands Architecture for the Designed Environment (MADE)** – The scheme has been presented to the Design Review Panel. The Panel was impressed with the logical arrangement of the building on the site and the rational planning, with the 'atrium slice' dividing it into two sections. The Panel suggested a slight increase in the atrium width, enlarging the bridges in order to enhance their potential as social spaces.

The Panel found much to admire in the simple, bold treatment of the elevations and the choice of cladding materials to address the building's environmental performance. It was most impressed with the client's unreserved commitment to commission a sustainable building, and to see this as an example for the company's staff and customers to aspire to. Every aspect of a sustainable approach appears to have been considered, for example its longevity through flexibility in the plan form, a green roof with solar thermal water heating, rainwater harvesting, an air source heat pump, and the pre-eminence of the staircase.

The open areas around the building are thoughtfully designed, including a generous and well-landscaped garden to the north separating two parking areas.

The Panel suggests that, if this garden were a little narrower, it might become possible to widen the pavements on Hatherton Street and Teddesley Street to afford more safety and comfort to pedestrians. It was also suggested that the car park entrance did not require a bellmouth, but could be a continuation of the pavement, with dropped kerbs (for ease of pedestrian movement). The Panel also recommend the use of benches in preference to bollards wherever appropriate for controlling traffic movements.

**Strategic Policy** - The proposal is partly edge of centre/partly out of centre. It is within the terms of the Gigaport scheme. The use is therefore supportable in principle, as it will help to meet the capacity need identified in the emerging RSS Preferred Option for Walsall Town Centre. We would emphasise the need for the development to be integrated, in functional and visual terms, with the town centre.

**Walsall Regeneration Company** – Support the proposals as the first step in the delivery of the Gigaport proposals. Suggest that the applicant and developer consider future proofing the development, providing for high speed broadband technology.

**Fire Service** – No objection – Satisfactory for fire access

**Landscape Team** - Overall good quality design but some elements (e.g additional species and planting details to bin stores) need review/improvement. Recommend conditions.

**National Grid** – No objection – risk is negligible.

**Conservation** – No objection

**Environment Agency** – No objection

**Centro** – No objection and welcome the Gigaport development for the benefits we expect it will bring to Walsall and the regeneration of the town centre. Centro want the developments to be served by excellent public transport services supported by good and legible cycling and walking access provision, and in line with this, we have identified the relevant matters which will need to be accommodated in the development. A contribution of £75,000 be sought towards:

1. Pedestrian links from the proposed development to surrounding bus stops, rail station and bus station in order to promote the use of public transport
2. The delivery of Public Transport improvement measures emerging as a result of the forthcoming Walsall Bus Network Review scheduled for 2010
3. General improvements to Bus and Rail stations.

Further involvement in the development of the Green Travel Plan would also be welcomed.

### **Public Participation Responses**

One letter from a local resident not against the proposal in principle but objects due to concerns about the additional road traffic it will bring to the Butts area in general. The objector commends the sustainable travel initiatives but no consideration has been given to overspill parking and where these vehicles will go. The resultant congestion and continuous movement of traffic makes the roads in the area unsafe for crossing - Butts Primary School lies close to the new development and children from the surrounding area walking to and from school already have to 'run the gauntlet' of busy side roads blocked with parked cars on a daily basis. The objector also notes that parking has also become increasingly difficult for local residents and that the increase in traffic will also add to both noise and air pollution levels in the area.

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

### **Determining Issues**

- Relationship to the Walsall Gigaport project
- Impact upon the Ford Brook and Limestone Consideration Zone (LCZ)
- Car parking and access into the site
- Design and layout of the building and public realm
- Sustainability credentials of the proposals
- Contributions towards public art and public transport.

### **Observations**

#### **Relationship to the Walsall Gigaport project**

The application falls within the boundary of the outline planning permission for office-led development. The proposals are clearly in accordance with this project and will promote the objective that the regeneration aims and objectives are being delivered.

The project meets many of the aspirations in terms of the quality of the building and the support of MADE and the WRC is noted.

The proposals are in the area of the first phases of the development as shown on the indicative layout plan and are therefore compliant with the aims and objectives of the Gigaport development.

Whilst Gigaport did not propose large surface car parks as part of the proposals, in order to maximise the developable area and potential of the land, the inclusion of a surface car park in this development as an interim measure until further development takes place would not be inappropriate and would meet the needs of the development until a more comprehensive parking strategy is developed / delivered.

### **Impact upon the Ford Brook and Limestone Consideration Zone (LCZ)**

Some of the site lies within the LCZ and the Ford Brook crosses the site. Whereas the underlying limestone was mined in the past, the cavities so formed (7m high max, and between 34 and 60 m below surface) have since been backfilled with rock paste and now the depth to groundwater could be significant in determining the impact of development on this structure. However, the Environment Agency and Pollution Control Officers both raise no objection and are satisfied that further investigation and assessment can be safeguarded through conditions added.

The Ford Brook runs in culvert beneath the site, not surfacing until 70 m west. The risk of pollution of controlled waters is considered low. Any works within 8m of the line of this structure would be carried out in liaison with the Environment Agency under separate legislation. Officers are aware that the design of this building has evolved from liaison with the Environment Agency and therefore the layout should not cause an adverse impact on the Ford Brook.

### **Car parking and access into the site**

As previously stated in this report the Gigaport proposals do not include large proportions of surface car parking, instead proposing to deliver strong and coordinated public realm with centralised parking. As an interim measure, with more parking delivered as part of further phases and developments other car parking solutions should be progressed and delivered, as proposed on this site.

The proposals provide 72 car parking spaces including 7 disabled car parking spaces (9.7%). The proposals would deliver 1 space per 55 square metres which is slightly higher than the Gigaport approval (1 space per 60 square metres or 66 spaces). The application site is well situated for the town centre, public transport, the local community and other town centre car parking.

It is noted that WHG, the end tenant will be relocating from 14 sites into this site and therefore there will be a reduced level of travel between offices and colleagues. It is considered that although the amount of car parking is therefore considered to be appropriate.

The vehicular access to the site would be split equally between Teddesley Street and Hatherton Street with pedestrians able to access the site from both sides of the

development. It is considered therefore that the level of traffic movement will not be significant to cause harm to the amenities of neighbouring residents and, considering the advice of Transportation Officers, the proposals would not result in significant harm to highway safety in the area.

It has been suggested by highway engineers on the M.A.D.E. Design Review Panel that the car park entrance did not require a bellmouth, but could be a continuation of the pavement, with dropped kerbs (for ease of pedestrian movement). Considering the sustainable location of the application site and the need to promote pedestrian movement to the surrounding area, Officers concur with this view.

Officers note the comments of neighbouring residents however for the reasons stated above the proposals are considered acceptable.

### **Design and layout of the building and public realm**

Officers note the comments of M.A.D.E. and concur with the sentiments on the simple, bold treatment of the elevations and the choice of cladding materials to address the building's environmental performance.

The open areas around the building are thoughtfully designed, including a generous and well-landscaped garden to the north separating the two proposed parking areas. This will allow for members of public and staff to enjoy an outdoor space and would also promote a greener feel to the development.

Officers note that M.A.D.E. suggests that, if this garden were a little narrower, it might become possible to widen the pavements on Hatherton Street and Teddesley Street to afford more safety and comfort to pedestrians. This is balanced against the longer term aspirations for the development of the car parking areas and the remainder of the site. The need to promote qualitative spaces is noted and in this instance it is considered that improvements suggested, on balance, could be either accommodated through later phases or would result in a reduction in the quality of the central landscaped area.

M.A.D.E. also recommended the use of benches in preference to bollards wherever appropriate for controlling traffic movements. Officers agree with this comment and have proposed a condition to address this.

Overall, the development is an excellent start to the Gigaport project demonstrating high quality, sustainable development incorporating public realm and a clear thought out design process. It also provides statement architecture and shows that this can be done without the need to develop unnecessarily tall in scale.

### **Sustainability credentials of the proposals**

Officers welcome the sustainable approach to the building's longevity through flexibility in the plan form, a green roof with solar thermal water heating, rainwater harvesting, sustainable heating system, and the pre-eminence of the staircase.

The building will seek to meet the British Research Establishment Environment Assessment Method (BREEAM) Excellent Standard and will aim also to produce around 20% of its own energy through photovoltaic panels and solar gain on the roof.

The site is also located within the town centre inset boundary and is well positioned to take advantage of public transport and will be easy for staff and customers (i.e. WHG tenants) to easily access the building.

The other aspect to consider is that the building will consolidate 14 existing WHG offices into this building. This will reduce the need to travel between offices and make public transport and other more sustainable modes of transport more viable, particularly for members of staff.

Officers welcome and support the sustainability of the proposed building and consider it to be an exemplar for the Gigaport project to build upon.

### **Contributions towards public art and public transport**

A contribution towards public transport, generated from the additional impact of the Gigaport project and the relationship to the 5W scheme. The contribution sought by Centro would be £75,000. This contribution and level of public transport provision was part of the agreed Gigaport project and would allow for a reduced impact on the highway network. In addition a public art (£12,054) are sought in this instance. The applicant has been informed of this offer and is in discussion with Officers.

### **Conclusion**

Overall the scheme is an excellent start to the Gigaport project and will show excellence in sustainability and design ethos needed from the initial stage to set the standard for the rest of the regeneration ethos.

### **Summary of Reasons for Granting Planning Permission**

The proposals are the first development in the Gigaport regeneration initiative and propose a high quality, modern, sustainable building within its own setting, including public realm linkages which take into account the wider objectives of the regeneration initiatives.

The scheme has considered the relationship to Littleton Street West and puts forward a strong frontage and encourages movement throughout the site and access from Hatherton Street and Teddesley Street. The “tree graphic” built into the Littleton Street elevation will also visually link the building to the Arbortum. The proposed car parking level is considered to be appropriate and the long term development plans for the remainder of the land are noted. It is not considered that the proposals would compromise highway safety nor result in undue levels of on-street parking.

For the above reasons, having carefully considered consultation responses and public participation responses, it is considered that the proposals are considered to be compliant with Policies GP1, GP2, GP3, GP4, GP5, GP6, GP7, T1, T2, T3, T4, T5, T6, T7, T8, T9, T10, T11, T12, T13, ENV9, ENV10, ENV11, ENV13, ENV14, ENV17, ENV18, ENV19, ENV21, ENV22, ENV23, ENV25, ENV26, ENV27, ENV29, ENV31, ENV32, ENV33, ENV34, ENV35, ENV39, ENV40, JP2, JP3, JP7(d), S1, S2, S3, S4, S5, S7, LC1, LC2, LC6, LC7, LC8, WM1, WM4, WA3, WA4, WA3, WA5, WA6, WA13, WA15, WA16, WA17, WA18, WA19, and paragraphs 4.6, 4.13 and 4.14 of Walsall Unitary Development Plan, March 2005; Designing Walsall Supplementary Planning Document; the aims and objectives of the Regional Spatial Strategy and Planning Policy Statements 1 and 6 (in particular).

**Recommendation: Grant Permission Subject to Conditions and a Planning Obligation**

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

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

2. Prior to the first occupation of the proposed development, the existing access arrangements shall be permanently closed, and be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

*Reason:* In the interests of highway safety.

3.a) Unless otherwise agreed in writing the parking areas shown on the approved plan shall be brought forward as part of a co-ordinated development for the area outlined in blue on the location plan and any additional areas of land that may be appropriate to development.

b) As part of future development proposals identified above a co-ordinated car parking strategy for the land shall be progressed including, where appropriate, multi-storey car parking and reducing the levels of surface car parking.

c) Until such time as development identified in parts a) and b) of this condition is brought forward the parking areas shall not be used for any other purpose than the parking of vehicles.

*Reasons:*

a) To ensure that future development proposals are delivered in a co-ordinated and comprehensive manner as identified in the outline planning permission for the Gigaport (08/0951/OL) and to meet the wider aspirations for regeneration of this area of Walsall Town Centre.

b) To ensure that future development proposals are delivered in a comprehensive manner with an appropriate level of car parking.

c) To ensure that appropriate car parking is safeguarded for the office building and to ensure that a satisfactory appearance to the development is maintained.

4. Unless otherwise agreed in writing by the Local Planning Authority, the materials used shall be those indicated on the approved plans.

*Reason:* To ensure the satisfactory appearance of the development.

5. a) Prior to built development commencing a copy of the findings of the additional site investigation and ground gas assessment (as required by the Phase I and Phase II Geo-Environmental and Geotechnical Report reference 36588-01), together with an assessment of the hazards arising from any contamination/ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant C2).

b) 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 C2)

c) 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.

d) 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.

e) 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 prior to the development being brought into use. (see Note for Applicant C3)

*Reason:* To ensure safe development of the site and to protect human health and the environment.

6. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall otherwise only take place between the hours of 07.00 to 19.00 weekdays and 08.00 to 13.00 on Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* To safeguard the amenities of nearby residents.

7. Prior to commencement of development details (including location and external appearance) of all plant and equipment used for the purpose of heating, ventilation and/or air conditioning shall be submitted to and approved in writing by the local planning authority. Any such structures situated within buildings or in acoustically designed enclosures, and thereafter retained in accordance with any approval for the period of their use.

*Reason:* To ensure satisfactory appearance of the application site and to ensure that the amenities of nearby residents are safeguarded.

8. a) Prior to the first occupation of development an improved Travel Plan shall be approved in writing by the Local Planning Authority.
- b) That Plan shall be developed in consultation with this Council's Travel Wise co-ordinator, the Highways Agency and Centro and include a mechanism for delivery of the Travel Plan.
- c) The Travel Plan will identify a package of measures consistent with the aim of reducing reliance on the car, and should include (but not be limited to) providing information on/promoting the use of alternative modes of transport, by:-
- i) The appointment of a travel plan co-ordinator,
  - ii) The establishment of targets for modal shift,

- iii) The details of measures to be employed to achieve the identified targets,
  - iv) Mechanisms for ongoing monitoring and review of targets and travel plan measures,
  - v) Details of penalties and/or additional measures to be investigated / implemented in the event that the identified targets are not met.
  - vi) Public transport information and ticket details;
  - vii) Cycle provision, showers and lockers and associated infrastructure; and
  - viii) Walking initiatives.
  - ix) Improving overall links to the main public transport infrastructure of St Paul's Bus Station and Walsall Railway Station and the primary retail core.
  - x) Car park allocation strategy.
- d) The approved Travel Plan shall be implemented during the six months following the first occupation of the premises. Following the expiry of this period of time or such other period of time as may be agreed under part (d) of this condition, a review of the Plan shall be carried out, and submitted to the Local Planning Authority for approval. The review will identify any refinements and clarifications deemed necessary to the Plan.
- f) The occupation and use of the development shall comply with the requirements of the revised plan approved under part (e) of this condition, at all times, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory functioning of the development, to promote the use of a range of modes of transport, and minimise the use of the car.

9. Prior to the commencement of development details of street furniture (including proposed signage, bollards, benches and timing of installation) shall be submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented prior to occupation of any part of the site.

*Reason:* To ensure the satisfactory appearance and functioning of the development.

10. Prior to the first occupation of the development the design of window cleaning arrangements for the development shall be submitted to and approved in writing by the Local Planning Authority. The building will be implemented in accordance with the approved details.

*Reason:* To ensure a satisfactory design for such works, in keeping with the building.

11. A scheme for external lighting (including a timetable for installation) will be submitted for the approval of the Local Planning Authority and the lights shall be installed and thereafter retained in accordance with the approved details.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and highway safety.

12 Prior to the commencement of development the details of the cycle stores shall be submitted for the approval of the Local Planning Authority. The approved details shall be implemented prior to the first occupation.

*Reason:* To ensure the satisfactory appearance of the development, and to promote use of the bike, and minimise use of the car.

13. All trees and hedgerows to be retained in or immediately adjacent to the boundary of the application site shall be protected in accordance with BS 5837: 2005 'Trees in relation to construction'. Any tree works shall be carried out by a tree surgeon approved by the Head of Environmental Regeneration, or a person who is appropriately insured and competent in such operations.

*Reason:* To protect trees on the site, and to ensure the satisfactory appearance of the finished development.

14. Unless otherwise agreed in writing by the Local Planning Authority The development will be designed, constructed and operated to meet the 2005 Building Research Establishment Environmental Assessment Method 'excellent' standard, unless otherwise agreed in writing by the local planning authority.

*Reason:* In order to meet the aims and objectives of sustainable development and efficient use of natural resources.

15. All windows and areas of glazing within the building, including any atrium or entrance area, shall be kept free of applied signage or other significant screening which would hinder views into an atrium or entrance area and/ or the passive surveillance of public areas, unless details have been previously submitted to and agreed in writing with the Local Planning Authority.

*Reason:* To aid the security of users of the site, to create and retain attractive entrance areas, and control the proliferation of advertisements on the site.

16. Unless otherwise agreed in writing by the Local Planning Authority, at all times the internal arrangements of the ground floor of the development will ensure that no

- non-transparent partitions (other than those positioned at 90 degrees to the external wall)
- storage areas,
- refuse areas
- or toilet facilities

shall be located within 2 metres of any glazed external wall .

*Reason:* To ensure active frontages and a satisfactory appearance on all faces of the buildings, to ensure a permanently satisfactory urban design solution to the circulation of pedestrians around all faces of the buildings.

#### NOTES FOR APPLICANT:

A) 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.

B) Drainage arrangements shall be provided to ensure that surface water from the development does not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

C1) Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of

practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

C2) When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

C3) Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

C4) The desk study and site reconnaissance shall have regard to the previous unknown filled ground and materials used and processes carried on. Further details on the matters to be addressed is available in “PPS 23 : Planning and Pollution Control”, Annex 2, Development on Land Affected by Contamination”, paragraphs 2.42 to 2.44. and “Model Procedures for the Management of Contamination” (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

D) Bank Holidays and Public holidays for this purpose may be taken to include: Christmas Day; Boxing Day; New Year’s Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday, and August Bank Holiday Monday.

E) All plant and equipment used for the purpose of heating, ventilation and/or air conditioning shall be maintained and serviced in accordance with manufacturer’s and/or supplier’s recommendations, instructions and schedules.

F) In developing your Travel Plan, your attention is drawn to the Travel Plan Framework submitted with application 08/0951/OL.

G) You have been provided with a copy of the Environment Agency’s letter of 7<sup>th</sup> July 2009 and these comments should be noted. Under the terms of the Water Resources Act 1991, and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over

or within 8 metres of the culverted Ford Brook, designated a 'main river'.

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To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 09/0781/FL

**Application Type:** Full application

**Applicant:** Mr. Bernard Rose

**Proposal:** Demolition of existing Primary  
Schools at Elm Street and Albion Road.  
Construction of new Barcroft Primary School  
on Elm Street site and staff car park and  
school playing fields on Albion Road site.

**Ward:** Willenhall South

**Recommendation Summary:** Grant Subject to conditions and withdrawal of  
Environment Agency Objection

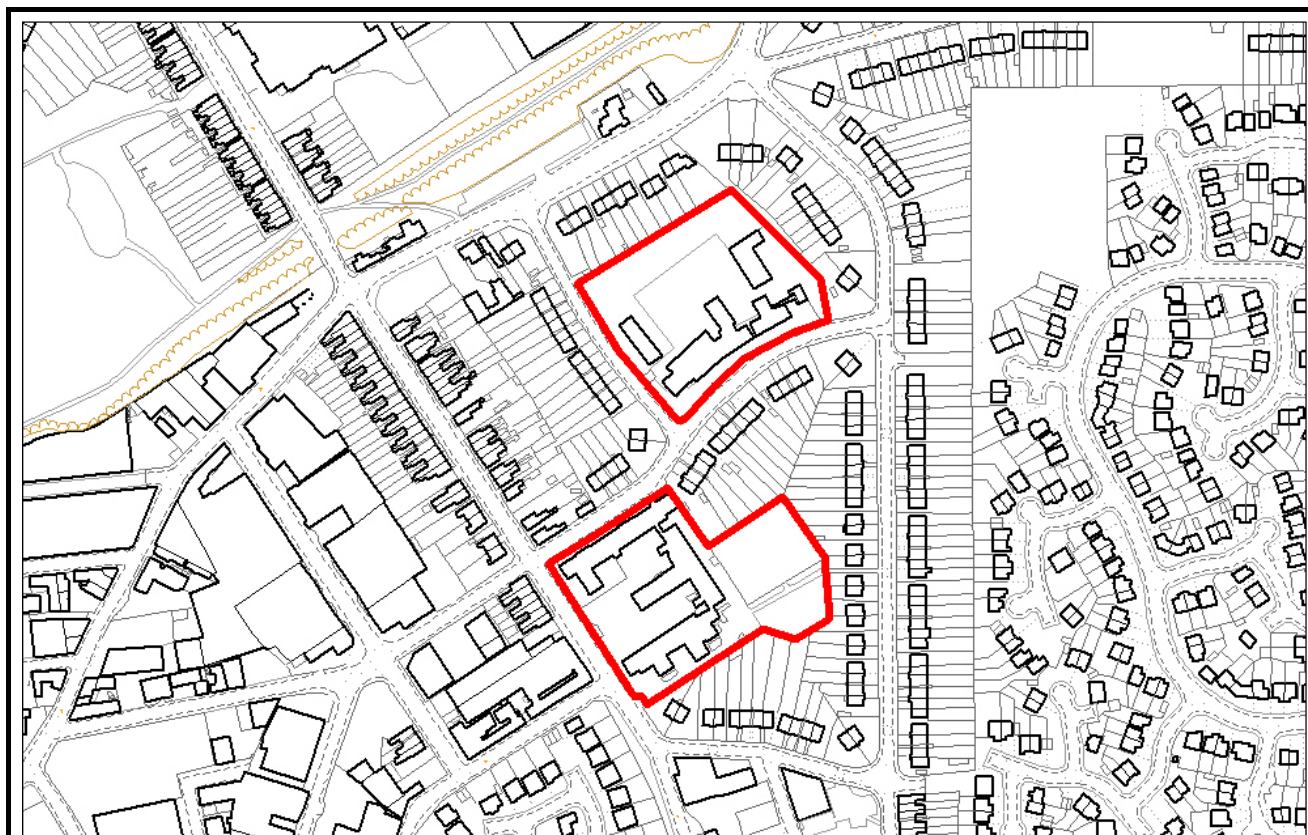
**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652492

**Agent:** Mr. Mark Newall

**Location:** Albion Road and Elm  
Street School Sites, Willenhall

**Expired:** 18/09/2009



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## **Application and Site Details**

This application seeks consent to demolish the two existing schools at Elm Street and Albion Road to make way for a single new school which would occupy both sites (the building on one site with immediate play space, the larger playing areas on the other site). The details are as follows:

**Building Form** – the main building is to be located on the Barcroft site and will run from east to west across the centre of the site, with classrooms opening off either side of the main corridor which runs through its centre (an internal street). The classrooms will look out onto external play areas both north and south. The halls and supporting kitchen and storage accommodation are located at the eastern end of the internal street where access for bin stores, deliveries etc will also be provided, this would be away from the main public access points.

Administration accommodation will be arranged in a T shape across the west end of the internal street which in turn will result in the public entrance near to the corner of Elm Street and Barcroft. This has been specifically located so as to reflect the name of the school. A small car park for disabled persons and visitors would also be provided at this entrance.

At the south end of the admin wing will be a Community Room and associated accommodation. This is again located at the corner of Barcroft and Elm Street, providing prominence and convenient public access.

At the north end of the admin wing will be the nursery and wrap-around facility, with an independent access off Barcroft, and co-located external play areas with the adjacent Reception class. This has been designed with a two storey wing which also looks internally into the first floor of the "internal street" and the mono-pitched roof provides shading to the glass roof of the street. The single storey reception year 1 and 2 classrooms open onto the more sheltered key stage 1 play ground at the rear of the building. The roof of this wing is overlooked by the first floor classrooms and will be covered with a sedum roof to provide a green outlook.

The halls are double storey height and are located to allow them to be opened together or divided for separate use. The hall is the only double height space, and has been designed with a curved roof profile to provide an interesting internal volume. The administration wing will have a lean-to mono pitched roof, with pyramid roofs on the Community Room and Nursery. All roofs are arranged so that the eaves face towards the public highway, reducing the scale and avoiding high, blank walls facing toward the public realm and adjacent properties.

**Boundary Treatment** - The Elm Street site has existing new railings along all the road frontages which would be retained and reused with new gates inserted to match where required.

The Albion Road site has existing brick boundary walls to Elm Street and Albion Road which are also to be retained. The walls contribute to the character of the areas and will be supplemented with railings containing art work where existing gateways are to be blocked up.

**Vehicle Access** - A new staff car park will be provided at the corner of Elm Street and Albion Road. This will provide space for 38 cars. The car park will have secure boundaries and electronic gates that restrict access and provide security. Vehicular access onto the Elm Street school site is restricted. A small visitor's car park with 4 disabled spaces for staff and visitors is provided off Barcroft, immediately adjacent to the main school entrance.

A lay-by drop off is provided by the Nursery entrance on Barcroft. An enclosed bin store will be provided in the service yard, with bins being wheeled to an open storage area within the entrance for refuse pick up from the highway. Deliveries will similarly be trollyed from the highway to the kitchens.

There will be a 20mph school zone in Elm Street, Barcroft and Gough Street, with enhanced traffic calming at the entrance points. A "kiss and walk" or "walking bus" system from the free car park in Stringes Lane will be provided and a 10 mph speed limit along Elm Street, with alternate traffic priority from each direction. Build-out narrowing points will be placed at either end of Elm Street, with road crossing points.

**Pedestrian access** - Public and visitor access into the school will be at the main entrances on the corner of Barcroft and Elm Street. Pupil and parent access to the Nursery will be via a Nursery entrance on Barcroft. Pupil and parent access to the school will be via two pedestrian entrance along Elm Street with internal and external path access to the classrooms at the rear of the building drop-off and pick up of children will be at the external doors of the classrooms.

The playing fields on the Albion Road site will be for formal games lessons and informal play at lunchtime in the summer. Access for pupils will be escorted by members of staff via a pedestrian entrance onto the playing field off Elm Street.

The application is also accompanied by:

3D Perspective Views - illustrative 3D drawings of the proposed buildings

Ground Investigation and Contamination/ Mining Report - this includes a review of the existing desk study information, factual records of the site work carried out with all information collected being used to provide an interpretation of the ground conditions with recommendations on geotechnical design and potential ground contamination risks for the proposed development,

Flood Risk Assessment - Level 1 Flood Risk Assessment

Tree Report – Survey of trees within the grounds of Elm Street Infant School which concludes that redevelopment is achievable without the loss of high grade trees within the existing site and that a tree on the Albion Road site could be justified for removal based on its limited future life expectancy.

Bat and Ecology Report - following a survey of the Barcroft Primary school and surroundings it was concluded that the proposed development would not disturb bats or affect their conservation status nor any nesting birds, there is no evidence to suggest the presence of other protected species such as badgers or great crested newts

Traffic and Transport Statement - prepared on behalf of Walsall Council, the report demonstrates the proposed development adheres to national, regional and local planning policy, the proposed amendments to the local highway network to accommodate the proposed development and measures to be instigated to mitigate any potential highway impacts. It also includes a School Travel Plan from 2008-2009 which will be reviewed.

Acoustic Design and Sustainability Report - baseline noise survey

### **Relevant Planning History**

None specifically relevant to either site however the following is a brief background leading up to the submission of the application.

The existing Barcroft Primary School is located on 2 sites in Elm Street (Infant and Nursery) and Albion Road (Junior). A feasibility study carried out in 2008 by the Council recommended that the Elm Street site should be remodelled as the new Primary school, and the Albion Road site as the staff car park and playing fields. Both sites are of the same area approx 8,600m<sup>2</sup> but only Albion Road had enough existing accommodation to allow temporary decant onto that site. The decant took place at Easter 2009 in preparation for the demolition of Elm Street in summer 2009. Both sites are surrounded on 2 sides by public highways and on 2 sides by residential properties. The layout of the Elm Street site, the new school, has been developed over a period of 6 months which has resulted in an "internal street" plan giving the school the teaching environment that they aspired to, and resulted in a dual aspect building running east west across the centre of the site.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **Unitary Development Plan (UDP)**

GP1 – relates to sustainable development- the location of facilities where they are accessible to everyone and minimise the need to travel.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

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

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

3.9 refers to maximising the re-use of previously developed land.

ENV17 - new planting to be promoted.

ENV 23 – Nature Conservation; proposals must take account of opportunities for nature conservation.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

7.1: Seeks to promote an efficient highway network;

LC1 and 8.3 : Urban Open Spaces to be enhanced and proposals reducing provision will not be permitted unless they redress a deficiency or provide for sport and recreation, both informal and formal and achieving local community aspirations.

8.7 the provision of new education facilities will be encouraged, particularly where accessible to all members of the community.

T7: All development should satisfy the car parking standards set out in Policy T13. All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T13: sets maximum car parking standards

**Regional Spatial Strategy** for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment Policy QE1 – Environment ;Overall, these seek improvements the design and sustainability of the urban areas.

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

#### **Designing Walsall SPD**

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

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

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

DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement- create places that are easily connected, safe to move through;

DW6 – Legibility - new development should contribute to creating a place that has a clear identity;

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

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

#### **Natural Environment SPD**

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

#### **Education SPD**

Sets out the thresholds and contributions sought towards education from residential developments.

#### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section

38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in October/November 2008 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

### **National Policy**

Planning Policy Statement 1 advises that good design is indivisible from good planning, which should contribute positively to making places better for people and high quality, inclusive design for the lifetime of the development, considering the direct and indirect impacts on the natural environment.

Planning Policy Guidance Note 13 - Transport, promotes sustainable patterns of development, which reduce the need for travel, especially by car.

Planning Policy Guidance Note 17 – Open Space, Sport and Recreation- advises a robust assessment of existing and future needs.

Circular 05/2005 (Planning Obligations) is of relevance with regard to the appropriate level of planning contributions that will be sought.

### **Consultations**

**Transportation** – no objections

**Environment Agency** – objects on grounds of inadequate Flood Risk Assessment which fails to meet the requirements of PPS25 and does not provide a suitable basis for an assessment to be made of the flood risks arising from the proposed development

**Pollution Control (Scientific Team)** - no objections

**Pollution Control (Contaminated Land Team)** - no objections in principle however there are concerns that there is a lack of ground gas testing on the sites.

**Access & Disability** - the design and access statement needs to include access with regards to Part M of the Building Regulations

**Sport England** - no objections

**Fire Service** - no objections

**Walsall Children's Services, Serco** - no objections

**Regeneration (Urban Design, Landscape and Trees)** - no objections

**Centro** - no objections

**Severn Trent Water** - no objection

### **Public Participation Responses**

One letter of objection from occupier (10 Knights Close) opposite the existing main entrance to the school on the grounds of dust and noise from the demolition/construction and business disruption.

Councilor Shires requires that the development is constructed to a code level 5 as a minimum.

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

### **Determining Issues**

- Is the location appropriate
- Highways
- Flood Risk
- Playing field provision
- Design and relationship with neighbouring property

### **Observations**

#### **Principle**

The demolition of these two schools to provide a single new unit for both infant/primary education is acceptable on the basis that the sites have been used for educational purposes for many years. The development will also substantially enhance the education environment for the whole school community particularly in this locality. This scheme will also support the ongoing and planned regeneration of the wider Willenhall area.

#### **Transportation**

The applicants have confirmed that the plans referred to in the transport assessment are in fact the plans submitted for consideration. On this basis the transportation officer has no objections to the scheme subject to a number of conditions basically requiring a revised plan. The School Travel Plan needs to be revised. This can be satisfactorily secured by way of a planning condition on any approval.

The applicants will be required to enter into a section 278 agreement for any off site works resulting from the proposed development and the 20 mph zone will require the introduction of a TRO which will require funding necessary for the Highway Authority to advertise the order etc.

#### **Flood Risk**

The Environment Agency have objected to the proposal on the basis that the application does not include a satisfactory and acceptable Flood Risk Assessment (FRA). In particular, the FRA does not provide a suitable basis for an assessment to be made of the flood risks arising from the proposed development and therefore does not comply with the requirements set out in Annex E, paragraph E3 of Planning Policy Statement 25 (PPS 25).

A detailed drainage strategy for the site to include SUDS (Sustainable Drainage Systems) elements with attenuation, storage and treatment capacities is required and the applicants have confirmed that they will be adopting the SUDS approach, the ground investigation survey shows that soakaways will work, they are not increasing the drained area on the site nor will there be an increase in the area of building or



hard surfaces from the existing and that they are incorporating permeable paving and a part green roof.

In view of the above it is considered that the Environment Agency objection could be satisfactorily overcome (probably involving the use of conditions). Therefore the application is recommended to be supported subject to further details being submitted in respect of the Flood Risk Assessment which meet the requirements of PPS25 and provides a suitable basis for an assessment to be made of the flood risks arising from the proposed development.

### **Playing field provision**

Neither site has any existing playing field areas (although in terms of hard play surfaces both sites have quite significant areas) but only the Albion Road site appears to have formal markings for sport such as netball.

The proposals will deliver two dedicated hard surfaced courts for sports in addition to areas for more general play and informal recreation. It also proposes to provide a significant area of new playing field which will greatly enhance the sporting provision which currently exists and is available to the schools.

In addition to external provision, a new hall is proposed which could also have the potential to be used for sporting activity.

The position of the netball pitch is acceptable as it will be accessible and not require walking across the grass playing fields which in wetter weather would result in it becoming contaminated with mud, leading to health and safety concerns.

It is also important to ensure that the new playing field is delivered to a good quality standard, especially given that this site has been previously developed. Sport England have recommend that a condition is attached to any consent requiring the playing fields to be constructed in accordance with the standards and methodologies set out in the guidance note 'Natural Turf for Sport' (Sport England 2000).

### **Design and relationship with neighbouring property**

There have been schools on both the sites for many years and therefore the principle of using them for a single new school over the two sites is acceptable. The siting of the new building off Barcroft will lie across the middle of the site therefore at the furthest point away from residents in Stringes Lane and Elm Street. The design is modern and contemporary and will provide educational facilities for the future.

The new building will achieve a BREEAM rating of very good with aspirations of achieving a rating of excellent this is a condition of capital funding that new build and refurbishment projects achieve a 'VERY GOOD' rating under BREEAM Schools.

It is inevitable that with all demolition and construction works there will be some impact on the amenity of nearby occupiers through noise and dust. However for any development to take place this has to be accepted to a certain degree. In order to minimise any disruption or disturbance to those nearby residents any works involved during the demolition and construction phases will be restricted in terms of times of operation and deliveries and road cleaning etc. This will reduce any potential impact.

### **Summary of Reasons for Grant Subject to conditions and withdrawal of Environment Agency Objection**

The demolition of the existing two schools sites will allow for the provision of a single new unit for both infant/primary education which will substantially enhance the education environment for the whole school community. The scheme will also support the ongoing and planned regeneration of the wider Willenhall area. Any disruption from the demolition and construction of the building will be kept to a minimum by imposing conditions which will restrict times of operation and deliveries and road cleaning etc. the approval of the scheme is therefore in accordance with policies GP1, 2.2, 3.6, 3.7, GP2, GP3, GP4, 3.16, ENV10, ENV14, GP7, ENV32, 3.117, ENV33, 3.9, ENV17, ENV 23, ENV40, 7.1, LC1, 8.3, 8.7, T7 and T13 of the Unitary Development Plan, the Regional Spatial Strategy for the West Midlands, Planning Policy Statement 1, 13 and 17 and Supplementary Planning Documents (SPD) Designing Walsall, Natural Environment and Education.

The submission of additional details will address the deficiency in the existing Flood Risk Assessment and provide a suitable basis for an assessment to be made of the flood risks arising from the development and therefore comply with the requirements of Planning Policy Statement 25 (PPS 25).

**Recommendation: Grant Subject to conditions and withdrawal of Environment Agency Objection**

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

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

2. A revised School Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, within 3 months of commencement of the development. The School travel Plan should advocate public transport, walking and cycling to and from school and should be promoted to pupils, parents and staff. Advice on the School Travel Plan or the Safe Routes to School initiative can be obtained from Kathryn Parr, Walsall Council's School Travel Advisor, on 01922 652 511 or Centro's Sustainable Travel Team can advise on the public transport aspects of School Travel Plans.

*Reason:* To maximise accessibility to the site and give choice of alternative travel modes and in the interests of highway safety.

3. Prior to any development commencing on the site a revised plan shall be submitted to and approved in writing by the Local Planning Authority illustrating the following details

- Drawing SK- 002 shows a zebra crossing on one of the raised tables, this is not acceptable and will need to be omitted.
- Drawings SK – 001 and SK – 002 show 10mph limits, such limits are not legally permitted therefore the signs cannot be introduced and as should be omitted from both plans.
- Prior to the first occupation of the proposed development, existing access arrangements shall be permanently closed, and be constructed to a

specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

- Prior to the first occupation of the proposed development any alterations to existing accesses within the adopted highway shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

- Prior to the first occupation of the proposed development engineering detail of improvements to the public highway/traffic calming measures shall be submitted and approved in writing by the Highway Authority, and an agreement under S278 of the Highways Act 1980 entered into.

- No development shall commence until parking and a turning facility for site operatives has been provided within the application site in accordance with details to be submitted to and approved by the Local Planning Authority, and this provision retained during construction.

*Reason:* In the interests of highway safety.

4. No development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation), has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

5. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition by regular cutting and any areas that fail to establish shall be reinstated;
- (b) planted areas shall be maintained in a tidy condition by regular weeding and litter collection;
- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

*Reason:* To ensure the satisfactory appearance of the development.

6. No demolition works or development shall take place until a scheme for the protection of the retained trees (section 7, BS5837, the Tree Protection Plan) has been submitted, and agreed in writing by, the Local Planning Authority. This scheme shall include;

- (a) plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (para. 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan.
- (b) the details of each retained tree as required at para. 4.2.6 of BS5837 in a separate schedule.
- (c) a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work.
- (d) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837).
- (e) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.
- (f) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837).
- (g) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837).
- (h) the details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area (para. 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground.
- (i) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)
- (j) the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the RPAs of retained trees.
- (k) the details of the working methods to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of "No-Dig" construction.
- (l) the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site.

- (m) the details of the method to be employed for the stationing, use and removal of site cabins within any RPA (para. 9.2.3 of BS5837).
- (n) the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).
- (o) the timing of the various phases of the works or development in the context of the tree protection measures.

*Reason:*To preserve and enhance the visual amenities of the locality in accordance with  
Policy ENV18 of the Walsall UDP 2005.

7. The applicant shall give written notice to the Local Planning Authority of 5 days prior to carrying out the approved tree works and any operations that present a particular risk to trees (e.g. demolition within or close to a RPA, excavations within or close to a RPA, piling etc).

*Reason:*To preserve and enhance the visual amenities of the locality in accordance with  
Policy ENV18 of the Walsall UDP 2005.

8. The following activities must not be carried out under any circumstances:
- a, No fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree.
  - b, No works shall proceed until the appropriate Tree Protection Barriers are in place, with the exception of initial tree works
  - c, No equipment, signage, fencing, tree protection barriers, materials, components, vehicles or structures shall be attached to or supported by a retained tree.
  - d, No mixing of cement or use of other materials or substances shall take place within a RPA, or close enough to a RPA that seepage or displacement of those materials or substances could cause them to enter a RPA
  - e, No alterations or variations to the approved works or tree protection schemes shall be carried out without the prior written approval of the LPA

*Reason:*To preserve and enhance the visual amenities of the locality in accordance with  
Policy ENV18 of the Walsall UDP 2005.

9. All hard and soft landscaping works shall be carried out in accordance with the approved details. Arboricultural work to existing trees shall be carried out prior to the commencement of any other development, otherwise all remaining landscaping work and new planting shall be carried out prior to the occupation of any part of the development or in accordance to the timetable agreed with the Local Planning Authority. Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species, following consultation with the Local Planning Authority, unless the Local Planning Authority gives written consent to any variation.

*Reason:* To preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005.

10. In order to address potential impact from land contamination the following matters shall be addressed:

- i) Prior to built development commencing an additional assessment of ground gas, having regard to current best practice, shall be undertaken. (see Note for Applicant CL1)
- ii) Prior to built development commencing a copy of the findings of the ground gas assessment, together with an assessment of the hazards arising from any ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) 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)
- iv) The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) 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 prior to the development being brought into use. (see Note for Applicant CL3) Reason

*Reason :* To ensure safe development of the site and to protect human health and the environment.

11. Prior to the commencement of use of any part of the development hereby approved a community use agreement shall be submitted to and approved in writing by the Local Planning Authority. The approved agreement shall be implemented within three months of occupation of the development hereby approved, or as otherwise defined in the agreement. The community use agreement shall relate to all sporting infrastructure and address access by non-university users, hours of availability, management, pricing structure, access to changing accommodation and shall include a mechanism for review. It shall be operated in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

*Reason :* To promote community use of this major facility in the area.



12. Prior to any construction works being carried out, details of a work place strategy which will define working practices throughout the construction period of this site shall be submitted to and approved in writing by the Local Planning Authority. The agreed strategy shall be implemented and complied with where relevant before any construction commences.

a) Matters to be considered for inclusion in the working practice strategy are :

- Vehicle access points for construction purposes
- Location and type of wheel washing equipment
- Location of site offices
- Proposed storage compound for materials
- Proposed lorry manoeuvring areas
- Signage to indicate site and directions
- Times of deliveries to the site

b) The strategy should also include any other relevant practices which may affect the amenity of the nearby residents and school. The strategy should relate to duration of demolition, construction or engineering works on the site until the erection of the buildings and laying out of hard surfaced areas and landscaped areas is complete. This includes land reclamation, stabilisation, preparation, remediation, refurbishment or investigation and the siting of plant, machinery or equipment which shall not take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall otherwise only take place between the hours of 07.00 to 19.00 weekdays and 08.00 to 13.00 on Saturdays, unless otherwise permitted in writing by the Local Planning Authority. 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 Holidays and Public holidays for this purpose may be taken to include: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday, and August Bank Holiday Monday.]

*Reason :* To ensure the satisfactory development and functioning of the site and to safeguard the amenities of nearby residential occupants

13. No development shall take place until suitable noise mitigation measures to protect internal and external areas of nearby dwellings have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented.

*Reason :* To ensure the satisfactory development and functioning of the site and to safeguard the amenities of nearby residential occupants

14. No development shall begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved in writing by the Local Planning Authority, the approved scheme shall be implemented fully in accordance with the agreed details.

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

15. No development shall be commenced until details have been submitted to the Local Planning Authority in writing of how risks associated with contamination of the site will be addressed. The details shall be approved in writing prior to any commencement on the site.

- 1) A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

*Reason:* To ensure the protection of controlled waters.

16. Prior to commencement of any works on the site, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

*Reason:* To ensure the protection of controlled waters.

17. Notwithstanding condition 16 above if, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

*Reason:* To ensure the protection of controlled waters.

18. This development shall not be carried out until a schedule of facing materials to

be used in external walls and roofs has been approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

19. No development shall be carried out until details of ventilation and fume control equipment, in respect of the new school kitchen facilities, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before this development is brought into use, and thereafter retained in working order.

*Reason:* To safeguard the amenity of the area.

20. No development shall commence until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with manufacturer's or installers requirements.

*Reason :* To prevent grease entering into the drainage system in the interests of the free flow, capacity and the prevention of pollution of the system.

21. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

*Reason:* To ensure the protection of controlled waters.

22. No refuse shall be stored or deposited in the open on any part of the site other than in a refuse container as shown on the plan attached to this permission.

*Reason:* To ensure the satisfactory provision of off-street parking, appearance of the development and functioning of the development.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site, other than through the access(es) as shown on the deposited plans, without the prior approval of a planning application.

*Reason:* In the interests of highway safety.

24. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be surfaced in tarmacadam (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The areas shall thereafter be retained and used for no other purpose. The parking spaces have been clearly marked out.

*Reason:* To ensure the satisfactory provision of off-street parking, appearance and functioning of the development and in the interests of highway safety.

25. No delivery vehicles shall operate to or from the site outside the hours of 0700 to 1800 Monday to Fridays, 0700 to 1400 Saturdays and not at all on Sundays, or Public Holidays.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and amenity of the area.

26. No external lighting including floodlighting to the sports areas shall be installed on the site at any time unless details have been submitted to and approved in writing by the Local Planning Authority

*Reason :*To safeguard the amenities of the occupiers of adjoining premises.

27. The boundary treatment shown on the approved plans shall be carried out before this development is brought into use and shall be thereafter retained.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to ensure the satisfactory appearance of the development.

28. The approved playing fields shall be constructed be constructed in accordance with the standards and methodologies set out in the guidance note 'Natural Turf for Sport' (Sport England 2000).

*Reason:* To ensure the quality of pitches is of sufficient quality.

#### **Note For Applicant**

CL1 - Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2 - When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance.

*This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.*

CL3 - Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas

membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports.

*This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.*

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ITEM NO: 4.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: Major Application**

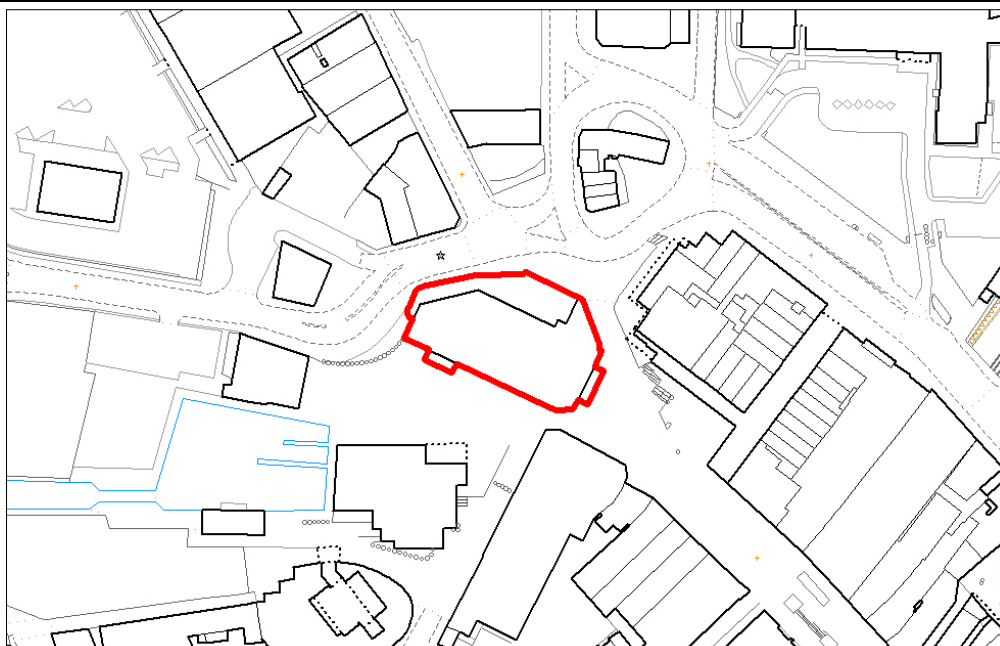
**Application Number:** 09/0705/FL  
**Application Type:** Full application  
**Applicant:** Plaza Malls (Walsall) Limited  
**Proposal:** Change of use from A1 (retail) to form a mixed use building comprising A1 (retail), A3 (restaurant/cafe), A5 (hot food takeaway) and A2 (financial and professional services) on the ground floor. A1 (retail), D2 (Assembly and leisure) and B8 (Storage or Distribution) on the first floor, with alterations to the building including additional fenestration and entrances, an external seating area and extension to form cold store.

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652403  
**Agent:** Pegasus Planning Group  
**Location:** 81-85 PARK STREET, WALSALL, WS1 1LA

**Ward:** St. Matthews

**Expired:** 26/08/2009

**Recommendation Summary:** Grant Subject to conditions



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### **Application and Site Details**

The application site is the former Woolworths building which is currently unused. The footprint of the building is 1,466sq.m.

The application proposes to subdivide the existing retail floorspace into small units in a shopping mall. This does not need planning permission.

The proposals include a hot food element to the rear of the proposed use (cafe style seating is shown, and the application specifies both eat-in and takeaway uses as being part of the application), which will include an outdoor seating area in Gallery Square.

The proposed first floor is a mix of uses which at this time is shown as storage and distribution both in relation to and separate from the retail units on the ground floor. The applicant wishes to also consider the possibility of additional retail use and a leisure facility on the first floor.

In addition to the internal alterations the proposals include alterations to the elevations which include windows and doors to add activity to Gallery Square. A cold store and plant facility measuring approximately 8m by 3m by 2.4m tall will be added to the existing service area. The cold store would have a screening wall in front of the proposed cold store.

### **Relevant Planning History**

There have been a series of permissions for the building, but these are otherwise not directly relevant.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

3.16, GP7, ENV32 and 3.116: seeks the design of developments to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

S1: Defines town centre uses (including retail)

S3: Considers how to integrate town centre developments into the centre (i.e. to an appropriate scale)

S4: Discusses the general principles of development in the town centre

S10: Considers hot food restaurants and takeaways.

S16: Considers retail outlets that use the Internet

ENV32 seeks to encourage high quality design

WA1: Promotes the primary retail frontage as the location for new retail floorspace  
WA3: Recognises the role of other town centre uses  
WA7 V – Identifies town wharf as a development opportunity. The boundary of this runs adjacent to the application site

### **Local Development Framework (LDF)**

The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

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

#### **Designing Walsall SPD**

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;  
DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;  
DW3 – Character -design to respect and enhance local identity;  
DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;  
DW5 Ease of movement- create places that are easily connected, safe to move through;  
DW6 – Legibility - new development should contribute to creating a place that has a clear identity;  
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;  
DBW 10 – new development should make a positive contribution to creating a sustainable environment.

#### **Waterfront SPD**

Running adjacent to this site, seeks to develop a leisure led redevelopment of this area of the town adjacent to the application site. The SPD seeks to build upon the aims and objectives of Policy WA12 of the Unitary Development Plan.

#### **Regional Spatial Strategy for the West Midlands (RSS 11)**

The Regional Spatial Strategy has been revised and republished on 15<sup>th</sup> January 2008 to reflect the first Phase of Review. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. The next phases of review are underway.

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

a) to reverse out-migration accommodating within the Black Country all of the generated household growth from 2011 and meeting at least the levels of housing provision identified in Policy CF3 table 1;

b) to raise income levels raising demand and household incomes (average earnings, GDP per head and reducing unemployment) to the UK average by 2033;

c) to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix by increasing the proportion of social grades A and B to match the national profile by 2033 or earlier; and

d) to transform the Black Country environment by protecting and enhancing the sub-region's environmental and heritage assets and biodiversity and implementing the Black Country as Urban Park concept.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality. The policies also aim to enhance public spaces and urban green space.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

There is no need for this application to be considered under the Conformity Protocol.

### **National Policy**

Planning Policy Statement (PPS)1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPS6 – Seeks to ensure that town centre uses are developed in the most sustainable locations.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

### **Consultations**

**Transportation – No objection**

**Pollution Control (Scientific Team)** – No objection – however suggest Environmental Health are consulted.

**Pollution Control (Contaminated Land)** – No objection

**Fire Service** – No objection - Satisfactory for fire access

**Landscape** – No objection subject to a condition securing additional landscaping in relation to Gallery Square to aid wind mitigation.

**Access Officer** – No objections

**Development Team** – No objection - Now vacant, there are numerous opportunities for the future of the building. For example, it houses one of the largest floorspaces in the town centre which has the potential to attract national retail/restaurant opportunities. The blank frontage that fronts onto Gallery Square has the opportunity to be improved with increased visibility and access.

The applicants are proposing a change of use to form a mixed use building/indoor market with external alterations, and we are pleased to see the Gallery Square frontage of this building opened up to create active entrances.

**Strategic Policy** - We support the application in principle. The proposal would bring a vacant building back into retail and other use. We see no basis in planning policy to try to dictate the kind of retailing provision proposed. The proposal would also enhance the linkages between Park Street, Crown Wharf Retail Park and Gallery Square.

**Inland Waterways Association** – No objection

### **Public Participation Responses**

None

### **Determining Issues**

- Principle of the use
- Implications for Metro
- Relationship to Gallery Square and the proposed external seating area
- Effect on servicing

### **Observations**

#### **Principle of the use**

The building is located in the Primary Shopping Frontage of the town and as such in terms of floorspace is an important building in the context of the town centre and retaining its importance. The building will also link the retail core to the existing Crown Wharf Retail Park and to the redevelopment proposals of the Waterfront and the New Art Gallery.

Within the original planning permission retail uses were allowed without restrictions on subdivision of the retail unit. Therefore the proposed division of the retail on the ground floor to smaller units would not require planning permission.

The inclusion of a hot food restaurant and the potential use of the first floor for ancillary storage, retail and/or leisure use is welcomed, as it would add activity to the building and vitality to the retail core.

The external seating area and the inclusion of additional entrances to Gallery Square would add interest and activity to the Square (in a similar manner to Costa Coffee in the New Art Gallery) and aid in the development of this area of the Waterfront as a restaurant and café location.

On the first floor the proposals to include a leisure use and additional retail would be supported of a town centre use. With regard to the proposals to include B8 (warehousing and distribution) this would be an unusual use in the town centre, however given the limited servicing and upper floor location, it would be unlikely to generate significant levels of HGV movements or to be attractive to an individual occupier. However, linking this to retail use (be it on the ground or first floor) would allow for internet related retailers to utilise this use class and would be more compatible to the retail location and character of the area. A condition is therefore proposed to link the B8 use to retail aspects.

Whilst a large single operator within the building would be beneficial to the town, the role that smaller units can play in enhancing the vibrancy and vitality of a town centre is also recognised.

In addition, there would be no restriction on the use returning to a single operator in the future without the need for planning permission. The physical improvements to the building in removing the blank façade to Gallery Square (which would probably be retained in such a reversion situation) would improve the building.

It is therefore considered that the proposed changes would be appropriate and could potentially add to the retail offer of the town and complement the existing retail core.

### **Implications for Metro**

Based on current plans, the existing building will need to be altered to take account of the proposed 5Ws route which affects the front of the building. At that time the size, shape and design of the building will need to be reviewed. Until that activity is undertaken, there is no reason to oppose the proposal to reuse an existing building, where that re-use introduces no new built form of any significance.

### **Relationship to Gallery Square and the proposed external seating area**

The new shop fronts and entrances to Gallery Square and the inclusion of the external seating area will improve the relationship to Gallery Square.

The proposed windows in the archway to Gallery Square do not reflect the shape or size of the archway, but this reflects limitations on what can be achieved in this location due to the structural design of the building and the management of the internal spaces.

The proposed changes will alter the public movement in and out of the building. The existing fire exits will be turned into entrances and with a further entrance onto Gallery Square the links between the building and the New Art Gallery and Gallery Square will be significantly enhanced.

### **Effect on servicing**

The proposed cold store extension is located within the existing service yard. This would alter the capability of servicing the site with HGV vehicles. Transportation Officers have considered this issue and raise no objection to the proposals.

### **Conclusion**

Overall the application is considered to be acceptable and would allow a prominent building to be brought back into use and create significant improvement to the Gallery Square elevation. The proposals to use the first floor accommodation for ancillary and complementary uses are also considered to be acceptable.

### **Summary of Reasons for Granting Planning Permission**

The application proposals have been considered against the site's location in relation to the town centre and the primary retail core. The proposals introduce improvements and permeability to Gallery Square and would provide an important link between the existing town centre and the proposed Waterfront development. Considering the site's previous use, and no significant additions and the existing service yard it is considered that there would be no demonstrable harm to the surrounding uses or highway safety. Conditions have been proposed to add landscape value, ensure that management of the external seating area occurs and the mechanical ventilation and odour extraction are installed to a high standard.

The proposed development is considered to comply with the relevant policies of the Development Plan, in particular policies GP1, GP2, GP4, GP7, T7, T12 T13, ENV10, ENV14, ENV18, ENV29, ENV32, ENV33, WA1, WA2, WA3, WA7 V, WA12, WA19, S1, S2, S3 and S10 of Walsall Unitary Development Plan (March 2005) and Policies T2, T7, PA1, QE1 and QE3 of the Regional Spatial Strategy for the West Midlands (RSS11), on balance, having taken into account all material planning considerations, the proposal is acceptable.

### **Recommendation: Grant Subject to conditions**

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

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

2. This development shall not be carried out until samples of the facing materials to be used have been approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

3. Prior to the commencement of development details of the chairs, tables, any boundary barriers and other external features (e.g. external heaters, planting pots) within the external seating area shall be submitted to and approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.



4. Prior to the area being brought into use a management plan detailing hours of in which the area shall be used, safety and security issues and management of the area shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Midlands Police. The management plan should also detail procedures for review and monitoring of the use of the area, including procedures for its closure in event of significant anti-social behaviour. The area shall be managed in accordance with the agreed details set out in the management plan, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* In the interests of public safety and reducing anti-social behaviour.

5. There is a public sewer which crosses the site. No buildings shall be erected or trees planted within 5.0m (500 CWS) of this sewer. The applicant may wish to apply to Seven Trent Water to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.

*Reason:* To maintain essential access for maintenance, repair, renewal, and to protect the structural integrity of the public sewerage system.

6. The northern elevation of the proposed cold store and in agreed locations to the south elevation of the existing building (to Gallery Square) shall incorporate suitable climbing plants, for example Parthenocissus tricuspidata 'Veitchii or an alternative agreed species, in a schedule to be agreed in writing by the Local Planning Authority. The planting of such species shall take place within 6months of the completion of the store or to an alternative agreed timescale which shall be submitted to and agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

7. Prior to the commencement of development details of ventilation and odour extraction shall be submitted to and agreed in writing by the Local Planning Authority. The proposed equipment shall, wherever practicable, be incorporated within the structure of the existing building. Should external structures be required, these shall be surface treated to match the existing building or to materials to be agreed with the Local Planning Authority. The agreed scheme shall be implemented in accordance with

8. Prior to the commencement of development details of a grease trap, or other suitable means of preventing fat and oil entering the drainage system, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be installed prior to the premises being brought into use.

*Reason:* To prevent a build up of fat blocking the drainage system

9. a) Notwithstanding the Town and Country (Use Classes) Order 2005 (as amended) or succeeding orders or legislation, the approved use classes shall comprise the following:

On the ground floor:

Retail (Class A1), Financial and Professional Services (Class A2), Hot Food Restaurant (Class A3) and Hot Food Takeaway (Class A5)

On the first floor:

Retail (Class A1), Storage and distribution (Class B8), and Assembly and Leisure (D2)

b) In relation to the ground floor only, the combined gross internal floorspace of non-retail (outside Class A1) floorspace shall not exceed 40% of the total gross internal floorspace.

*Reason:* In order to define the permission and to ensure that the primary retail function of the building is maintained.

10. Unless otherwise agreed in writing by the Local Planning Authority the proposed fire exits shown to Gallery Square shall be made available as access into the store for customers as an entrance into the proposed store.

*Reason:* To create additional and logical footfall into the building and to ensure the satisfactory appearance of the development and adhere to the principles of good urban design.

11. Unless otherwise agreed in writing by the Local Planning Authority, at all times, the internal arrangements of the ground floor uses in the buildings will provide that partitions, internal divisions, bin areas, kitchens, storage areas, rest rooms, and similar works will be at least 2 metres from the glazed outside walls of the building or buildings, such that the active elements of the use define the appearance of that part of the building.

*Reason:* To ensure active frontages and a satisfactory appearance on all faces of the buildings, to ensure a permanently satisfactory urban design solution to the circulation of pedestrians around all faces of the buildings.

12. Notwithstanding the provisions of the Town and Country Planning Use Classes Order 2008 (or any succeeding documents or legislation), any B8 use on the first floor shall be linked to the approved retail use (Use Class A1) on the ground or first floor.

*Reason:* The site is located in the designated Primary Retail Frontage of Walsall Town Centre and as such the proposed use should support the retail function of the Town Centre.

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ITEM NO: 5.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: Major development**

**Application Number:** 09/0585/FL  
**Application Type:** Full application  
**Applicant:** Mr Waseem Rasab

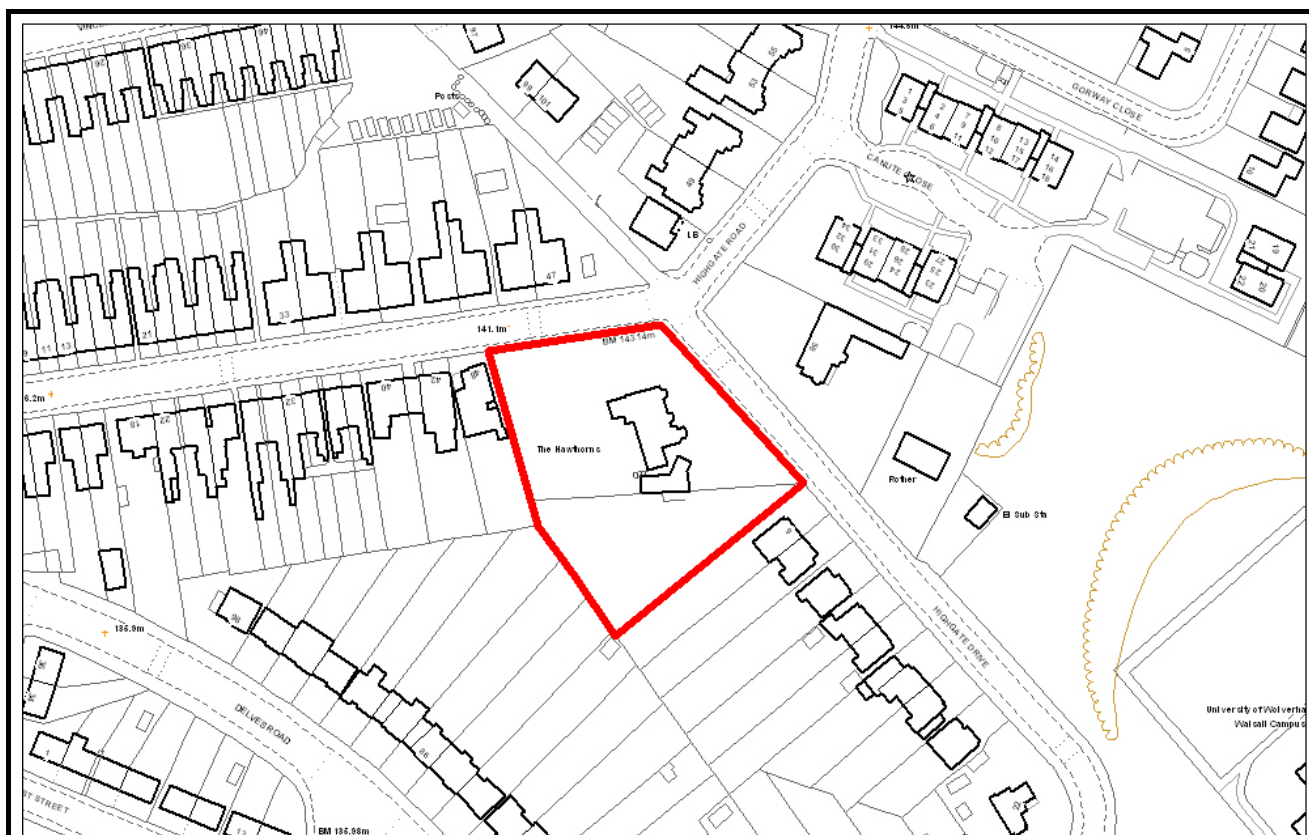
**Case Officer:** Val Osborn  
**Telephone Number:** 01922 652436  
**Agent:** JVH Town Planning  
Consultants Ltd  
**Location:** THE  
HAWTHORNS, HIGHGATE  
DRIVE, WALSALL, WS1 3JW

**Proposal:** Conversion and extension of  
The Hawthorns to provide 9 apartments, a  
new build block of 3 apartments and a  
single detached dwelling.

**Ward:** St. Matthews

**Expired:** 04/08/2009

**Recommendation Summary:** Grant Permission Subject to Conditions and a  
Planning Obligation



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### **Application and Site Details**

The site is the western corner of the junction of Highgate Drive and Highgate Road and proposes;

- alterations and extensions to the existing house named as The Hawthorns, to create 9 apartments;
- the erection of a two and a half storey apartment block adjacent to 48 Highgate Road to create 3 apartments;
- the erection of a detached dwelling in the rear garden of the existing house, facing Highgate Drive;
- a new access off Highgate Drive.

The plans have been amended since the original submission.

The site would be divided into two plots, one for 12 flats at approximately 2000 sq. m , at a density of 60 dwellings per hectare, with 16 parking spaces provided for 12 flats; for the proposed dwelling, an area of 1500 sq m and private drive with garage space for 2 cars, at a density of 6 dwellings per hectare. Overall, the site would be developed at 37 dwellings per hectare.

The Hawthorns is a Locally Listed Building.

A 1.7m to 2m high brick wall, as an original boundary, surrounds the site on all boundaries, including those rear garden boundaries with 48 Highgate Road and 6 Highgate Drive. It is proposed to retain this wall, although this would be by repair and rebuild.

The Hawthorns comprises an early Victorian 2 and 3 storey detached villa extended to the rear and south, sited on a plot that slopes from north to south. The front of the house is 2 storey and the rear and north facing side elevations are full three storeys. The site is divided by a brick wall into a garden related to the house and a triangular area of land that may have been used as garden but which is currently a rough area.

The existing house is a symmetrically bay fronted single dwelling with two storey and single storey wing extensions to the south.. The single storey element is flat roofed and forms part of the front elevation.

The brickwork of the house has been painted white. Original windows, doors and cills have been replaced by UPVC fixtures. The building retains the characteristic low profile slate covered hipped roof though this has been treated with a bitumen covering.

The site currently appears fairly open as the applicant has removed much of the vegetation not protected by Tree Preservation Order on the site. Remaining trees are;

- a group on the southern part of Highgate Drive frontage;
- an individual and large horse chestnut at the corner of Highgate Road and Highgate Drive;
- a group along the southern and western boundaries;
- a central group aligned along the existing boundary wall between the house and the vacant land;
- individual trees nearer to 48 Highgate Road.

All of these remaining trees are protected by TPO.

Levels at the site fall away from road frontages with an overall drop in levels of 3m

across the site from north to south.

A new access is proposed off Highgate Drive, as a shared driveway serving the converted apartments at the existing house, the proposed new house and to the detached apartment block. The existing access at the corner of Highgate Road and Highgate Drive would be closed. A new pedestrian gate would be created in the wall on Highgate Road leading to the proposed block of flats.

Parking for the proposed flats would be at the rear of The Hawthorns, providing 10 spaces in a central courtyard and 5 spaces off the driveway at the north of the site. One further disabled parking space is proposed in front of The Hawthorns.

### **The Hawthorns**

The conversion of The Hawthorns and the related 3 storey side extension would provide 9 apartments, ( 3 one-bed units of which 2 are bed-sits, 6 2-bed units). The side extension would appear as two storey viewed from the front elevation, with natural light to basement kitchens from a light well, excavated and set behind a parapet of railings on the front elevation to the existing house. The proposed roof has a pitch and profile similar to the existing house, with roof materials proposed as replica slate, for the extension and to refurbish The Hawthorns.

### **The detached block adjacent to 48 Highgate Road.**

The proposed detached three storey block of three apartments would be nearest to 48 Highgate Road, set 6m behind the 2m wall boundary on Highgate Road and on the site of a protected sycamore (T8). The west facing gable wall would be a blank wall with 2 roof lights for the second floor flat facing west.

The front elevation would be Edwardian in style, with a central 2 storey bay under a full gable and the third floor flat in the roof void having a large window above the bays. The rear elevation facing south would have double door sized windows with false balcony railings to lounge/dining/kitchen rooms, overlooking the car park. The east facing elevation would have similar bays to the front elevation and gables windows for the one-bed flat in the roof void at second floor

### **The detached house**

The detached 5-bed house, sited to the south of The Hawthorns, would be set back 17m behind the Highgate Drive boundary wall, at a similar ground level to the frontage group of protected trees including a lime and beech (T1-T6 ).

The house would have a double fronted gable elevation with window headers at first floor level with eaves, and a detached double garage to the south between protected trees.

The application is supported by a Design and Access Statement, Habitat and Bat Survey and Tree Survey.

### **Relevant Planning History**

08/1393/FL/ – conversion of existing building to 9 apartments (including extensions) and new building to create 3 apartments and one new house.- Refused 17 December 2008 for reasons of poor design, impact on 48 Highgate Road, lack of provision for satisfactory access and bin stores, failure to ensure protection for TPO trees and inadequate bat survey, and failure to agree 106 contribution requirements.



07/2760/FL/W6- erection of new block and conversion of existing house to provide 12 flats, and one detached dwelling, withdrawn 16<sup>th</sup> September 2008.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from Planning Services Reception and on the Planning Services Website)*

#### **Unitary Development Plan**

2.2, 2.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided, to strengthen and diversify the economy of the Borough and promote economic revitalisation.

GP3: planning obligations will be used, as appropriate, to secure the provision of any on or off site infrastructure, facilities, services or mitigating measures made necessary by a development.

ENV17, ENV18, 3.64: encourages new planting as part of landscape design and seeks to protect existing vegetation.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV28; Local List of buildings of architectural interest.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted, particularly in locations such as visually prominent sites. Designing out crime' through design, layout, landscaping and boundary treatments.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

6.3 & H3: Encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

6.25 & 6.30 refers to windfall sites that come forward for redevelopment other than as development plan allocations.

H9: net density of residential development should be at least 30 dwellings per hectare. Densities exceeding 50 dwellings per hectare will be encouraged on sites located at major transport corridors.

7.5, 7.52 and 7.36, PPG13: parking policies should be used to promote sustainable transport choices and reduce the reliance on the car by improving public transport.

T7: states that all development should satisfy the car parking standards set out in Policy T13.

T12: for residential developments the walking distance should be no more than 400 metres to a bus stop.

T13: car parking standards

1, 2 & 3 bedroom houses      2 spaces per unit

4 bedroom houses and above 3 spaces per unit

**Supplementary Planning Document “Designing Walsall”** (February 2008) Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process. It identifies eight key urban design principles for consideration including sustainability- environmental, social as well economic, safe and welcoming places, character, continuity, ease of movement, legibility, diversity and adaptability. Policy

DW3 -Local Character Guidance is also included, plus Numerical Guidelines for Residential Development. The latter identifies privacy and aspect distances between dwellings including 13m separation between habitable room windows and blank walls exceeding 3 metres in height, and levels of amenity space to be provided at 20 sq m per flat. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **Supplementary Planning Document for Urban Open Spaces**

Identifies the requisite local standards and contributions that developers will be required to make towards provision and improvement of open spaces.

The application proposes 12 flats and therefore contributions to the provision of Urban Open Space are required - £17,525.00

**Conserving Walsall's Natural Environment SPD** – advises on the information requirements and survey standards for protected species to accompany planning applications.

### **Regional Spatial Strategy**

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance. Overall the strategy promotes sustainable regeneration of previously developed land, a high quality environment and sustainable development capable of being accessed by a variety of transport modes. It contains a policy relating to the maintenance of a portfolio of employment land (PA6) and one that deals with housing and employment land (UR1B).

### **National Policy**

PPS1 Delivering Sustainable Development and Supplement– Emphasises the need to reject poor design and the need for sustainable development.

PPS3 Housing - Promotes sustainable development and the efficient use of previously developed land. It promotes the need for well designed new housing developments. Consideration of design and layout must be formed by the wider context.

PPS9 Biodiversity & Geological Conservation – seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology and contribute to rural renewal and urban renaissance.

PPG13 Transport - Promotes sustainable patterns of development, which reduce the need to travel, especially by car.

Other relevant policy guidance includes PPS23 Planning and Pollution Control, PPS24 Planning and Noise, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention.

### **Consultations**

**Transportation** – No Objections, subject to conditions to secure satisfactory access, parking and arrangements for the construction phase of the scheme.

**Conservation** - 'The Hawthorns' is a locally listed building. The building is a Victorian villa located amongst leafy, spacious grounds. The proposed plans are an

improvement to the previous ones submitted, certainly in regards to the proposed materials. The restoration of the brickwork and reinstatement of timber windows is very much welcomed, though further information on how this will be done would be welcomed, such as the method of cleaning the brickwork and the finish of the windows. The materials of the new build is better, reflecting those used on the Hawthorns, as well as the design of adjacent buildings, such as the roof profiles. Conditions to clarify these matters are recommended.

**Natural Environment – Ecology;** The updated protected species report by Clarke Webb Ecology Limited dated 16 June 2009 is satisfactory and there are no ecological reasons for the refusal of this application. Conditions are recommended to enhance habitats.

**Natural Environment – Arboricultural Officer;** No Objection. The applicant has demonstrated, to a sufficient degree, that the construction of the detached dwelling and the associated access arrangements can be constructed with minimal impact on the existing, protected, trees.

**Pollution Control Scientific Team:** No objections, subject to measures to address noise issues arising from construction and hours of work limitations condition, as recommended.

**Pollution Control Contaminated Land Team –** No objections. No information is supplied with the application about any contamination or ground gas issues on the site. Conditions in relation to works being implemented to investigate and remediate any localised ground contamination and ground gas issues are recommended.

**West Midlands Fire –** satisfactory access for service vehicles, providing gates open to 3.1m wide.

**National Grid –** negligible risk.

### **Public Participation Responses**

Neighbours have been consulted on the amended plans. Responses will be reported in the supplementary paper.

In relation to the original plans, and earlier revisions, 135 objections have been received from people in the area (though some people have written more than once), setting out the following points

- the proposal should reflect the imminent extension of the Highgate Conservation Area
- area is already being damaged by large extensions – this adds to the problems
- new entrance / exit is a danger to traffic (blind location near to junction, on crest of a hill)
- significant increase in traffic – Highgate Road is a rat run and drivers speed
- local councillors are pressing for Highgate Road to become one way
- insufficient parking provided
- could mean loss of existing on-street parking, intensifying existing parking problems in Highgate Road
- proposed new buildings would be very close to adjoining houses
- sewers and drains are not capable of accepting the loads

- design of new block of flats is inappropriate
- new block of flats towers over neighbours and affects light to house adjoining
- loss of even more trees is unacceptable, and replacements will take a long time to be effective
- previous owner was refused permission for good husbandry – they have contributed to decline of trees and felling
- replanting with silver birch unwise – should be more varied planting regime
- area has a high water table resulting in floods
- proposed new house is too large and too stark a contrast with The Hawthorns – destroys this piece of history
- house and swimming pool impacts adversely on adjoining house (including loss of light)
- excavation for basement windows will be a noise / disruption issue (large machines, noise, mess)
- The Hawthorns has been modified by changes such as UPVC windows – this is not allowed on this Locally Listed Building – nor are the proposed changes consistent with that status
- Owners have deliberately left the garden to deteriorate – it could be restored to previous wildlife value
- Bats used to roost in stable block but have been prevented from entering
- Other wildlife is on site and needs protecting – council should commission its own studies of this subject and others not rely on developer
- Bin collection would mean a large lorry entering the site
- Amenity space adjacent front of No. 48 is unacceptable because it will impact on 48
- Scheme should be refused as on previous occasions
- Reduction in height of boundary wall will destroy character of area
- Why do we need more property (to be rented out) when there is so much already empty in the area
- Flats will encourage a transitory population

Highgate Neighbourhood Watch have also objected on the basis that the scheme is at odds with the nature of the site, and will reduce road safety. The access point is dangerous, and the parking inadequate

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

### **Determining Issues**

Addressing the previous reasons for refusal in respect of :-

- Principle of the development
- Design
- Landscaping
- Habitat issues
- Access

### **Observations**

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

The scheme would involve the development of garden land surrounding an existing house and the development of land currently vacant and semi-derelict. Whilst policy H3 supports the reuse of such sites, this is subject to the provisions of other policies of the Development Plan.

Policy H9 sets suitable density range of 30-50 dwellings per hectare (dph). The site is divided between the proposed flats site ( 2000 sq m and 60 dph ) and the proposed house (1500 sq m and 6.6 dph ). Overall the density would average at 37 dwellings per hectare. The overall layout would provide a reasonable residential environment for occupiers, although the constraints of tree preservation and adjacent buildings are recognised in this assessment.

The principle of the redevelopment of the site is therefore acceptable, subject to detailed issues.

The amenity space for the flats is a complex shape, because of the trees on the site, and the car parking. The trees will make it shady, but it is adequate in area compared to the Designing Walsall space guidelines, and overall is judged to be acceptable.

### **Design – considerations for the proposed block of flats**

The character of the locality is established by space and setting for buildings. Terraced houses on Highgate Road address the street with small front gardens. The proposal would locate the three storey detached block 6m back from the retained boundary wall. This would be in contrast to the local pattern. However, the building is set 6m back and arranged to mitigate impacts on the side ground floor window to a kitchen / dining room at 48 Highgate Road. This side window provides the only window to the room and the two storey side elevation to the front bays would be otherwise be very close. The proposed building is to one side, and has been relocated so that the side wall is clear of the window. The new building would be approximately 7.5 metres from the window.

Designing Walsall expects 13 metres between a habitable room window such as this, and a blank gable wall. It also refers to a 45 degree code, though this is not directly relevant, as it targets the relationship between adjoining houses, which are side by side.

The window is likely to receive daylight from the east and the mass of the proposed three storey block lies to the south-east of the window. This was an issue in the previous refusal. However, the present proposal improves on the previous application significantly by setting the new building a little further away. Overall, this is no longer seen as a reason to resist the proposal.

The issue arises, in part, because the siting of the new block is constrained by a window on the rear elevation of 48 Highgate Road. This block can not be moved further to the rear to improve its effect, without impacting on other parts of No. 48.

The siting of the block would locate habitable room windows at 20m separation from the overlooking ground and first floor rooms at 45 Highgate Road (across the road). This relationship is further apart than the characteristic street design of Highgate Road. However, the degree of enclosure offered by the retained boundary walls and the siting of the proposed block at 6m from behind the retained boundary wall, will retain elements of the character sufficiently so there is no justification for a refusal.

### **Design - conversion of the Locally Listed building**

The proposal retains an existing extension to the Hawthorns and is sympathetic in the refurbishment proposed with the replacement of a bitumen- coated roof with a replica slate material.

The proposed side extension is smaller in scale than The Hawthorns and its bulk is reduced visually by the ground floor being dug out to create a basement through to the front of the building, with light wells for the 3 basement apartments. Each of the basement units will have large windows on rear elevations overlooking designated private amenity space, so as to provide a private outlook. The provision of these basement dwellings is therefore considered acceptable.

Objectors have referred to Highgate Conservation Area. The application site and its locality are currently outside the Conservation Area. However the Council is carrying out an appraisal which reviews the boundaries of the Area. At this stage the Appraisal is at Public Consultation stage and any revisions to the Area could include The Hawthorns and its wall boundaries. It is recognised by officers and the applicant that the frontage walls are an important attribute of the character of the area. They are shown to be reconstructed (to resolve structural issues) and conditions to safeguard their retention are recommended.

### **Design – the proposed house**

The double fronted bay window design for the new dwelling replicates the bays of the existing house at ground floor. The gables of the roof design reflect the gabled bays of the 1950's houses along Highgate Drive, within which context the building will be seen from the street. The existing boundary wall is to be rebuilt/ retained and the large group of trees protected by Tree Preservation Order will also be part of the visual context for the scheme. The design is therefore considered acceptable.

The design and layout has been carefully balanced such that the new house will not generally be visible from the street. It avoids the trees on the site that are important, or makes satisfactory arrangements.

### **Landscape and Natural Environment - Trees**

The scheme provides a landscape setting for the development that retains key trees. The removal of a tree to enable the siting of the proposed block of three flats is considered acceptable, as it would be replaced by 8 new trees on the street frontage and a new lime tree within the garden area. The Tree officer considers the proposals to be acceptable and his views are supported. The scheme is considered acceptable, subject to appropriate conditions to protect trees and their root protection areas.

The design of the designated bin stores, sited behind the retained boundary walls would be reserved by condition for approval, as recommended.

### **Habitat issues**

The comments of the Nature Officer are supported and a further survey in optimal temperatures and time of year has been undertaken. Conditions are recommended to secure an environment attractive to wildlife, by planting and bat boxes.

Comments from local residents have alleged that the site may be a habitat for other protected species. Following a careful search, the Nature officer has concluded that this is unlikely and the determination of the application should not therefore be held up for a further survey of other species.

### **Access**



Transportation suggest conditions related to the development such as the surfacing of access and parking areas, pedestrian visibility, cycle and bin provision and these are recommended.

### **106 Contributions**

The applicant has agreed to make the contribution in respect of Urban Open Space , at £17, 525.00.

### **Summary of Reasons for Granting Planning Permission**

The proposals provide a high quality design and layout, which would provide dwellings in character with the locality. The proposal makes good use of previously developed land within a sustainable location. The impact on the amenities of the occupiers of 48 Highgate Road is considered to be within acceptable limits. The applicant proposes a tree planting scheme that would replace trees to be felled and previously felled at the site, so as to enhance the street scene and amenity, and of a species and size that are satisfactory. The proposal will safeguard the character and built form of the Locally Listed building.

Neighbour concerns have been considered. The site has been carefully examined. A detailed report on the site has been considered. The site is not considered to be a habitat for any protected species.

Conditions to limit hours of working and the arrangements for working at the site are considered appropriate to safeguard amenity for nearby occupiers during construction phases.

The trees remaining at the site are subject to a Tree Preservation Order and new planting will be similarly protected.

The proposals would accord with the aims and objectives of the development plan, in particular policies GP2, GP3, GP7, 3.16, ENV17, ENV32, ENV33, H3, H9, H10, T13, of Walsall's Unitary Development Plan (2005), and Supplementary Planning Document: Designing Walsall (2008).

### **Recommendation: Grant Permission Subject to Conditions and a Planning Obligation**

Grant subject to conditions, the receipt of no further new material considerations arising from consultations and the completion of 106 legal agreement in respect of contribution for Urban open Space;

1. This development must be begun not later than 5 years after the date of this decision.

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

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

Site Plan, Drawing number JMD270 – 01G, received 23 July 2009.

Proposed Layout Drawing number JMD270 – 03D, received 23 July 2009.

Proposed Layout Detached Dwelling, Drawing number JMD270 – 05C, received 23 July 2009.

Proposed 3 Apartment block, Drawing number JMD270 – 04F, received 23 July 2009.

Site sections sheet 1, Drawing number JMD270 – 07A, received 23 July 2009.

Site sections sheet 2, Drawing number JMD270 – 08B, received 23 July 2009.

Site sections showing boundary relationship to sycamores on boundary, Drawing number JMD270 – 09, received 23 July 2009.

Proposed Street elevation/section, Drawing number JMD270 – 06D, received 23 July 2009.

*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. No built development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The facing brick shall be of bricks to match in colour, dimensions and texture the bricks of the historic building. Notwithstanding any description/details in the application documents, a sample shall be provided for inspection and approval by the LPA and a sample panel showing the pointing of the external brickwork to be used in the construction of the walls of the building shall be provided for inspection and approval by the Local Planning Authority. A sample of the artificial 'Eternit' slate roofing material and the coping stone material shall be provided for inspection and approval by the LPA before the works are commenced. Thereafter, the works shall be undertaken in accordance with the approved details. The development shall be completed with the approved details and retained as such.

*Reason:* To ensure the satisfactory appearance of the development.

4. Notwithstanding the submitted plans, no development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation), identifying root protection areas and other requirements for existing, retained trees, for tree planting, all boundary fencing and surface treatments including boundaries to car parking areas, railings, fences, pedestrian access gates and other walls, design for access gates, and all planting, with the proposed boundary fencing beneath existing trees, and details of hard landscape treatments, have been submitted to and approved in writing with the Local Planning Authority. The landscaping scheme shall include full details and specifications of plant material together with detailed locations of the species proposed, full details of the management of the site and full details of hard landscaping. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority, and shall be retained as such, except in so far as other conditions may so require.

*Reason:* To ensure the satisfactory appearance of the development.

5. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years months from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition and any areas that fail to establish shall be reinstated;
- (b) planted areas shall be maintained in a tidy condition;

- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

*Reason:* To ensure the satisfactory appearance of the development.

6. No works or development shall take place until a scheme for the protection of the retained trees (section 7, BS5837, the Tree Protection Plan) has been agreed in writing with the LPA. This scheme shall include:

- a, a plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (para. 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan.
- b, the details of each retained tree as required at para. 4.2.6 of BS5837 in a separate schedule.
- c, a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work.
- d, written proof of the credentials of the arboricultural contractor authorised to carry out the scheduled tree works.
- e, the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837).
- f, the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.
- g, the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837).
- h, the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837).
- j, the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)
- k, the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the RPAs of retained trees.
- l, the details of the working methods to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of "No-Dig" construction.
- m, the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site.

- n, the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity.
- o, the details of the method to be employed for the stationing, use and removal of site cabins within any RPA (para. 9.2.3 of BS5837).
- p, the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).
- q, the timing of the various phases of the works or development in the context of the tree protection measures.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005.

7. The applicant shall give written notice to the LPA of 5 days prior to carrying out the approved tree works and any operations that present a particular risk to trees (e.g. demolition within or close to a RPA, excavations within or close to a RPA, piling, craneage).

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005.

8. In this condition a “retained tree” is an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.

- a, No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the LPA. All tree works shall be carried out in accordance with BS3998.
- b, If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the LPA
- c, Prior to the commencement of works on site and after the installation of the tree protection in accordance with the approved details, the Council’s arboricultural officer shall be notified to allow a full inspection of the protection measures.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005.

9. The following activities must not be carried out under any circumstances:

- a, No fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree.
- b, No works shall proceed until the appropriate Tree Protection Barriers are in place, with the exception of initial tree works.
- c, No equipment, signage, fencing, tree protection barriers, materials, components, vehicles or structures shall be attached to or supported by a retained tree.

- d, No mixing of cement or use of other materials or substances shall take place within a RPA, or close enough to a RPA that seepage or displacement of those materials or substances could cause them to enter a RPA
- e, No alterations or variations to the approved works or tree protection schemes shall be carried out without the prior written approval of the LPA.

**Reason:** To preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005.

10. No works or development shall start on site until an Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. These details shall include the employment of an Arboricultural Consultant to monitor all tree works and protection measures throughout the course of development and may also include details of:

- a, induction and personnel awareness of arboricultural matters
- b, identification of individual responsibilities and key personnel
- c, statement of delegated powers
- d, timing and methods of site visiting and record keeping, including updates
- e, procedures for dealing with variations and incidents
- f, procedures for monthly reporting to be sent to the Local Planning Authority.

The development shall then be carried out strictly in Accordance with the approved Arboricultural Method statement.

**Reason:** To ensure the survival and long-term retention of the trees covered by a Tree Preservation Order

11. Notwithstanding any description/details in the application documents, the windows for the proposed conversion of the Hawthorns and its related extension and the proposed detached block of three flats shall be of painted hardwood timber set within 100mm recess within the brickwork.

**Reason:** To ensure the satisfactory appearance of the development.

12. Before any work is commenced, the details of the type and colour(s) of the protective finish to be used on external timber joinery and a method statement shall be submitted in writing, stating how the paintwork shall be removed from the facing brickwork of the locally listed building shall be agreed in writing with the Local Planning Authority.

**Reason:** To ensure the satisfactory appearance of the development.

13. Before development commences a detailed plan shall be submitted to the Local Planning Authority which identifies the existing heights of the boundary wall to be retained on the boundaries to the site, together with details of the existing and proposed coping and capping stone materials to be re –used for the restoration of the boundary wall. The existing bricks, cappings, copings and pier cappings forming part of the boundary and curtilage walls shall be carefully taken down with demolition work carried out by hand or by tools held in the hand other than power driven tools, and the materials protected and stored for later re-erection or reuse at the site.

**Reason:** To ensure the satisfactory appearance of the development.

14. The road hump shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority before development commences.

*Reason:* In the interests of highway safety.

15. Prior to the first occupation of the development, the proposed vehicular and pedestrian gated entrances, footway crossings, the alterations to the existing access, the new proposed access and car parking, shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority. The parking and access areas shown on the approved plans shall be fully consolidated, drained and surfaced with a material approved in writing with the Local Planning Authority and available for use prior to first occupancy. The parking and access areas shall be retained and available for such use.

*Reason:* To ensure the satisfactory completion of the development and compliance with the requirements of the Highways Act 1980.

16. Unless otherwise agreed in writing by the Local Planning Authority, development shall not begin until parking and a turning facility for site operatives has been provided within the application site in accordance with details to be submitted to and approved by the Local Planning Authority, and such provision shall be retained and kept available during construction and completion of the development.

*Reason;* To prevent indiscriminate parking in the interest of highway safety.

17. Prior to built development commencing a desk study and site reconnaissance, shall be conducted to identify the potential for contaminants and/or ground gases likely to present a risk to proposed structures or future occupants of the development to be present on site. Results of the desk study and site reconnaissance shall be submitted to and agreed in writing prior to built development commencing. (see Note for Applicant CL 4). In the event that the desk study and site reconnaissance indicates the potential presence of contamination and/or ground gases on site. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

*Reason;* To ensure safe development of the site and to protect human health and the environment.

18. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

*Reason;* To ensure safe development of the site and to protect human health and the environment.

19. 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). The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

*Reason;* To ensure safe development of the site and to protect human health and the environment.

20. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part ii) of this condition is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

*Reason;* To ensure safe development of the site and to protect human health and the environment.

21. 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 prior to the development being brought into use. (see Note for Applicant CL3).

*Reason;* To ensure safe development of the site and to protect human health and the environment.

22. No development shall commence until detailed elevations and plans for the proposed garage and refuse bin storage building have been submitted to and approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

23. No development shall commence until proposals to incorporate bat roosting features into the proposed buildings have been received and approved in writing by the Local Planning Authority. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* to conserve local bat populations.

24. No development shall commence until a landscape scheme to enhance the site for bats has been received and approved in writing by the Local Planning Authority. The scheme shall introduce tree planting along the northern boundary of the site as well as providing other trees, shrubs and herbaceous plants to provide shelter for bats and their insect food. The approved scheme shall be implemented in the first planting season after any part of the development is brought into use and retained thereafter.

*Reason:* to conserve local bat populations.

25. No development or site clearance works shall commence until a method statement for the clearance of the site has been received and approved in writing by the Local Planning Authority. The method statement shall incorporate the recommendations made in the Protected Species Survey report by Clarke Webb

Ecology Limited dated 16 June 2009. Site clearance shall be carried out in accordance with the approved method statement.

Reason: to conserve local protected species populations.

26. No development shall commence until proposals to incorporate bird nesting boxes into within the development have been received and approved in writing by the Local Planning Authority. The proposals shall detail the design of the boxes, the target species and their locations (including height above ground level) within the application site. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

Reason: to conserve local bird populations.

27. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. 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 safeguard the amenity of the occupiers of surrounding properties and ensure that the development minimises the risk of pollution.

28. Collections, deliveries or despatches to and from the application site shall not take place on any Sunday, Bank Holiday or Public Holiday\*, and otherwise shall only take place between the hours of 07.30 to 17.00 weekdays and 08.00 to 13.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority.

Reason; To safeguard the amenity of the occupiers of surrounding properties and ensure that the development minimises the risk of pollution.

29. Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

Reason; To ensure that the development is provided with a satisfactory means of drainage as well as to reduce risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

30. The proposed access gates shall provide an opening of 3.1m to allow for access to the new 3 floor apartments.

Reason; In the interests of the safety of occupiers of the flats and the ensure satisfactory access takes account of trees protected by Tree Preservation Order in the vicinity of proposed gates.

31. Before development commences detailed design for the road hump shall be submitted to and approved in writing by the Local Planning Authority. The road hump shall be constructed to the approved specification before the development is brought into use.

*Reason:* In the interests of highway safety.

32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008, or succeeding Orders, the erection of gates, walls, fences or other means of enclosure, as defined at Part 2, Class A, B or C shall require the expressed approval of the Local Planning Authority as an application for planning permission.

*Reason:* To ensure the satisfactory appearance of the development and safeguard the amenity of future occupiers of the dwellings hereby approved.

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ITEM NO: 6.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

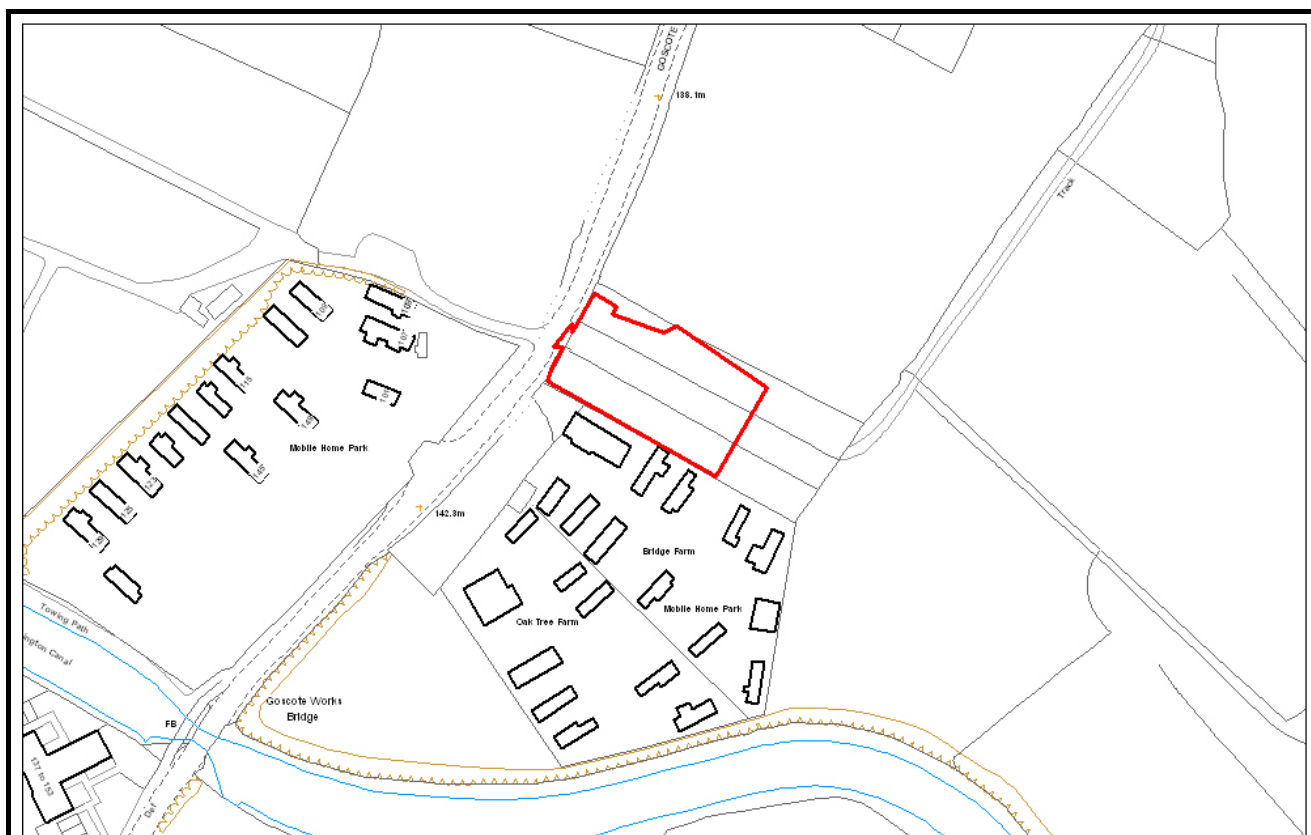
**REASON FOR BRINGING TO COMMITTEE: Departure from the Development Plan**

**Application Number:** 09/0067/FL  
**Application Type:** Full application  
**Applicant:** Mr J.W. Sketchley  
**Proposal:** Change of use of land to form  
a showmens permanent family yard

**Case Officer:** Alison Deakin  
**Telephone Number:** 01922 652487  
**Agent:** Mr Nick Baseley  
**Location:** LAND TO THE EAST OF  
GOSCOTE LANE (ADJ. BRIDGE  
FARM SHOWMENS  
SITE), PELSALL, WALSALL  
**Expired:** 07/05/2009

**Ward:** Blakenall

**Recommendation Summary:** Grant Subject to Conditions Subject to Referral to  
Government Office



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### **Application and Site Details**

The proposal is for change of use of vacant pasture land to a showmen's permanent family yard. The proposal is for provision of two caravans on the land plus creation of a crushed and rolled limestone roadway and vehicle storage area. There is a mix of mature trees and hedgerow planting along three boundaries of the site and an existing gated entrance off Goscote Lane. A close boarded fence has already been erected around the northern and eastern boundaries of the site.

The site falls within the Green Belt and Goscote Wedge Site of Local Importance for Nature Conservation (SLINC). A Tree Preservation Order covers the site but there are only trees around the perimeter of the field and hedges to the front boundary and boundary with Bridge Farm caravan site. It is located on the eastern side of Goscote Lane to the north of existing Showmen's permanent quarters at Bridge Farm and Oak Tree Farm. The applicant currently resides on another existing Showmen's Guild site on the opposite side of Goscote Lane. Beyond these sites to the north and east is open countryside. Other than these existing Showmen's sites the nearest residential properties are Goscote House Farm, Fernleigh Farm and Field House Farm over 100 metres to the north. There is access to an allotment site immediately opposite the application site. The site area is 0.14 hectares.

The proposal is for the applicant and his brother to reside at the site with their vehicles, rides and fairground equipment which comprises the following:

- 2 static caravans
- 1 touring caravan
- Helter Skelter ride
- Trampolines
- Ghost Train
- Pirate Ship
- 2 lorries
- 2 4X4 pick up trucks

The applicant is a Travelling Showman and has strong traditional and family ties to the local area as he currently lives on the established Showmen's Guild Site with his wife and family. He moved onto the site when he was only three years old, 25 years ago. The plot he resides at is rented on an annual basis with no automatic right to stay the following year. It is owned and operated by the Showmen's Guild of Great Britain and primarily reserved for retired Showmen. Although the applicant's family have been permitted to stay at this site, should retired Showmen seek residency on this site, they would take priority over the applicant who would be forced to seek alternative accommodation.

The Showmen's Guild site is fully occupied and the applicant's family pitch is of limited size. The applicant's sister has reached an age where she needs privacy and this is provided by an additional touring caravan used as an annex to the main residential caravan. The applicant has also recently married and will have to vacate the caravan so that his sister's needs are able to be accommodated yet there is no more space to accommodate the family growth.

In the absence of any security of tenure on the Showmen's Guild site and in the knowledge of his own future plans and needs of his family the applicant has over recent years made enquiries to local councils, councillors and estate agents in search of suitable and available alternative premises for purchase. He has also enquired on other Showmen's sites as to whether there was space to accommodate

his family needs but without success. The applicant submits that Showmen are unable to compete with other purchasers within existing towns and villages where competition for land has led to increased prices. Inevitably suitable and available land for Showmen's permanent quarters can only realistically be sought outside existing towns which in this part of the country are almost always constrained by planning policy. As the characteristics of a Showmen's site include residential and industrial elements (store and repair of fairground equipment) it is also difficult to find a site suitable in established residential or industrial areas due to the potential conflict between uses. The proximity of the proposal to the existing Showmen's quarters is therefore considered logical.

The applicant has purchased the site but this should not be taken as an indication that he intends to occupy it without the benefit of planning permission.

The applicant has carried out consultations with the West Midlands Section of the Showmen's Guild of Great Britain and local neighbours at Field House Farm, Fernleigh Farm, Bridge Farm and the Barley Mow Public House, whose letters of support are attached to the proposals.

The Design & Access Statement concludes that there is a significant need for an additional site for Travelling Showpeople within the Borough, as identified in the Gypsy & Traveller Accommodation Needs Assessment (GTAA), there is a lack of alternative sites within the area and the applicant has strong family ties to Pelsall that amount to very special circumstances necessary to justify what would otherwise be inappropriate development in the Green Belt. The site is located close to the urban boundary and benefits from a wide range of local facilities such as shops and schools. The site is a modest yet logical extension to the three existing sites that adjoin it. There is established tree and hedgerow and peripheral planting that screens the site plus additional landscape mitigation is proposed that would benefit the landscape and ecology.

The Landscape & Visual Appraisal states the site is visually and physically well enclosed by virtue of its low lying position within the landscape and the existing vegetation, therefore visibility is restricted to the immediate surroundings. The further extension of the Showmen's site to the north-east of an existing site would have a minimal effect on the character of the surrounding wider landscape. The overall level of visual impact to surrounding residential areas is also negligible as views of the site are effectively screened by vegetation. The existing trees and hedgerows are to be retained and enhanced by additional planting. This will further screen the site from the wider surrounding area.

The Preliminary Ecological Constraints Appraisal gives findings of a walkover survey.

The Arboricultural Survey states that nine individual trees and one group have been included in the survey. Although not placed individually in high categories, their collective value is high due to potential screening effect they offer. The proposal is to retain all the individual trees which have high visual amenity value and will not be adversely affected by the proposed development.

### **Relevant Planning History**

Tree Preservation Order 13/1990 covers the site.



BC41045P – Land off Goscote Lane (opposite the current site) – Change of Use of land to showman's winter quarters and construction of access road, hardstandings, security fencing, entrance gate and walls – refused 7 June 1994. There were 3 reasons for refusal relating to:

- 1) failure to demonstrate circumstances to warrant an exception to override policies relating to Green Belt, Goscote Valley Project Area, Beacon Regional Park and Forest of Mercia;
- 2) consolidation of non-conforming uses, resulting in substantial visual intrusion in a largely open green wedge of land with little natural screening and inadequate space for screening thus exacerbating the detrimental effect upon the character, function and visual amenities of the area and
- 3) detrimental to the safety and free flow of traffic given the narrow width of Goscote Lane, absence of footways, presence of the canal bridge and substandard junction with Allens Lane particularly for use by larger vehicles.

The site opposite has been used by the Showmen's Guild for over 50 years. It was extended without permission in 1970 and received retrospective approval in 1974. Enforcement Action was taken between 1977 and 1981 to seek to ensure compliance with landscaping conditions.

The Oak Tree Farm site (including Bridge Tree Farm site) was granted permission in September 1983 for a permanent caravan park for showmen and allied trades. This permission was granted as an exception to Green Belt policies as the site was (a) at a lower level and well screened, (b) a need was identified because Showmen had been displaced from land elsewhere who had recognised links with Walsall and (c) approval would allow the Council to discourage and refuse subsequent unsatisfactory applications as it had assisted the Guild to meet problems. Subsequently a bungalow was approved on this site for a member of the Showmen's Guild to supervise the site.

Land at Goscote House Farm (further north on the opposite side of Goscote Lane) has been subject of Enforcement Actions to secure (a) removal of caravans for human habitation and storage of caravans, (b) unauthorised parking of coaches and (c) vehicles and repairs and removal of all such vehicles. A subsequent Appeal in 1978 was dismissed and two further applications for Showmen's Winter Quarters on this site were refused in 1986 as being inappropriate development in the Green Belt where no special case had been made as an exception to the policies of the development plan.

**Relevant Planning Policy Summary** (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).

### **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP5: Development proposals should ensure the needs of all section of the community are taken into account and to maximise equal opportunities and engender social inclusion.

3.3: Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

3.21 & ENV1: Defines the purpose of the Green Belt.

ENV2: There is a presumption against construction of new buildings except for specific purposes. Making of a material change in the use of land is inappropriate development in the green belt if it conflicts with the openness and purposes of the green belt.

ENV3: Highlights detailed evaluation of proposals within the Green Belt including layout of the site, siting, height and scale of buildings and structures, impact on significant views, quality of new landscape schemes and cumulative physical effect.

ENV15: Encourages creation and management of the Forest of Mercia as a community resource.

ENV17: Encourage planting of new trees, woodlands and hedgerows.

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

ENV21: Development which would destroy, damage or adversely affect a Site of Local Importance for Nature Conservation will not be permitted unless it can be demonstrated that there are reasons for the proposal to outweigh its level of nature conservation value.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV24: New development should maintain the integrity of wildlife corridors.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV34: Requires the provision of public art to enhance the quality and individuality of existing buildings, spaces or new development.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

6.3: adopts a sequential approach to the provision of housing which maximises the re-use of previously developed land and buildings within the urban area before the use of greenfield land.

7.1 & T4: Seeks to promote an efficient highway network and explain the road hierarchy;

T7: All development should satisfy the car parking standards set out in Policy T13. All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T11: Development should be within easy walking/cycling distance of a range of facilities which meet local needs.

T12: Refers to standards for accessibility to public transport.

T13: car parking standards

1, 2 & 3 bedroom houses – 2 spaces per unit

### **SPD: Designing Walsall**

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

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

DW4: Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

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

DW 10: New development should make a positive contribution to creating a sustainable environment.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE2: Justification for loss or damage to SINC's or SLINC's should be based on comprehensive, relevant current data and mitigation or compensatory provision made.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

### **National Policy**

PPS1: Promotes sustainable and inclusive patterns of urban and rural development.

PPG2: Seeks to protect against inappropriate development that is harmful to the Green Belt. Paragraph 3.1 states there will be a general presumption against inappropriate development except in very special circumstances. Para 3.2 states that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. New gypsy and traveller sites in the Green Belt are normally inappropriate development. PPG 2 applies equally to applications for planning permission from gypsies and travellers and the settled population.

PPS3: Seeks to achieve a wide choice of high quality homes and mixed housing to support a wide variety of households in all areas and provide a sufficient quantity of housing taking into account need and demand.

PPS9: Seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology and contribute to rural renewal and urban renaissance.

PPG13: Promotes sustainable patterns of development which reduce the need to travel, especially by car.

Circular 6/2005: Biodiversity and Geological Conservation: statutory obligations and their impact within the planning system.

### **Regional Spatial Strategy for the West Midlands (RSS)**

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

Policy CF5 F states that development plans should ensure that adequate provision is made for suitable sites to accommodate gypsies and other travellers. Phase 3 (RSS 3) includes a review of provision for gypsies and travellers, consultation on the options for the various topics in Phase 3 is currently underway (29-06-09 – 14-08-09). This consultation concerns how the results of the Black Country Gypsy and Traveller Accommodation Needs Assessment (GTAA) for pitches and plots are to be split between the various authorities.

Policy QE7: encourages the maintenance and enhancement of the Regions wider biodiversity resources

### **Joint Core Strategy**

The Joint Core Strategy (JCS) is being prepared by the four Black Country Local Authorities and is intended to be published in Autumn 2009, prior to submitting to the Secretary of State in Spring 2010. An examination in public will then follow. The JCS does not seek to allocate sites or locations; this will be done through Development Plan Documents (DPD) prepared by the individual authorities. Walsall's Land Allocations DPD started in July 2009 with adoption likely in September 2012. To

inform this Land Allocations DPD and assist with the evidence base for the JCS, the Council has commissioned a Strategic Housing Land Availability Assessment (SHLAA) which is expected to be completed by the end of Sept 2009 with publication approx 2 months later. Amongst other possible housing sites the SHLAA is intended to identify sites that might be suitable for sites for gypsies, traveller and travelling show people.

#### **West Midlands Interim Regional Statement on Gypsy and Traveller Policy and supplement on Travelling Showpeople in October 2007 (IRSS)**

This demonstrates the urgency for the accommodation needs of Travelling Showpeople to be recognised across the West Midlands Region and for local authorities to identify suitable locations for sites. It was prepared as a supplement as Government advised that Local Authorities should not wait until the Phase 3 RSS Revision before beginning to address the issue of accommodating Travelling Showpeople and considering the allocation of land for sites. The Showmen's Guild were consulted on preparation of this Supplement and state that over the next 10 years between 63 and 84 additional plots will be required within the West Midlands Region to cater for family formation to 2016. Although this is an approximation it is the best indicator of the likely extent of need currently available. They also commented that the provision of four 12 yard/family sites (48 yards/families in all) in the Region would probably meet current needs. The additional plots required would cater for family formation to 2016. (Government advice is that where there is unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet the need, local planning authorities should give consideration to granting temporary permission).

#### **The Black Country Gypsy and Traveller Accommodation Needs Assessment (GTAA) (Sept 2008)**

Identifies a need to provide 56 Travelling Showpeople plots throughout the Black Country as a whole, of these, 35 plots are required within Walsall. It clarifies a need for 20 additional plots within Walsall by 2013 and a further 15 plots by 2018. (Government advice requires an assessment of Travelling Showpeople's accommodation needs as part of the Gypsy & Traveller Accommodation Assessments (GTAA). It seeks to maintain an appropriate level of site provision for travelling showpeople and make provision for resultant land and accommodation requirements. Circular 11/1005 advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of a period of the temporary permission).

#### **Consultations**

**Transportation** – No objections. The site utilises an existing 7 metre access point which provides adequate visibility in either direction along Goscote Lane subject to the maintenance of the overhanging vegetation within the visibility splays. Although the proposed development will intensify the use of the existing access, it is considered that it will not have a significant impact on the surrounding highway network as most of the vehicles are likely to be on the road during the summer months and parked up on site during the winter. The applicant has provided autotrack analysis demonstrating that the maximum length of vehicle expected to use the site can manoeuvre and turn adequately into and within the site and there is adequate parking provision within the site. Details are requested for an additional plan to demonstrate visibility and access.

## **Strategic Policy - No objections.**

The proposed development would be inappropriate development in the Green Belt. It would be harmful to the Green Belt by way of inappropriateness and contrary to the purposes of including land in the Green Belt which is to check the unrestricted sprawl of large built up areas and assist in safeguarding the countryside from encroachment. It would also impact on the openness of the Green Belt. However, the scale of harm is considered to be limited as the site is small and in terms of openness the site is well screened from view at a distance and reinforced screening is proposed. The applicant has also demonstrated a need for sites for Travelling Showpeople, lack of alternative sites and family ties to the area which amount to very special circumstances to justify inappropriate development in the Green Belt in this case.

The Gypsy & Traveller Accommodation Assessment (GTAA) identifies a need for 20 additional plots in the borough by 2013 and a further 15 plots by 2018. It also identified considerable overcrowding in the Black Country. The applicant has therefore demonstrated that there is a need for sites for Travelling Showpeople in the borough. Circular 04/2007 states that where there is a clear and immediate need local authorities should bring forward sites in Development Plan Documents (DPD's). The Council intends to consider suitable sites in the Land Allocations and Development Management DPD. However, this will not be adopted until 2014; too late to satisfy need by 2013. The Council and the applicant have undertaken an extensive search for alternative sites which has proved unsuccessful. Given the level of need indicated by the GTAA it is agreed that there is no alternative site in prospect.

Circular 04/2007 does not say that a local connection is a reason for granting planning permission but does state Local Authorities must have regard to statutory duties under the Housing Act. This provides that where a person who is unintentionally homeless or under threat of being homeless and can establish a local connection the Local Authority has a duty to house them.

The site is 400 metres from the Goscote Lane/Thames Road junction which is reasonably served by public transport. Green Rock Primary School is about 350 metres away and the Barley Mow Public House is about 250 metres distant. Walsall Academy Secondary School is less than 2km away and Blakenhall Centre about 1300 metres. Although some of these distances do not fulfil the sustainability standards set out in policies T11-T12 but the site would not be especially unsustainable and given the small scale the impact is limited. There is some sustainability benefit in locating new sites for Travelling Showpeople next to or near existing sites as family and community support networks are on hand.

Circular 04/2007 states although special consideration should be given to a range of nationally recognised designations, local landscape and local nature conservation designations should not be used in themselves to refuse permission for Travelling Showpeople's sites. It is clear that less weight is to be attributed to local rather than nationally recognised designations. The applicant has not offered any mitigation measures but this could be remedied by seeking such measures through a conditional permission.

Provision towards Public Art is required at the site exceeds the threshold within DW9.

In the recent Cartbridge Lane appeal decision for a residential gypsy caravan site



also in the Green Belt the Inspector granted temporary permission for 4 years on the basis that the Land Allocations and Development Management DPD would be adopted in September 2012. This provided for allocations to be made, if not taken up by 2013 in line with the requirements of the GTAA. However, there is a revised programme for adoption of DPD which has been extended until February 2014. Circular 04/207 requires Local Authorities to give substantial weight to the unmet need in considering whether a temporary planning permission is justified. Given the circumstances explained above it is considered that a temporary permission would not be appropriate.

In light of the above the need for a site for Travelling Showpeople outweighs the harm to the Green Belt and other harm in terms of sustainability and nature conservation.

**Development & Delivery** – The applicant has spent a considerable amount of time attempting to identify a suitable site. Development & Delivery were approached and advised that no suitable Council owned sites existed that could accommodate this use and recommended that the site search focused on privately owned land.

**Environmental Health** – No objections.

**Ecology** – Objects. The proposed development would damage part of the Goscote Wedge SLINC and Wildlife Corridor and would have little nature conservation value. It causes a loss of the structural diversity of the site, loss of areas of potential value to birds and foraging bats, increased disturbance and encroachment of development to the SLINC. Key hedgerows and trees have already been removed. The application does not propose any replacement habitat of equal value to that which would be damaged or destroyed by the proposed development. The ecological survey information is inadequate as it was carried out at a sub-optimal time of year for botanical surveys and does not properly address ecological issues.

**Arboricultural Officer** – No objections. This site is well screened with some significant trees around the northern periphery and a Thorn hedge along the southern boundary with Bridge Farm. The trees are to be retained and the hedgerow is to receive supplementary planting. The existing timber fence has not been detrimental to the health of the trees. The guidelines and recommendations in the arboricultural report should be followed.

**Landscape** – No objections. The detailed landscape and visual appraisal states the combination of local topography and tree planting effectively screens this site from view. Even the recent erection of timber fencing, that is an 'alien' feature of suburban design and appearance, does not have a prominent visual impact on the wider Goscote valley landscape. This is despite the lack of leaves in the winter months. A detailed planting scheme would be required.

**Police Architectural Liaison Officer** – Objects. The site is located in an area with high numbers of recorded crimes and security should be considered a priority. It is in a very secluded location surrounded by open land which would afford easy ingress and egress to the site; coupled with the fact that there is virtually no surveillance of this area this would make the site extremely vulnerable to crime. Therefore substantial perimeter protection should be installed especially as the applicant will be storing expensive fairground equipment in this area. Perimeter fencing, locking gates



to the vehicular/pedestrian access and security lighting to act as a deterrent are recommended.

**Environment Agency** – No objections.

**Natural England** – No objections. Natural England is not aware that there are likely to be any legally protected species affected by the proposals. However, if any information or representations from other parties highlight the possible presence of a protected species further survey information is required prior to determination of the application.

**Housing Standards** – No objection. If permission is granted the owner will be required to apply for a site license under the Caravan Sites Control of Development Act 1960. The license will have conditions based on Model Standards.

**Supported Housing** – No objections.

**Showmen's Guild of Great Britain** – Supports the proposals. The Guild has been aware of the applicant's search for alternative premises for a number of years. The GTAA has established a significant need for additional sites for Travelling Showpeople within Walsall. The site is a logical extension to the adjacent Showmen's site not only to cater for the applicant's immediate needs but to assist the Council in providing adequate new sites to meet the need identified in the GTAA. The applicant was born, raised and schooled in the area and has until now been a tenant on the site opposite with his family. However, he has recently married and both he and his brother have growing family needs and therefore needs to establish a long-term site for the future. The Guild acknowledges the importance of the Green Belt but considers the other needs referred to combine to comprise a compelling reason to justify grant of planning permission on this occasion.

### **Public Participation Responses**

One letter has been received from a representative of the Goscote Allotments site opposite. The objections are summarised as follows: -

- Work has already started on this site
- Entrance directly opposite the allotments where there is poor visibility in both directions and high traffic speeds leading to an increased hazard to highway safety
- Goscote Lane is not a suitable location for larger vehicles exiting the site
- The land is Green Belt, Goscote Valley Beacon Regional Park and Forest of Mercia Green Corridor
- Previous refusal for a similar project in 1994

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

### **Determining Issues**

- Whether very special circumstances exist to outweigh the harm from inappropriate development in the Green Belt
- Relationship with the surrounding Green Belt
- Relationship with surrounding properties
- Relationship with SLINC and Nature Conservation

- Access and parking
- Provision of Public Art

## **Observations**

### **Whether very special circumstances exist to outweigh the harm from inappropriate development in the Green Belt**

The site is located in the Green Belt. PPG2 indicates a general presumption against inappropriate development within the Green Belt and such inappropriate development should not be approved except in very special circumstances.

Change of use of the land for the siting of residential and touring caravans and storage of fairground equipment is inappropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt. Paragraph 3.2 of PPG2 clearly indicates that to justify inappropriate development the very special circumstances that exist must be sufficient to outweigh the presumption against inappropriate development.

The applicant has put forward evidence to support what they consider to be very special circumstances. These are:

- the need for additional accommodation for Travelling Showpeople
- lack of suitable and available alternative sites
- strong local historical or family ties

### **The need for additional accommodation for Travelling Showpeople**

The applicant and his brother have prepared personal profiles comprising information on their own particular circumstances. This is attached to the Design and Access Statement and includes details of their existing site, why they require an alternative site, details of their family unit, their caravans, rides and equipment, and a list of fairs, galas and events which routinely comprise their livelihood throughout the travelling season.

The plot on the Showmen's Guild site where the applicant currently lives is rented on an annual basis and primarily reserved for retired Showmen. The applicant therefore has no automatic right to remain on this site and if a retired Showman needed the plot they would take priority over the applicant. This proves an urgent need for the applicant to find suitable alternative accommodation as he could become homeless as a result.

The GTAA has identified that there is a need to provide 35 plots for Travelling Showpeople within Walsall. It states that the need for Local Authorities to provide these numbers can be reduced by granting current unauthorised development planning permission. Further reductions can be made by identifying suitable land in future DPD's and proactively encouraging Gypsies and Travellers and Travelling Showpeople to buy their own land. This demonstrates that there is an identified need to provide additional sites for Travelling Showpeople within Walsall. Paragraph 53 of Circular 04/2007 also states "*local planning authorities should have regard to whether the absence of existing provision may prejudice enforcement action, or give rise to grounds of appeal against refusal of an application for a new site.*" In other words if refusal of permission results in an appeal, the success of the appeal may be heavily influenced by the fact that there is a lack of existing provision.

### **Lack of suitable and available alternative sites**

The applicant has carried out an extensive search for alternative suitable and available accommodation but without success. This has included writing to Coventry, Sandwell, Wolverhampton, Dudley, Cannock Chase, Solihull and Walsall Councils (including Walsall Councillors) enquiring whether there is any land available for purchase for a Showmen's site so that he can remain living in the area. He has also contacted over 40 local estate agents, the Showmen's Guild and owners of the Bridge Farm site all without success.

The applicant has demonstrated why this site is suitable for his needs in terms of its proximity to the adjoining Showmen's Quarters and the benefits that offers of being close to his extended family, close to schools and local facilities and the fact that it forms a logical extension to the existing Showmen's sites adjoining. It is also a convenient location for the applicants work requirements. The site is also owned by the applicant and is therefore available for him to pursue this application. Despite continued efforts by the applicant to pursue an alternative site that is suitable and available this has proved unsuccessful.

#### Strong local historical or family ties

The applicant and his brother have resided with their family on the Showmen's Guild site for the past 25 years and went to school in the area. He therefore has strong local connections to the area and the site offers the benefit of still being close to these family members.

It is considered that the above reasons amount to very special circumstances sufficient to outweigh any other harm caused to the Green Belt by way of inappropriate development.

#### **Relationship with the surrounding Green Belt**

The application site is segregated from the remainder of the Green Belt land by existing tree and hedge planting around its perimeter. Despite the fact that the siting of two caravans and the storage and parking of vehicles and fairground equipment will inevitably affect the openness of the site, this is not visible from the wider Green Belt area. Additional landscaping in the form of native woodland, tree and hedgerow planting is also proposed to supplement the boundaries and provide further screening. The landscape and visual assessment demonstrates how the proposals will have little impact upon the long distance views of the site within the Green Belt and how it is only apparent when immediately in front of the site. This is accepted.

Policy ENV3 highlights considerations for detailed evaluation of proposals within the Green Belt. However, the layout of the site, grouping of the buildings and equipment, proposed landscaping, cumulative physical effect of grouping the Showmen's sites together and lack of any adverse impact upon significant views are considered not to have a materially greater impact on the openness of the Green Belt.

The third party objection refers to the designation of the site within the Green Belt, Goscote Valley Beacon Regional Park and Forest of Mercia Green Corridor and that there was a refusal for a similar project in 1994. The earlier refusal highlighted in the planning history relates to a site on the opposite side of Goscote Lane and showed 5 plots developed in a more cramped layout. The reasons for refusal related to failure to demonstrate very special circumstances, consolidation of non-conforming uses on an open wedge of land causing visual intrusion and detrimental to the safety and free flow of traffic on Goscote Lane. However, the current case differs in so far as the applicant has demonstrated very special circumstances. The proposal is not as

cramped as the earlier scheme (2 caravans rather than 3 caravans on 5 plots) and whilst it remains a non-conforming use in the Green Belt it is well screened from the wider area and the very special circumstances outweigh the harm to the openness of the Green Belt and other designations. The existing screening prevents visual intrusion of the wider area.

The applicant has also demonstrated good access to the site and sufficient parking and turning areas and it is considered not to have any adverse impact upon highway safety.

### **Relationship with surrounding properties**

The nearest occupiers to the site are those at Bridge Farm Showmen's Site who have written in support of the proposal. The proposed layout shows the two residential caravans positioned at 45 degree angles from the nearest caravan at Bridge Farm up to 17 metres distant. There is an existing hawthorn hedge along the boundary between the sites that is to be supplemented by additional planting. In the circumstances the proposal is considered not to have any adverse impact upon the outlook or privacy for the existing occupiers as there are no directly facing elevations and separation is considered acceptable.

The proposed vehicle/storage area is located at the rear of the site behind the proposed caravans. The caravans on the Bridge Farm site nearest to this part of the site are end on to the boundary and have no windows overlooking the site. The proposal will therefore not affect outlook for these properties. For the above reasons it is considered that the proposals will have no adverse impact upon privacy or outlook for the neighbouring properties.

Inevitably the character of the site will be different as it will have caravans and vehicles and stored fairground rides on it compared to the present vacant field. It will also be occupied for residential purposes and there will be comings and goings associated with that use and with the storage and manoeuvring of fairground equipment. However, the level of activity should be no different to that carried out on the nearby Showman's Guild site (or indeed at Bridge Farm or Oak Tree Farm Showmen's sites). The applicant is proposing to move from the existing Showmen's Guild site to this new site hence there will be no greater activity in the area by the applicant it will just be displaced to the application site. The applicant's existing caravan on the Showmen's site will be occupied by another family member. The proposal is therefore considered not to have any adverse impact upon residential amenities of nearby properties by way of noise or disturbance.

There are other isolated houses to the north of the site but it is screened from views by existing trees and landscaping. The proposed site will therefore not be highly visible from these properties or the wider area. The proposal is also identical in character to the surrounding Showmen's sites and would be a logical extension to them. This is considered to have no adverse impact upon the visual or residential amenities of surrounding occupiers.

Letters of support from four surrounding occupiers in Goscote Lane have been provided in the Design & Access Statement. The Showmen's Guild of Great Britain, including the Midland Section has also written in support.

It is claimed that work has already started on the site but the only works have been removal of unprotected trees and erection of fencing around the perimeter. These

works do not require planning permission. No development forming part of the proposals has commenced. An alternative boundary treatment is also recommended to enhance the visual amenities.

### **Relationship with SLINC and Nature Conservation**

The proposal involves siting of caravans and storage of vehicles and fairground equipment on land that falls within a SLINC and Wildlife Corridor. The applicant states a row of trees along the southern boundary of the site (adjacent Bridge Farm) have recently been removed but were not protected by TPO. The site is presently grassland and all other trees located around the perimeter are to be retained. There do not appear to be any significant features on the land.

Policy ENV21 states development which would destroy, damage or adversely affect a SLINC will not be permitted unless there are reasons for the proposal which outweigh its level of nature conservation value. If development is permitted compensatory provision of equivalent value will be required for areas destroyed or damaged. Policy ENV24 states development that would sever or unacceptably harm the integrity of a wildlife corridor will not be permitted and the Council will expect development proposals to maintain the integrity of the corridor and enhance its value for wildlife.

The Council Ecologist has objected that the proposals would damage and adversely affect the Goscote Wedge SLINC and Wildlife Corridor and have little nature conservation value. Hedgerows and trees have already been removed and the ecological information provided by the applicant is inadequate as it was carried out at a sub-optimal time of year and doesn't properly address ecological issues. The proposals would also result in the loss of areas of potential value to birds and foraging bats and increased disturbance and encroachment of the SLINC by new fencing, surfacing, caravans, vehicles and storage uses that encroach into these areas. The application does not propose any replacement habitat of equal value to that damaged or destroyed. The siting of two caravans and creation of a vehicle storage area could take place on many sites within the borough and need not be on a SLINC within the Green Belt or Wildlife Corridor.

Paragraph 44 of Circular 04/2007 states although special consideration should be given to a range of nationally recognised designations, local landscape and local nature conservation designations should not be used in themselves to refuse planning permission. In this instance the SLINC and Wildlife Corridor are local nature conservation designations rather than national and given the very special circumstances referred to above it is considered that these outweigh consideration of nature conservation matters. In addition compensatory planting to enhance the nature conservation value of the site is proposed details of which are to be provided.

On balance, the need to provide for suitable sites for Travelling Showpeople is considered to outweigh the ecological concerns in this instance.

### **Access and parking**

There is an existing gated access into the site which the proposal is to utilise. This is 7 metres wide and provides adequate visibility in either direction along Goscote Lane. It will therefore cater for larger vehicles turning into and out of the site and ensure this is done in a safe manner. The applicant has demonstrated that the maximum length of vehicle expected to use the site can manoeuvre and turn

adequately into and within the site. It is considered that the proposals will have no greater impact upon highway safety.

There is adequate space between within the proposed caravans for parking domestic vehicles and ample space at the rear to park the lorries and fairground equipment. It is evident that there is more space available within the application site than the existing Showmen's site. There will therefore be more space for vehicle manoeuvring and parking and no adverse impact upon highway safety.

The objector is concerned that the access to the site is directly opposite the access to the allotments. They are concerned that there is poor visibility in both directions and high traffic speeds leading to an increased hazard to highway safety and that Goscote Lane is not a suitable location for larger vehicles exiting the site. However, Transportation are satisfied that the access is wide enough to provide adequate visibility and that there is space within the site for larger vehicles to turn and exit the site in a forward gear thus reducing potential hazards. Despite the objector's concern about Goscote Lane not being suitable for larger vehicles this proposal would not make any significant difference to the amount of larger vehicles using Goscote Lane. Levels of traffic are not expected to alter significantly.

### **Provision of Public Art**

The proposed development reaches the threshold in policy DW9 whereby a planning obligation to secure provision of public art is required. The site area is 0.14 hectares. The policy states that for non-residential developments the threshold is 1000 sq m and above. The policy does not explicitly refer to site area which would equate to 0.1 hectares. In this case it is considered unreasonable to collect the contributions for public art given the temporary nature and character of the development.

### **Conclusion**

Whilst it is recognised that the proposals represent inappropriate development in the Green Belt the applicant has demonstrated that very special circumstances exist to justify the development and outweigh the harm.

### **Summary of Reasons for Granting Planning Permission**

Whilst it is recognised that the proposals are inappropriate development in the Green Belt the applicant has demonstrated very special circumstances to justify the development and outweigh any harm. It has been demonstrated that there is a need for additional accommodation for Travelling Showpeople in Walsall Borough, there is a lack of suitable and available alternative sites and that the applicant has strong local historical and family ties in the area. For these reasons the applicant has also addressed reasons for refusing earlier proposals for Showmen's sites along Goscote Lane.

The layout of the site, grouping of the buildings and equipment, proposed landscaping, cumulative physical effect of grouping the Showmen's sites together and lack of any adverse impact upon significant views are considered not to have a materially greater impact on the openness of the Green Belt than adjacent sites. The site is well screened around the perimeter and additional landscaping is proposed to further reduce any potential impact.



The layout of the site protects the outlook and privacy of the nearest caravans on the Bridge Farm site and the character and nature of the proposals are considered not to have any detrimental impact upon residential amenities by means of additional noise and disturbance as the level of activity should be less than that carried out on the larger Showman's Guild site.

The proposals have an adverse effect upon the SLINC and Wildlife Corridor as new development would displace existing grassland and open areas of value for wildlife. However, it is considered that the need to provide additional accommodation for Travelling Showpeople outweighs these matters and that additional landscaping could make a degree of compensatory provision to enhance the ecological habitat.

Means of access to the site is via the existing gate where there is adequate visibility. The amount of traffic along Goscote Lane is not expected to increase significantly as a result of the proposals. There is ample room within the site to accommodate sufficient parking and manoeuvring space. It is therefore considered that the proposals will have no greater impact upon highway safety.

The Police Architectural Liaison Officer objects to the lack of consideration of security at the site given its poor natural surveillance. However, it is considered that the proximity to existing Showmen's sites will provide some additional surveillance benefits. Also, inclusion of perimeter security fencing will have an adverse impact upon the character of the Green Belt. On balance, the need to provide Showmen's accommodation and preserve the character of the Green Belt is considered to outweigh these objections regarding security.

Given the temporary nature and character of the proposed development it is considered unreasonable to collect contributions towards Public Art.

For the above reasons the proposals are considered to comply with policies 2.2, GP1, GP2, GP5, GP7, 3.3, 3.6, 3.7, 3.16, 3.21, ENV1, ENV2, ENV3, ENV15, ENV17, ENV18, ENV21, ENV23, ENV24, ENV32, 3.116, ENV33, 3.117, ENV40, 6.3, H9, H10, 7.1, T4, T7, T11, T12 and T13 of Walsall Unitary Development Plan, Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment and the Regional Spatial Strategy for the West Midlands (RSS).

**Recommendation: Grant Subject to Conditions Subject to Referral to Government Office**

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

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

2. This development shall not be carried out other than in conformity with the following approved plans and documents except insofar as may be otherwise required by other conditions: -

- Site Location Plan received 21/01/09
- Site Layout Plan received 21/01/09

- Proposed Access & Swept Paths (drwg no NTT/512/001 Revision P1) received 12/03/09
- Design & Access Statement prepared by Ian Baseley Associates received 21/01/09
- Landscape & Visual Appraisal prepared by Ian Baseley Associates dated November 2008 received 21/01/09
- Preliminary Ecological Constraints Appraisal prepared by Ian Baseley Associates dated November 2008 received 21/01/09
- Arboricultural Survey prepared by Forest Farm Tree Services (ref: 0001/AB) dated 9<sup>th</sup> January 2009 received 21/01/09

*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 revised plan shall be submitted for approval in writing by the Local Planning Authority demonstrating a visibility splay measuring 2.4 metres x 43 metres either side of the vehicle access point. The said splay shall, at all times, be kept clear of any planting or structures exceeding 600mm in height above ground level and vegetation up to a height of 2 metres above ground level and shall thereafter be retained for this purpose.

*Reason:* In the interests of highway safety.

4. During site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.

*Reason:* To safeguard the trees included in the Tree Preservation Order on the site.

5. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

*Reason:* To safeguard the trees included in the Tree Preservation Order on the site.

6. None of the existing trees on the site shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority.

*Reason:* To safeguard the trees included in the Tree Preservation Order on the site.

7. The approved tree protection measures detailed in the tree report by Forest Farm Tree Services dated 9 January 2009 shall be fully implemented prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2005 'Trees in relation to construction'.

*Reason:* To safeguard the trees included in the Tree Preservation Order on the site.

8. No development shall commence on site until details of a landscaping scheme, including species, numbers and size of all shrubs and trees, topsoil depths and specifications and staking details of proposed trees as well as any necessary phasing of implementation, are submitted to and approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

*Reason:* In order to safeguard the visual amenity and natural environment of the area.

9. No development shall be carried out unless and until arrangements have been made for the satisfactory drainage of the site, such arrangements to have been previously approved in writing by the Local Planning Authority.

*Reason:* To ensure that the site can be satisfactorily drained.

10. The site shall not be occupied by any persons other than Travelling Showpeople as defined in paragraph 15 of Circular 04/2007 "Planning for Travelling Showpeople".

*Reason:* To define the permission in light of the very special circumstances demonstrated to outweigh Green Belt policy in this case.

11. Notwithstanding the submitted plans no more than two caravans and one touring caravan shall be accommodated on the site in the areas indicated on the approved site layout plan dated January 2009 and the fairground equipment shall only be stored or repaired on the area identified on the approved site layout plan dated January 2009 unless the Local Planning Authority agrees in writing to any variation.

*Reason:* To ensure the satisfactory layout of the site and protect the amenities of the area.

12. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to open pasture, in accordance with a landscaping scheme to be first submitted to and approved in writing by the Local Planning Authority, when the premises cease to be occupied by Travelling Showpeople.

*Reason:* To protect the visual amenities of the area in the event that the site ceases to be used as a Travelling Showpeople's site.

13. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) no new buildings or means of enclosure shall be erected within site without the express permission of the Local Planning Authority except insofar as may be otherwise required by other conditions.

*Reason:* To preserve the openness and character of the Green Belt.

14. No equipment, machinery or vehicles shall be stored at the site or brought on to the site for testing or maintenance other than equipment, machinery or vehicles owned by residents of the site.

*Reason:* To protect residential amenities and preserve the character and openness of the Green Belt.

15. No external lighting shall be installed within the site without the prior written approval of the Local Planning Authority.

*Reason:* To protect residential amenities and preserve the visual amenities of the Green Belt

16. Prior to the commencement of the development details of mitigation measures to compensate for potential loss or damage of existing features of value for wildlife or geology shall be submitted to and agreed in writing by the Local Planning Authority. The agreed measures shall be implemented and maintained thereafter.

*Reason:* To ensure adequate mitigation for potential loss of existing features of value for wildlife or geology in accordance with policy ENV21 of Walsall UDP and policy NE2 of SPD: Conserving Walsall's Natural Environment.

17. Prior to the commencement of the development the existing fencing around the perimeter of the site shall be removed and replaced with post and rail fencing with a double staggered hawthorn hedge to the inside boundary in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority. The agreed boundary treatment shall be maintained in accordance with the agreed details thereafter unless the Local Planning Authority agrees in writing to any variation.

*Reason:* To protect the character of the Green Belt and preserve the visual amenities of the area.

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ITEM NO: 7.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: Significant Community Interest.**

**Application Number:** 09/0738/FL

**Application Type:** Regulation 3 Consent  
(V)

**Applicant:** WMBC

**Proposal:** Change of use from lorry park  
to public car park

**Ward:** Aldridge North and Walsall Wood

**Recommendation Summary:** Grant Subject to conditions

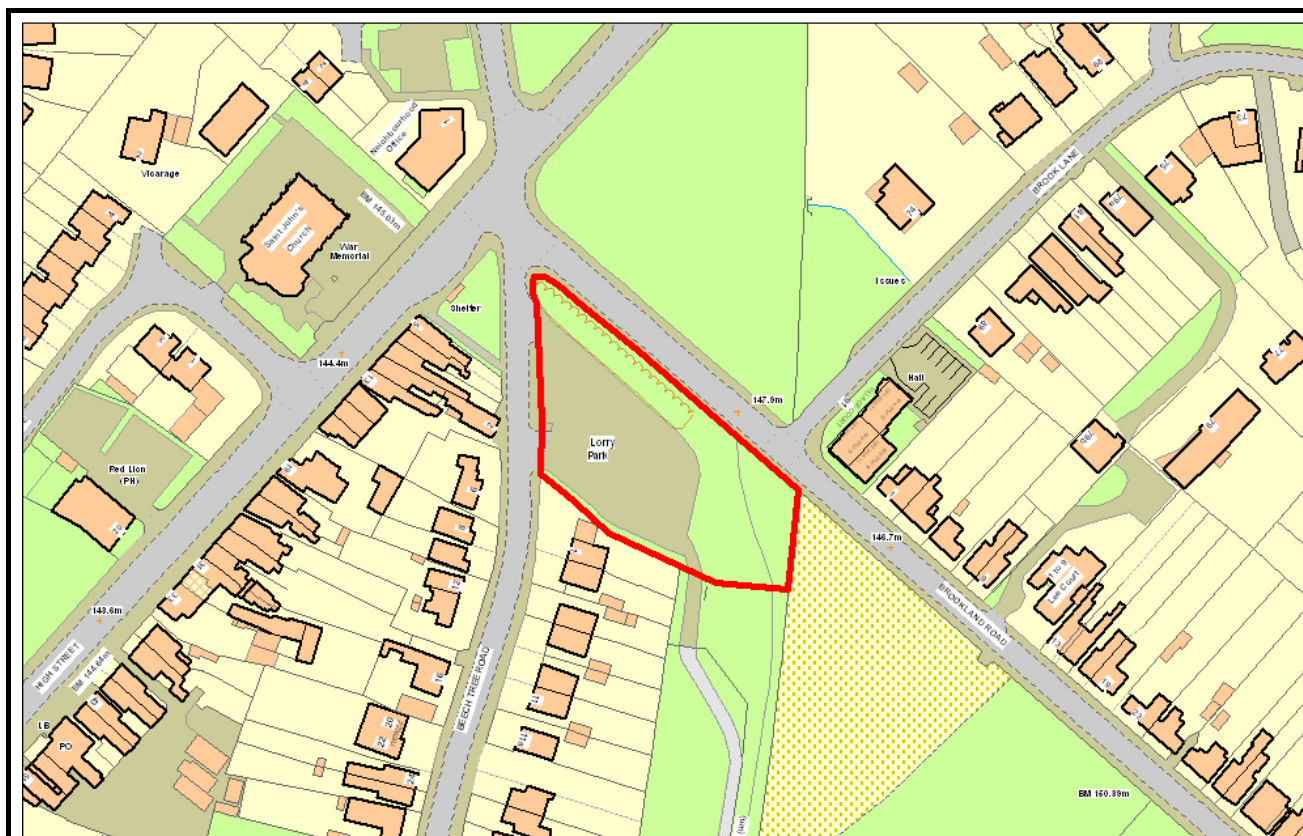
**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652429

**Agent:** WMBC Transportation,  
Regeneration

**Location:** CAR PARK, BEECH TREE  
ROAD, WALSALL WOOD, WALSALL

**Expired:** 27/07/2009



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### **Application and site details**

The site is situated at the junction of Beech Tree Road and Brookland Road, close to the junction with High Street (A461, Strategic Highway Network), just outside the High Street Walsall Wood Local Centre.

The site currently comprises an open lorry park that has been used for this purpose for a number of years.

A grassed bank with trees forms the boundary with Brookland Road to the north with public open space beyond on the opposite side of Brookland Road. Dense trees form the boundary to the east and immediately to the west and south are residential properties within Beech Tree Road. Allotments are situated to the south east with access gained through the site. The local centre shops and services (including the relocated library) are situated less than 40m from the site in the High Street. Parking for the local centre currently takes place on street within the High Street.

The lorry park has two vehicle access points onto Beech Tree Road and the surface is in very poor condition with no parking bays marked. The site provides no facilities for drivers.

The application proposes the change of use of the site to a public car park, for up to 40 cars (including 4 disabled spaces) and the creation of a one way system through the car park creating an in and out access arrangement. The car park would be non fee paying and open for public use, with height barriers at each access to restrict the size of vehicle. Access to the allotments to the south east would be retained.

The proposals were approved by Cabinet on 22<sup>nd</sup> April 2009 following a public consultation exercise undertaken in June/July 2008.

### **Relevant Planning History**

None

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

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

Policies 3.6 and 3.7 states that development should help to improve the environment of the Borough whilst seeking to protect people from environmental problems.

GP2: Environmental Protection

Development should make a positive contribution to the quality of the environment and the principles of sustainable development.

Policy 3.16 requires high quality design.

GP6: Disabled People

Dedicated disabled parking should be provided and transport facilities should be designed to ensure easy access for everyone with convenient interchange facilities.

GP7: Community Safety

VIII particular attention should be given to the security of car parks, including controlled access points, lighting and surveillance from neighbouring properties.

ENV32: Design and Development Proposals and Policy 3.16.



Considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

#### **T4 – The Highway Network**

(a) The Strategic Highway Network is for long distance and strategic traffic, where street parking and direct frontage access will be kept to a minimum. The Council will give high priority to improvements to assist traffic flows.

#### **T7 – Car Parking**

All development should satisfy the car parking standards set out in Policy T13. (a) where appropriate the Council increase the provision of short stay parking for shoppers and visitors to local centres.

(e) all parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area.

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

Standard car parking spaces should be 4.8m x 2.5m, 10% of all parking spaces should be reserved for disabled people and each reserved space should be at least 4.8m x 3.6m.

### **Designing Walsall (SPD) (Feb 2008)**

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

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

DW2: Safe & Welcoming Places - all new development must contribute to creating places that feel safe.

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

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

DW6: Legibility - new development should contribute to creating a place that has a clear identity

DW7: Diversity – contribute to creating living places that offer a mix activities to the widest range of possible uses

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

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

DW 10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

### **Consultations**

**Transportation** – No objections.

**Landscape** – No objections, the proposals will involve no changes to the surrounding area.

**Environmental Health** – There are no records of any complaints about noise or disturbance from the lorries or usage of the parking area.

### **Public Participation Responses**

One email of support, one email expressing comments and one objection together with a petition against the proposals comprising 200 signatures.

Support:

- The lorry park has caused problems to the local residents for a number of years
- Noise, disturbance and damage to properties
- Recent parking restrictions on High St have reduced parking for the local shops and a car park will hopefully help the local shops to survive.

Comments:

- The layout of the proposed car park will continue to allow drivers to race around in a circuit, an alternative layout should be considered to prevent this and use only 1 access point

Objections:

- The lorry park brings trade to the local business in High Street
- There are no problems created by the lorry park
- Will cars actually use the car park?
- Cars will not use the car park at night
- The car park will get filled up by taxis
- Parking should be for lorries and cars.

The petition of 200 signatures has been submitted by the landlord of the local pub and was originally submitted in November 2008 following the public consultation on the proposals. The petition asks for the lorry park to be saved as the trade brought in by the lorries is important to the High Street businesses.

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

### **Determining issues**

- Principle of the change of use
- Impact of the change of use on the surrounding occupiers and the character of the area

### **Observations**

#### **Principle of the change of use**

The existing lorry park has been in use for a number of years and provides parking for vehicles with a gross maximum weight exceeding 3 tonnes only. The surface of the parking area is in very poor condition and has no facilities for drivers and no designated spaces for vehicles. The capacity of the park is difficult to judge due to the large variation in the type and size of vehicle, but it is estimated at approx 8 – 10 vehicles.

In the past the lorry park has raised objections from residents in the immediate area from HGV's using Beech Tree Road for manoeuvring and access.

The proposed change of use formed part of a public consultation exercise in June/July 2008 and 80% public support was recorded for the re-designation to a car park.

The car park will provide secure and formal car parking for visitors to Walsall Wood local centre. The introduction of the Red Route along the A461 High Street will reduce the extent of available on-street parking and therefore alternative car parking provision will be required to encourage visitors to continue to use the local centre. During the application process concerns were raised that the car park would be used as a race track and that the layout should be changed to form only one access/exit point to the car park. However, this suggested change would create a circulation route within the car park to serve the one access point that would be more likely to be used as a race track, as well as reducing the amount of spaces that could be laid out within the space. A safeguarding condition can be imposed for when the car park is resurfaced requiring details of kerbing to be installed along the centre of the car park which would restrict the unauthorised circulation of vehicles within the car park.

The introduction of the car park will allow for shared trips by visitors to both the shops and services within the local centre, the relocated public library and the adjacent public open space.

The Council does not have any statutory duty or liability to provide lorry parking facilities. The Council does however provide a lorry park in Willenhall at the Wakes Ground. Other overnight lorry parking facilities in the area include those adjacent to the A5, M6 junction 11 and motorway service areas (all to the north of the Borough). The removal of this facility should not lead to the displacement of lorries onto the surrounding highway network as vehicles over 3.5 tonnes are required to have an operators licence which includes conditions regarding overnight parking. Breaches of an operators licence may lead to a licence not being renewed or revoked, which would have serious consequences for any business.

During the planning application process, the option of operating the site as a day time car park and night time lorry park has been raised. During the public consultation event, July 2008, this option was discussed and rejected by those who attended the event on the basis that the anti social behaviour and nuisance arising from the use by lorries would continue. A dual use would also lead to enforcement difficulties and problems around the change over times, for instance if a lorry arrived early where would it wait?

Objectors concerns regarding the car park being used by taxi/private hire cars is controlled by the Parking Order within the Highway Act preventing the use of a public car park for taxi/private hire use and would be for the civil enforcement officers to enforce not the planning legislation to control via conditions.

**Impact of the change of use on the surrounding occupiers and the character of the area.**

Local residents have supported the proposals, which will remove the existing problems associated with the lorry park, anti social behaviour from drivers as there are no facilities provided, manoeuvring and access issues in Beech Tree Road. The car park will provide increased parking for the local centre and hopefully ensure that the local shops survive and continue to provide a service to residents.

Whilst the proposals may result in additional traffic movements due to the larger capacity of the parking area, this would be cars rather than HGV's that cause noise and disturbance and would assist in reducing on-street parking on the Strategic Highway Network.

The proposed layout includes a one way system around the car park with a separate entrance and exit, which will reduce vehicular conflicts within the car park and improve road safety by designating the exit from the site as far away as possible from the junction of Beech Tree Road and Brookland Road.

The existing landscaping surrounding the parking area, including all the trees will not be affected by the proposals and the vehicle access through the site to the allotments to the south east will be maintained and the proposed new surfacing would improve the overall visual amenity of the area.

It is considered that the proposed change of use would have no adverse impact on the amenities of the surrounding occupiers.

### **Summary of Reasons for Granting Planning Permission**

The proposed change of use from a lorry park to a car park will provide a secure and official car park for visitors to the High Street local centre. The introduction of the Red Route along the A461 High Street will reduce the extent of on-street parking and therefore alternative car parking provision will be required to encourage visitors to continue to use the local centre. The introduction of the car park will allow for shared trips by visitors to both the shops and services within the local centre and the relocated public library and the adjacent public open space.

The Council does not have any statutory duty or liability to provide lorry parking facilities. The removal of the lorry park has been supported by the wider community during the public consultation exercise of July 2008 and is considered to reduce some of the associated anti social behaviour issues and problems of HGV's using Beech Tree Road. Concerns about the car park being used as a race track can be dealt with via an appropriate engineering solution.

The proposals would have no adverse impact on the character of the area or the amenities of the surrounding residential occupiers and is considered to accord with the aims and objectives of the development plan, in particular policies 3.6, 3.7, GP2, 3.16, GP6, GP7, ENV32, T4, T7 and T13 of Walsall's Unitary Development Plan (2005).

### **Recommendation: Grant Subject to conditions**

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

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

2. Notwithstanding the submitted layout of the car park, prior to any resurfacing of the car park a scheme shall be submitted to and agreed in writing with the local planning authority that shall include the layout of the car park and the inclusion of kerbing (or equivalent) along the centre line of the car park at the head of spaces to minimise unauthorised vehicular circulation of the car park.

*Reason:* Highway safety and to minimise unauthorised circulation of the car park

3. Vehicle and pedestrian access to the allotments to the south east of the site shall be maintained at all times through the site.

*Reason:* In order to maintain access.

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ITEM NO: 8.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

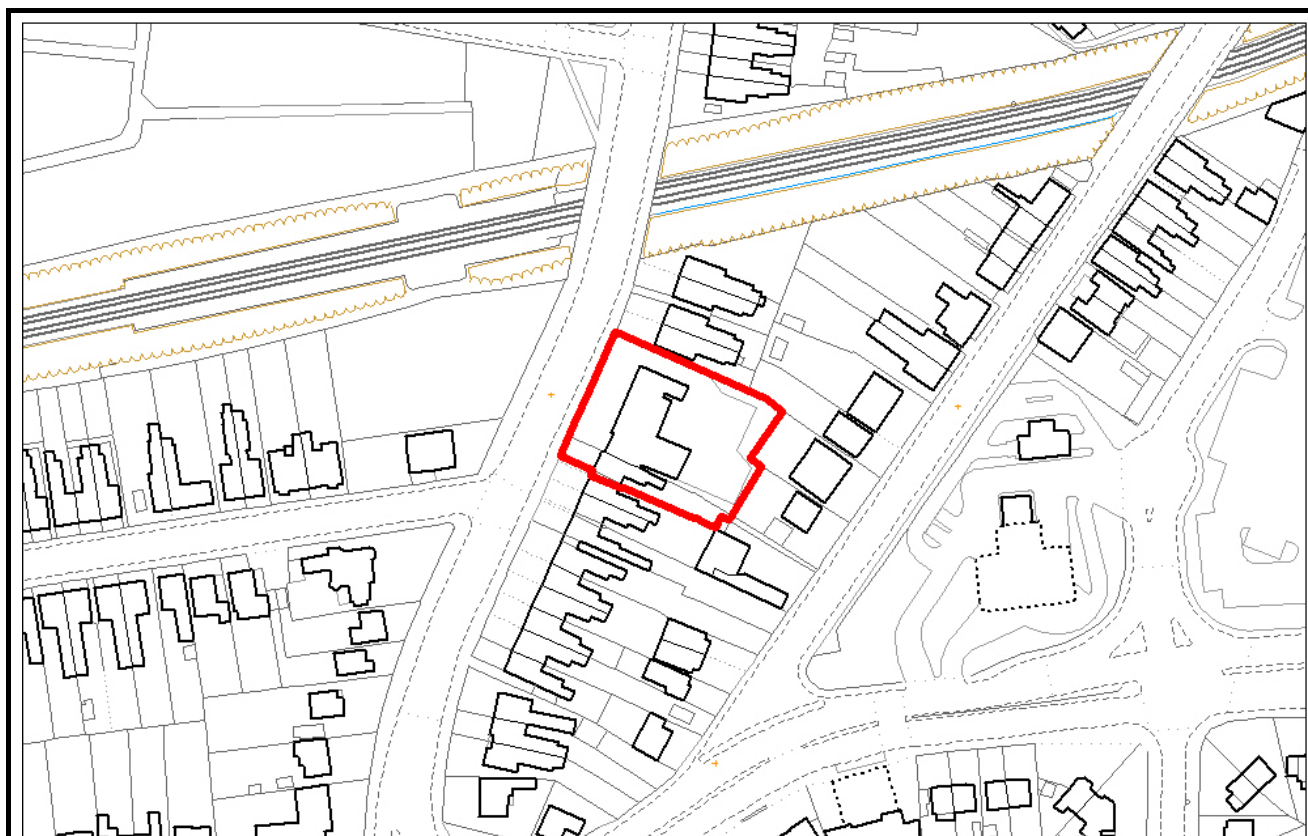
**REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement**

**Application Number:** 09/0366/FL  
**Application Type:** Full application  
**Applicant:** Mr Jagdip Takhar  
**Proposal:** Change of use from hotel to  
house in multiple occupation (28 rooms).

**Case Officer:** Jan Scrivens  
**Telephone Number:** 01922 652436  
**Agent:**  
**Location:** THE ABBERLEY HOTEL  
(27-29), BESCOT  
ROAD, WALSALL, WS2 9AD  
**Expired:** 22/07/2009

**Ward:** Pleck

**Recommendation Summary:** Grant Subject to conditions



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### **Application and Site Details**

This application proposes the change of use of a 28 bedroom hotel into a 28 bedroom house in multi-occupation (HMO). The building would be converted to provide six kitchens for the residents, and communal living/dining rooms. Each bedroom would have its own bathroom. The hotel reception would be converted to provide one room for management. There are no external alterations proposed.

The property has 20 parking spaces, which the application proposes to retain. Nine of the spaces are on the frontage of the site which has two vehicle access points to Bescot Road. Eleven spaces are at the rear of the building, together with a small amenity/ landscaped area.

### **Relevant Planning Policy Summary ( Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website).**

#### **Development Plan**

GP2 and 3.6 expect all development to make a positive contribution to the quality of the environment.

H3 encourages the provision of additional housing through the re-use of previously developed sites and the conversion of existing buildings provided that a satisfactory residential environment can be achieved.

H7 states that proposals for the establishment, enlargement or alteration of hostels or houses in multi occupation will be encouraged if it can be demonstrated that:

- I. There would be no harm to the amenity of the occupants of neighbouring buildings or the intended occupiers of the proposed accommodation
- II. There would be no harm to the character and appearance of the buildings or the surrounding area
- III. It would not impair the free flow of traffic or highway safety

H10 expects the design of residential development to create a high quality living environment.

T7 and T13 relate to car parking. There are no specific parking standards for houses in multi-occupation.

Appendix E of the adopted Designing Walsall Supplementary Planning Document sets out numerical guidelines for residential development.

### **Relevant Planning History**

Various applications for change of use and extensions to form the existing hotel.

#### **Consultations**

**Transportation:** No objection. Request the imposition of planning conditions requiring cycle and motorcycle parking, disabled parking spaces and details of bin storage facilities.

#### **Pollution Control:**

**Contaminated Land Team** has no objection

**Scientific Team** has no objection. However, there is potential for adjoining housing to be affected by construction noise so a condition has been recommended.

**Environmental Health:** No objection

**Fire Service:** No objection

**Housing Standards:** No objection. The premises will require an HMO licence under Part 2 of the Housing Act 2004. If the property is converted as shown on the deposited plans it will be suitable for single person occupancy of each room. If the intended user group is different, for example a vulnerable group then additional requirements may be necessary, including larger room sizes or additional amenities.

### **Representations**

Three letters of objection have been received which make the following points:

- this once quiet residential area is in danger of becoming a dumping ground for peripheral residential uses which would be deemed unacceptable in other parts of the borough
- there are already parking problems in Slaney Road ( a cul-de-sac opposite the site) which has no adopted turning head. These problems are worsened by the presence of 3 HMOs and a Religious Educational Centre in the street and will worsen further if this application is approved. The number of cars belonging to non-residents often leads to visitors to Slaney Road being unable to park their vehicles in the road.
- there are already 2 hostels, a residential home, 2 elderly persons homes and a further HMO will only intensify the rapidly deteriorating environment around us
- noise, litter and parking problems are already experienced from the existing HMOs
- there have been a number of incidents involving the police, ambulance etc. at this property almost weekly for many months ; members of the writers family have been approached by the tenants living there and feel intimidated by their actions. Its use as a 28 bed HMO will make the writer no longer feel safe and secure living here
- the proposal will devalue property

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

### **Determining Issues**

- amenity
- parking

### **Observations**

#### **Amenity**

Houses in multiple occupation are a form of residential use and as such are acceptable in principle in residential areas.

There are no proposed external changes and the development would have no adverse effect on the character and appearance of the area.

Although this property is larger than most houses in multi occupation it would not necessarily have a greater impact on the amenity of the area, in terms of activity levels, than the existing hotel use.

Nearby residents have expressed concerns for their safety should this change of use go ahead but these concerns are based on the stated behaviour of previous occupiers of the property. There are no grounds to attribute poor behaviour to future occupiers of the building.

It is not proposed to create any additional side facing windows and the amenity and privacy of immediate neighbours would not be reduced as a result of the conversion. Pollution Control has recommended restrictions on the hours during which the conversion work should take place, in the interests of the amenity of neighbours.

The interior alterations are acceptable to Housing Standards and must therefore provide a reasonable standard of amenity for the future occupiers of the premises.

Externally there is very little private amenity space (about 104 sq.m. and assuming single person occupation of each room this equates to just under 4 sq.m. per person), the majority of the area to the rear of the building being devoted to car parking.

There is no defined amenity space standard for houses in multiple occupation and, while some amenity space is essential, the amount required has to be balanced against the need for parking which the use will generate, the existence of the present car parking area and the availability of parking in the vicinity.

In this case it would be possible to increase the amount of amenity space slightly by the deletion of spaces 19 and 20 without detriment to the functioning of the remaining spaces.

Although neighbours are concerned about the use devaluing their properties this is not a planning matter.

### **Car parking**

The application proposes the retention of the existing car parking. This is acceptable in traffic terms if cycle, motorcycle and disabled parking spaces are provided. These can be required by condition. Although these facilities, and the provision of space for bin storage, will reduce the amount of car parking available, it is considered that sufficient car parking will remain to serve the needs of this development.

An assessment of car ownership in 'Residential Car Parking Research – May 2007' published by the Department for Communities and Local Government explains that dwelling size, type and tenure are the major factors in determining car ownership levels and that the occupiers of the type of accommodation proposed are unlikely to own cars.

While this is research rather than policy, Inspectors in recent appeal decisions have accepted this approach. However, residents living opposite the site have indicated that there are existing parking problems, and there is little available on-street parking space in the area. On balance the retention of the majority of the existing car parking on the site would be prudent.

### **Summary of Reasons for Granting Planning Permission**

The use of this hotel as a house in multi occupation is a form of residential development which is acceptable in principle in a residential area. There is no evidence that the prospective occupiers will cause noise, security or other social problems in the area. The development would have no adverse effect on the character and appearance of the building or on the amenity of occupiers of the area. The site is able to provide sufficient amenity space and parking facilities to meet the needs of the development. Loss of value is not in itself a reason to oppose the application. The approval of this application would therefore be in accordance with policies GP2, 3.6, H3, H7, H10, T7 and T13 of Walsall's adopted Development Plan and Appendix E of the adopted Designing Walsall Supplementary Planning Document.

### **Recommendation: Grant Subject to conditions**

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

*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act.

2. No development shall be carried out until plans have been submitted to and approved in writing by the Local Planning Authority showing:
  - a) covered, secure and illuminated cycle parking facilities
  - b) a designated parking area for motorcycles, including security bars
  - c) the provision of two parking spaces for disabled users
  - d) the removal of parking spaces numbered 19 and 20 on drawing no.002A and proposals for the creation of amenity space in the resulting area
  - e) the position of a refuse bin storage area capable of accommodating a minimum of 6 no.1100 litre euro bins, unless otherwise agreed in writing by the Local Planning Authority

The proposals agreed in writing under this condition shall be implemented prior to the occupation of any part of the development and thereafter retained. The parking spaces shall have been clearly marked out.

*Reason:* To encourage other means of transport other than the private car, to assist disabled drivers, to ensure the satisfactory provision of amenity space and to ensure the satisfactory functioning of the development.

3. No development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation), has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting season (1<sup>st</sup> October - 1<sup>st</sup> April) following any part of the development being brought into use, or in accordance with any agreed phasing.

*Reason:* To augment the existing planting on the site in the interests of the visual amenity of the area and the amenity of future occupiers of the premises.

4. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition by regular cutting and any areas that fail to establish shall be reinstated;
- (b) planted areas shall be maintained in a tidy condition by regular weeding and litter collection;
- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

*Reason:* To ensure the visual amenity of the area and in the interests of the amenity of future occupiers of the premises.

5. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. 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:* In the interests of the amenity of adjacent occupiers.

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ITEM NO: 9.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: Significant Community Interest**

**Application Number:** 09/0376/FL

**Application Type:** Full application

**Applicant:** Mr Patel

**Proposal:** Convert house to four 2  
bedroom flats

**Ward:** Paddock

**Recommendation Summary:** Grant Subject to conditions

**Case Officer:** Alison Deakin

**Telephone Number:** 01922 652487

**Agent:**

**Location:** 328 BIRMINGHAM  
ROAD, WALSALL, WS5 3NE

**Expired:** 01/07/2009



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### **Application and Site Details**

The proposal is to convert this large semi-detached house on the southern side of Birmingham Road into four 2 bedroom flats, one flat on each floor. No extensions are proposed to the building. Provision of 6 off-street car parking spaces at the front of the site is also proposed. There is an existing decorative boundary wall at the front of the property and three large trees within the front garden.

The basement flat has a separate access via a ramped path at the front of the site and the ground, first floor and second floor (loft) flats are accessed via a shared hallway. The room sizes are generous and ground and first floor flats offer a dual facing outlook.

The property lies within a predominantly residential area and is surrounded by large dwellings within generous plots having mature landscaped gardens. It lies just to the north of the junction with Queens Road and there is a pedestrian crossing in front of the adjacent dwelling 330 Birmingham Road. The dwelling appears as two storeys within the street scene but has a basement and loft areas that are currently utilised as living accommodation.

The applicant states that the proposals offer a unique opportunity to divide this large property to create smaller living units for sale or rent aimed at the first time market or existing residents who want to scale down. They consider the property lies within an established residential neighbourhood with convenient access to local facilities and services. The sub-division of the house enables the repair and modernisation of a high quality building without compromising the quality of the building, wider street scene or amenity of neighbouring residents.

A Design and Access Statement has been provided which concludes that the proposal would create four self-contained high quality apartments that have appropriate parking and amenity space. It also preserves the external fabric of the building which contributes to the character of the street scene and surrounding area.

### **Relevant Planning History**

Tree Preservation Order 30/2006.

09/0380/TR – Crown lift 2 Lime and 1 Beech tree in front garden by 3m. 1 Pine in front garden, crown lift to 3m and prune broken stubs – Granted 28/4/09

08/1884/TR – Fell 3 trees in front garden and 7 trees in rear garden – Part approved/part refused 26/1/09

08/1274/TR – Fell a Scots Pine and Copper Beech in the front garden – Part approve/part refused 11/9/08

08/0616/TR – Fell 2 Lime trees at 330 Birmingham Road, fronting Queens Road, fell 2 Poplars on the rear boundary between 330 & 328 Birmingham Road – Granted 16/5/08

**Relevant Planning Policy Summary** (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).

### **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development and seeks to maximise the re-use of derelict, vacant and under used urban land and buildings.

GP2: Development should not have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

- I. Visual appearance
- VI. Overlooking, loss of privacy, and the effect on daylight and sunlight.
- VII. Adequacy of access and parking facilities.
- XII. Effect on woodland or individual trees on or near the site.

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

ENV23: Development needs to demonstrate no adverse impact on species protected by European law and generally conserves natural elements.

H3: Encourages housing provided through windfall opportunities provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

H7 & 6.46: Establishment of houses in multi-occupation (which would include houses divided into flats, bed-sits or shared houses where people do not live together as one household) should demonstrate there is no harm to the amenity of occupiers of neighbouring buildings, the character and appearance of the building or surrounding area and not impair the free flow of traffic or highway safety.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

T13: Parking Provision

Flats with communal parking 1.5 spaces per unit

### **Designing Walsall SPD**

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

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

DW2 – all new development must contribute to creating places that feel safe.

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

DW6 – new development should contribute to creating a place that has a clear identity

DW7 – contribute to creating living places that offer a mix of activities to the widest range of possible users.

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

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

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 20 square metres per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these

guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1 and NE4: all relevant applications to be supported by an adequate impact assessment.

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

Protection is proposed for protected animals, plants etc.

### **Regional Spatial Strategy for the West Midlands**

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)).

### **National Policy**

PPS1: Promotes sustainable development and good design.

PPS 3: Encourages reuse of previously-developed land for housing. Paragraph 10 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. Some of the specific outcomes that the planning system should deliver are well-designed housing built to a high standard and in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPS9: Seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology and contribute to rural renewal and urban renaissance.

PPG13: Promotes sustainable patterns of development which reduce the need to travel, especially by car.

### **Consultations**

**Transportation** – No objections in principle subject to provision of revised details relating to the parking layout, waste storage and cycle storage. The proposal requires provision of 6 car parking spaces in accordance with policy T13. The proposals show provision of 6 spaces plus retention of the existing garage.

The proposals utilise the existing access point on Birmingham Road. The A41 Birmingham Road is part of the strategic highway network, has a 30mph speed limit and carries relatively high volumes of traffic. Although the development will result in an increase in the intensification of the access (from 1 dwelling to 4 flats), it is considered to have adequate visibility in either direction and is unlikely to result in a significant detrimental impact on the surrounding highway network.

**Arboricultural Officer** – No objections. There are six trees at the front of the property that are protected by a TPO. Of these, two have recently been removed and one is scheduled for removal. The remaining TPO trees at the front are one Pine adjacent the front boundary and two Lime trees on the boundary with the neighbouring property 330 Birmingham Road. Groundwork has already been completed at the front of the property and the space for the proposed parking is now

available. The proposals have no further arboricultural implications. The rear of the property has only two trees remaining and will be unaffected by the proposals.

**Environmental Health** – No objections.

**Fire Service** – No objections as there is satisfactory access for the fire service.

**Equality & Diversity** – No objections. Further details regarding accessibility are required.

### **Public Participation Responses**

Five objections received relating to the following: -

- Increased traffic congestion creating a highway hazard near to a busy junction with access for a residential estate
- Insufficient parking that would result in on-street parking
- Detrimental to character and visual amenities as there are no flats in the surrounding area
- Too many flats in the area
- Overdevelopment of a dwelling designed for one family
- Loss of trees protected by TPO
- Extent of TPO trees already removed and boundary hedges prior to applying for permission to do so
- Odour, noise and disturbance from existing activities at the site
- Already converted to flats
- Concern regarding safety/security of boundary treatments
- Loss of privacy as overlooking from kitchen window in gable
- Loss of privacy from removal of trees
- Loss of light due to need to keep blinds in kitchen at adjacent property closed
- Noise and disturbance from comings and goings of four separate households
- Decrease the value of existing dwellings (*not directly a material planning consideration*)

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

### **Determining Issues**

- Character and appearance of the area
- Amenity of occupants
- Amenity of neighbours
- Relationship with existing trees
- Access and parking

### **Observations**

#### **Character and appearance of the surrounding area**

The existing property lies within a large plot on the south side of Birmingham Road. Although this is a semi-detached house the proposed conversion to create four individual flats does not require any external alterations or extensions. The existing dwelling has 8 bedrooms so could potentially be occupied by a large extended family

with many comings and goings. Conversion to create four flats where no proposed change or extensions are proposed would therefore not have a significant impact upon the character of the dwelling or an adverse impact upon the character of the surrounding area. Car parking will be provided on the existing hard surfaced areas at the front of the building and will be partially screened by the existing front boundary wall. Again, this will have no greater adverse impact upon the character or appearance of the property within the street scene. No trees are affected by the proposals hence the setting remains the same.

Although the surrounding properties are all houses this is in a sustainable location where the provision of a mix of dwelling types is considered acceptable in accordance with policy H10.

### **Amenity of occupants**

All of the proposed flats have two bedrooms and have generous sized rooms. Despite the second floor loft flat having only velux windows every room has at least one velux window which provides good lighting. Given the size of the rooms and the good lighting the lack of outlook is considered not to be detrimental to residential amenities. The basement flat also has windows in each of the rooms providing a limited outlook onto private courtyard areas. Again, these rooms are generally well lit despite being at basement level. Each of the flats has good access to the large rear garden area (approximately 65m long X 14m wide) which will be shared. This provides ample private amenity space for each of the flats, well in excess of 20m<sup>2</sup> per flat required in SPD: Designing Walsall. Taking account of the above the level of amenity provided for future occupants is considered to be good.

### **Amenity of neighbours**

There are habitable room windows in the front and rear facing elevations of the existing property and velux windows within the roof. Conversion to create four flats utilising the same layout and windows therefore has no greater potential for overlooking neighbouring gardens or properties than the existing dwelling.

There are two existing windows in the first floor gable elevation facing 330 Birmingham Road. These are narrow windows each approximately 1.1m wide. The proposals include conversion of a first floor store room (formerly part of a larger bedroom) to a kitchen whereby one of these existing windows becomes a habitable room facing 330 Birmingham Road. There is approximately 16.6m separation between the facing gable elevations which includes a kitchen window in the ground floor of 330 Birmingham Road and a bedroom window at second floor. As the windows at 328 are existing windows, albeit one of them becomes a kitchen, this is considered not to have any greater impact upon neighbour's privacy than the original dwelling would have. The kitchen is laid out in such a manner that work surfaces are along both sides of the room therefore an occupier within the kitchen is more likely to be facing the work surfaces (i.e. side ways on) rather than facing the window. In addition the garages and outbuildings lie between the properties that also have a distancing effect.

The neighbour is concerned that in order to maintain privacy their kitchen blinds will have to be kept closed that will adversely affect light to their kitchen. However, for the reasons referred to above it is considered that there will be no greater impact upon privacy. In the circumstances the proposals are considered not to create undue overlooking or adversely affect privacy of surrounding properties.

An objection has been received relating to activities being carried out within the rear gardens of 326 and 328 Birmingham Road. The objector states this has included bonfires being lit and noise and disturbance from car maintenance related activities at no 326. As the proposals only relate to no.328 it is activities at this property which are material to this assessment. It is clear that renovation works have already commenced and this may have created some noise and disturbance to neighbours. However, renovation works alone are not activities that require planning permission and it was clear at the case officer's site visit that the premises were not presently occupied as flats. In the circumstances the applicant is entitled to continue the renovation works as alterations are internal only. Nevertheless for the reasons referred to above the conversion of this property to four flats is considered acceptable.

The submitted plans give no indication as to whether boundary treatments at the site are to be renewed. However, any replacement boundary treatment would be subject to consideration under the relevant planning legislation [Schedule 2, Part 2 of the Town & Country Planning (General Permitted Development) Order 1995 (as amended)] as to whether permission is required or not. There is no reason to consider that the applicant will not wish to retain a secure boundary for the proposed flats. The matter of boundary fencing is therefore a matter to be considered between neighbours.

One objection refers to removal of trees at the front and rear boundaries of the site which they consider have resulted in loss of privacy. However, the removal of trees has been carried out under TPO legislation and as the boundary walls remain in place there is no reason to consider that there has been a loss of privacy. Whilst the objector may consider their property is more visible from the application site no extensions or alterations are proposed that would allow greater overlooking.

In light of the above comments the proposals are considered not to have any adverse impact upon surrounding residential occupiers.

### **Relationship with existing trees**

The proposals are for change of use of the building from a single dwelling house to four flats. No extensions to the building itself are proposed therefore no building works will affect TPO trees. Although there have been several recent applications to remove or crown raise existing trees within the plot the proposals do not include further works to any of the remaining trees.

The proposed off street parking is to be accommodated within the front garden area that is already surfaced with a combination of concrete and loose gravel. In the circumstances the proposals for car parking will not have any further implications upon the health of the retained trees on site. The objector's concerns regarding further loss of trees are therefore unfounded. Tree works or tree removals already carried out have been completed under the relevant TPO consents and any further works would also require consent hence the Council have control over any future works. This should address the neighbour's concerns about potential future tree removal.

Given the above comments the proposals do not have any impact on TPO trees.

### **Access and parking**



The proposal utilises the existing point of access onto Birmingham Road that has adequate visibility in both directions. Six off-street parking spaces are proposed on the site frontage, plus retention of the garage. This level of parking provision accords with that required under policy T13.

Transportation request revised details showing provision of one disabled parking space, bin store and cycle storage facilities. There is ample space on the forecourt of the premises to accommodate the disabled parking bay and the existing store room adjacent to the retained garage is of sufficient size to accommodate bin storage and cycle storage. This is secured and lit so is ideal for cycle storage. Nevertheless it is recommended that revised plans are submitted to ensure delivery of the situation.

Objectors are concerned that the proposals will increase traffic congestion and create a highway hazard. However, the proposals utilise an existing access so there will be no change in this respect. Whilst policy T13 requires 3 parking spaces for 4 bedroom houses and above and 6 spaces for four flats with communal parking there is ample space to accommodate 6 spaces on the forecourt of the property. Despite the different parking requirements it is considered that an eight bedroom house is likely to be occupied by larger families who may own more than three vehicles. In the circumstances it is considered that there will be no significant difference between noise and disturbance created by parking for four flats as that for an eight bedroom property. It is just as likely that there will be numerous vehicles manoeuvring within the site and emerging from the access. The likely impact is therefore considered not to be sufficient to have a significant detrimental impact upon the surrounding highway network and is acceptable. The off-street parking proposed accords with policy T13.

### **Summary of Reasons for Granting Planning Permission**

The proposal seeks to make more efficient use of a large house by conversion to four flats. No external alterations or extensions to the building are proposed. It is considered that the character and appearance of the site will not be significantly different from the former occupation of the property as an eight bedroom dwelling.

The means of access to the site remains unaltered and provision of off-street parking complies with Council policy. Despite neighbour concerns about increased traffic it is considered that the potential vehicles attending an 8 bedroom house would be potentially just as busy as those attending 4 flats. In the circumstances there is no detriment to highway safety.

The occupation of the building as flats creates no greater overlooking of surrounding properties other than alteration of an existing gable window from a store to a kitchen window. Given the separation between the window and the gable wall of 330 Birmingham Road and the existing and proposed uses of the room it is considered not to cause significant harm to residential amenity by overlooking or loss of privacy.

There are no proposals to remove further TPO trees at the site and as no extensions are included and parking is within an area that is already hard surfaced for parking there is no greater impact upon the health of existing trees.

For the above reasons the proposals are considered to comply with policies GP1, GP2, GP7, ENV18, 3.16, ENV23, ENV32, H3, H7, 6.46, H10, 3.116, T7 and T13 of

Walsall Unitary Development Plan, Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment and the Regional Spatial Strategy for the West Midlands (RSS).

**Recommendation: Grant Subject to conditions**

1. The development must be begun no later than 3 years after the date of this decision.

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

2. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may be otherwise be required by conditions: -

- Location Plan received 23/3/09
- Block Plan received 23/3/09
- Existing Basement Plan (09/1/8/4) received 1/5/09
- Existing Ground Floor Plan (09/1/8/3) received 1/5/09
- Existing First Floor Plan (09/1/8/2) received 6/5/09
- Existing Second Floor Plan (09/1/8/1) received 6/5/09
- Proposed Basement Plan (09/1/8/4) received 23/3/09
- Proposed Ground Floor Plan (09/1/8/3) received 23/3/09
- Proposed First Floor Plan (09/1/8/2) received 23/3/09
- Proposed Second Floor Plan (09/1/8/1) received 23/3/09
- Design & Access Statement received 23/3/09

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

3. Prior to the first occupation of the development a revised car parking layout plan shall be submitted for approval by the Local Planning Authority showing 1 space allocated for disabled users. The space shall measure 2.4m X 3.4m plus 1.2m access zone to driver's side and rear. The approved scheme shall then be implemented in accordance with the agreed details and maintained thereafter.

*Reason:* In accordance with UDP policy T13 that all developments allocate 10% parking for disabled users.

4. Prior to the first occupation of the development a revised plan shall be submitted for approval in writing by the Local Planning Authority showing a refuse bin storage area suitable to house 2 "Euro" bins in accordance with Walsall Waste Management requirements. The bin storage area shall be located a maximum of 10 metres from the highway in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority. This shall include provision of screening. The approved scheme shall then be implemented in accordance with the agreed details and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory operation of the development and in accordance with the guidelines contained within the Department for Transport "Manual for Streets" 2007.

5. Prior to the first occupation of the development the car park shown on the approved plan to be submitted in accordance with condition 3 shall be fully consolidated, surfaced and drained and the parking bays clearly demarcated on the ground and thereafter retained for this purpose unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory completion of the development.

6. Prior to the first occupation of the development a revised plan shall be submitted for approval in writing by the Local Planning Authority showing secure, covered and illuminated cycle storage facility for 4 cycles. The approved details shall then be implemented in accordance with the agreed details and maintained thereafter.

*Reason:* To promote and encourage sustainable alternative modes of transport other than by motor car.

7. Prior to the first occupation of the development further details demonstrating how the site will achieve access for all shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented and maintained in accordance with the agreed details throughout the life of the development unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory access for all to the property.

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ITEM NO: 10.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: Significant Community Interest**

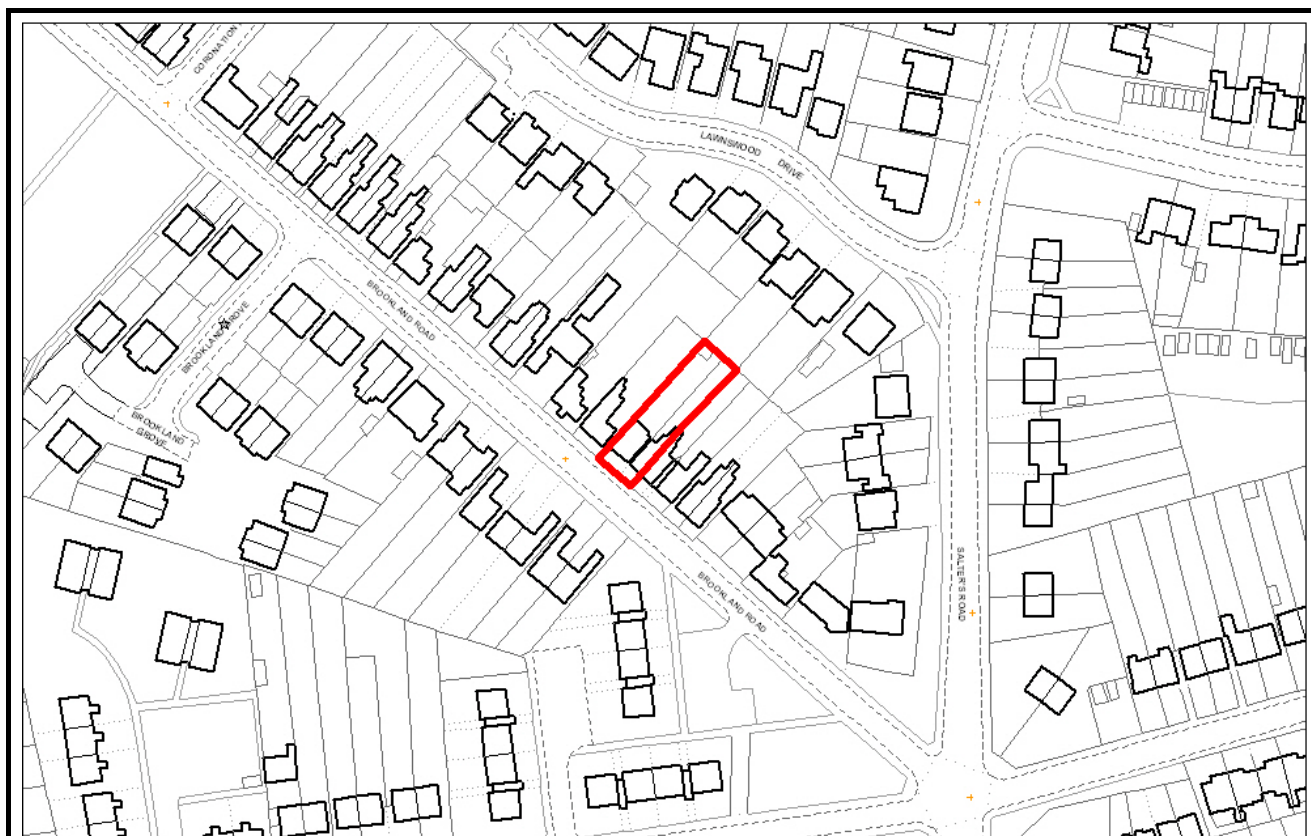
**Application Number:** 09/0453/FL  
**Application Type:** Full application  
**Applicant:** Mr A. Miles  
**Proposal:** Self contained single  
bedroomed flat resubmission of application  
09/0035/FL

**Case Officer:** Claire Murphy (H2)  
**Telephone Number:** 01922 652485  
**Agent:** Mike Sweeney  
**Location:** 83 BROOKLAND  
ROAD, WALSALL WOOD, WS9 9LY

**Ward:** Aldridge North and Walsall Wood

**Expired:** 16/06/2009

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

The application property is located on Brookland Road within a predominately residential area. The road consists of detached, semi-detached and traditional terraced properties of varying age and design. Houses along Lawnswood Drive back onto the application site. This application is an amendment to a previously refused application (for 2 self contained flats).

The current application proposes to change the use of an existing two storey side extension to a separate one bedroom flat, to accommodate a kitchen, dining room and bathroom at first floor level, with a bedroom and study in the loft. In addition, the application proposes a single storey rear extension behind the existing extension, which would project 7.8 metres with a shallow pitched roof above measuring 2.3 metres to the eaves and 2.7 metres to the ridge overall.

The original end terraced house would remain as a two bedroom property. Access to the proposed flat would be through an access-way with stairs leading to the first floor. The length of the proposed double garage would be increased by 0.8 metres to the front, which would be directly underneath the existing canopy roof. The increased internal area provides space for storage of refuse bins for both number 83 and the proposed flat.

A Design and Access Statement has been submitted with the application which states that four car parking spaces will be provided to the front of the extension. The plans submitted with the application show the existing two integral garages with hard-standing directly in-front, facilitating two parking spaces for the original terraced house and two parking spaces for the proposed flat.

Although not indicated on the plans submitted with the application, the loft area to number 83 has been converted into a habitable space for 83.

## **Relevant Planning History**

BC4159. Double garage and enclosed passageway. Granted Subject to Conditions 1976

BC7300. Bedroom and bathroom over garage and hall. Granted Subject to Conditions 1977.

08/0561/FL: Extension to form 2 self contained flats. Refused July 2008 on the grounds of lack of parking; the design would not integrate with the adjoining dwellings by virtue of the first floor windows which are situated higher than those on the adjoining terraced house, the front door is obscured by a supporting pillar, the recessed garage door and the disproportionate size of the extension which dominates the original dwelling; and the proposal would not provide sufficient separation of habitable rooms.

The front of the extension was to be flush with the front of the original part of the house and was to include dormers in the roof of both the extension and the original part. A two-storey extension was also proposed to the rear.

08/1602/FL: Replacement two storey side extension with pitched roof. Granted Subject to Conditions November 2008.

09/0035/FL: Self contained 2 bedroom flat. Refused March 2009 on the grounds of scale and mass of the proposed two storey extension to the rear, with insufficient separation distance between both facing neighbours numbers 79 and 83 Brookland Road; the bulk and position of the proposed first floor extension to the rear in relation to the first floor windows to the rear of number 79; and the proposed communal accessway would not maximise defensible space or surveillance, nor contribute to designing out crime, and therefore out of character with the surrounding area.

### **Relevant Policies**

***(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site, [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning))***

#### **Unitary Development Plan**

Policies 2.2, 3.6, 3.7 and GP2 seek high quality design and access whilst protecting people from unacceptable noise, pollution and other environmental problems and ensuring safe access.

Policy GP7 proposals should have regard to designing out crime.

Policy ENV10 seeks to protect residents against pollution such as noise.

Policies ENV32, 3.16, 3.116 and H10 - seek the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

Policy T7 all development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of car parking to meet the operational needs whilst not exceeding any maximum parking standards that are specified.

Policy T13 car parking standards

Flats with communal parking spaces 1.5 spaces per unit

Flats with individual parking 2 spaces per unit

### **Supplementary Planning Documents**

#### **DESIGNING WALSALL**

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

These include guidelines concerning the separation distance between facing habitable room windows and two storey blank gable walls.



## **National Policy**

Planning Policy Statement 1: Creating Sustainable Communities both emphasise the need for good design, and development which is sustainable.

Planning Policy Statement 3: Housing states that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed. However, when identifying previously developed land, sustainability will need to be considered as some sites will not necessarily be suitable for housing. It also replicates the advice given in PPS1 regarding good design and design which is inappropriate in its context, or which fails to take opportunities available for improving the character and quality of an area and the way it functions.

Planning Policy Guidance Note 13: Transport, promotes sustainable patterns of development, which reduce the need to travel, especially by car.

Urban Design Compendium: Promotes good quality design can make to creating places where people want to live, work and enjoy themselves in the knowledge that they can do so safely.

## **Consultation Replies**

**Transportation:** No objection, subject to suggested conditions being imposed relating to visibility and access. The application looks to alter and extend the existing property to provide a 2 bed house and a one bed flat. The application provides 4 car parking spaces, two for each property, which meets with Unitary Development Plan maximum car parking requirements.

**West Midlands Fire Service:** Satisfactory for fire service access.

**Environmental Health:** No comments.

**Pollution Control, Contaminated Land:** This property is within 250 metres of a closed landfill site known to be producing landfill gas, superficial spike testing has revealed elevated levels of carbon dioxide. As a precaution, recommend that basic ground gas ingress protection measures are incorporated into the proposed single storey rear structure, with suggested conditions for any approval given.

## **Public Participation Responses**

Representations have been received from the occupiers of 34, 36 and 77 Brookland Road and comment on how much better the building now looks and the hard work put in by the company carrying out the development, with the overall appearance of the work being unquestionable. Their main concern is the issue of parking, and that during the years that they have lived in Brookland Road, there has always been an issue with the number of cars and the amount of free parking outside residences, and hope that the parking put in place with the proposed development is utilised by the owners / tenants and that the problem for parking on the road does not escalate further. In addition, at present there does not appear to be a full dropped kerb to enable access to the garages.

## **Determining Issues**

- The impact on the character of the wider area

- The level of amenity for nearby occupiers
- The impact on Parking and highway Safety

## **Observations**

### **The impact on the character of the wider area**

The current application proposes to change the use of the existing two storey extension to the side of a traditional end of terrace, application reference number 08/1602/FL. The proposal would retain the original two bedroom house, with the extension to be a one bedroom flat.

The replacement two storey side extension has been completed. The canopy porch has been built larger than previously approved, from projecting 0.9 metres at 3.3 metres high, to a projection of 1.8 metres at 3.7 metres high; and the plans submitted with the current application indicate two windows which are smaller on the submitted plans, than those which have been incorporated into the extension and show a pillar in front of the main access to the flat as being larger than in-situ.

However, taking into account the surrounding area consisting of semi-detached and terraced properties mainly, with varying porches and canopy roofs to the front elevations of the houses, it is not considered to be out of character with the area.

### **The level of amenity for nearby occupiers**

The previous application (08/1602/FL) granted permission for the replacement two storey extension to the side of the end terraced house, and was within the original footprint of the previously approved extensions, and did not include any extensions to the rear of the side extension, as is currently proposed.

The single storey rear extension proposed behind the existing two storey side extension would be positioned between projecting wings of both neighbouring properties numbers 79 and 83 Brookland Road. The rear elevation would be level with the single storey rear elevation to number 83. In relation to number 79, their single storey wing projects approximately 8.2 metres beyond the rear elevation to the existing two storey side extension. The rear elevations of the properties face the north-east, with number 79 to the north-west side of the proposed single storey rear extension, however, the rear extension would sit within the bulk and shadow of the existing wing to the rear of 83, and taking into account the relatively low height of the proposed extension, it is considered it would not cause any significantly greater impact upon their amenities.

The previous application proposed a shared access to both the flat and the existing house to allow access for the occupiers of number 83 for storage of wheelie bins, which was deemed unacceptable, as it removed natural surveillance to the flat. The current application proposes to increase the length of the double garage, to facilitate space for storage of the bins. In turn, this removes the requirement for a shared access, and allows the door to the front between the existing house and the double garage to be used for the sole purpose and access of the flat and would maximise surveillance to the front door.

From a site visit carried out by officers from Pollution Control for a previous application to the property, superficial spike testing was carried out, which identified increased levels of carbon dioxide, which could be further increased by the disturbance of constructing the single storey extension to the rear of the house.

However, it is recommended that basic ground gas ingress protection measures are incorporated into the proposed structure, through imposing a condition on any planning approval given, which would ensure that this would not cause any potential impact upon the amenities to the neighbouring properties.

Although not clearly indicated in the plans submitted with the application, the original rear garden has been divided to provide garden space to the rear of number 83 and to the rear of the proposed one bedroom flat, with a 1.8 metre high close board fence having been erected in-between the proposed gardens, which would both be approximately 20.0 metres long.

### **The impact on Parking and Highway Safety**

The current application indicates the increased internal measurements for the two garages to be 2.46 metres wide by 5.6 metres long for each, which would be in accordance with the minimum required by policy guidelines, with additional parking spaces to be provided on a hard standing which would be in front of the garages. The increased garage length would reduce the length of the driveways to 5.5 metres, however this length still meets the minimum length required by policy.

The plans also indicate that one garage would be for number 83 and the other for the new flat, with the second space for each dwelling on the hard standing area fronting the extension. For this application, the four parking spaces would satisfy parking standard requirements.

In addition, Transportation have no objections to the current revised application subject to a reduced height to the boundary wall adjacent the shared side boundary with number 79 to be no greater than 0.6 metres for the first 1.5 metres into the curtilage of the property and with the existing vehicular footway crossing be suitable extended to align with the extended driveway. These requirements would be addressed through conditions being incorporated into any given approval. The garage doors are recessed beneath the canopy roof across the front elevation of the side extension.

The original driveway has been replaced with both block paving and hard-standing. Since the changes to the GPDO in October of 2008, the replacement of hard-surfacing to the front of the property would require approval of a planning application. Therefore, it is recommended that a condition is incorporated into any approval given, requesting details pertaining to drainage to direct surface water within the curtilage of the property.

### **Summary of reasons for granting planning permission and the policies which are relevant to the decision**

The appearance of the proposal in the street scene takes account of its surroundings and is considered acceptable. The position of the extension in relation to the adjoining dwellings means that it will cause little additional overlooking, loss of privacy, loss of daylight or sunlight to neighbouring properties, whilst meeting with the aims of the numerical guidelines in the Designing Walsall SPD.

The Pollution Control Teams concern regarding ground gas ingress from a nearby landfill site is not considered enough to refuse the application and can be resolved through a suitable condition to address the requirement for gas ingress protection measures.

The proposal overall provides adequate parking to serve the original house and the conversion of the extension to a flat.

The proposed development is considered to meet the aims and objectives of Walsall's Unitary Development Plan, in particular policies 2.2, 3.6, 3.7 and GP2, GP7, ENV10, ENV32, 3.16, 3.116 and H10, T7 and T13, and the Supplementary Planning Document "Designing Walsall".

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services.

### **Recommendation: Grant Subject to conditions**

#### **Conditions and Reasons for conditions:**

1: The walls and roof of the single storey rear extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

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

2: Within two months of this permission, details for measures to prevent the ingress of ground gases to the proposed single storey rear extension shall be submitted to and approved in writing by the Local Planning Authority. The approved measures to prevent the ingress of ground gases to the single storey rear extension shall be implemented to the satisfaction of the Local Planning Authority within one month of being approved in accordance with the approved measures, which shall be thereafter retained.

Reason: To safeguard the occupiers of the application property and to comply with policy ENV10 of Walsall's Unitary Development Plan.

3: Within two months of the date of this permission of works hereby approved, details pertaining to drainage to direct run-off water from the hard surface of the retrospective driveway within the curtilage of the property shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented within 2 months of written approval, and shall be thereafter retained.

Reason: To ensure the satisfactory development and drainage of the site and to comply with policies GP2 and H10 of Walsall's Unitary Development Plan.

4. Within two months of the date of this planning approval, the existing boundary wall and pillar between the application site and number 79 Brookland Road be reduced in height to 600mm from ground level for a distance of 1.50 metres from the back of footway to the satisfaction of the Local Planning Authority, in order to facilitate a 2.4m x 3.4m pedestrian visibility splay.

Reason: In the interests of highway safety and to comply with policies T7 and T13 of Walsall's Unitary Development Plan.

5: Within one month of the date of this planning approval, the existing vehicular footway crossing shall be extended to align with extended driveway shown on the approved plan and shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority. Any works shall meet all statutory requirements and shall be retained thereafter.

Reason: To ensure the satisfactory completion of the development and to comply with the requirements of the Highways Act 1980.

6: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

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

7: Notwithstanding the plans submitted with the application, no development hereby permitted shall be altered or enlarged so as to deprive it of an existing garage or its drive or parking area as retrospectively constructed, without the prior approval of a planning application.

Reason: To ensure the satisfactory provision of off-street parking and to comply with policies T7 and T13 of Walsall's Unitary Development Plan.

**Note for Applicant:**

Advice on basic ground gas ingress protection requirements can be found by reference to the following publication; "Protective measures for housing on gas-contaminated land", BRE Report 414, ISBN 1 86081460 3 (contact CRC Ltd 020 7505 6622 for order information). Details of measures included in the existing structure may be available by contacting the original developer.





To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

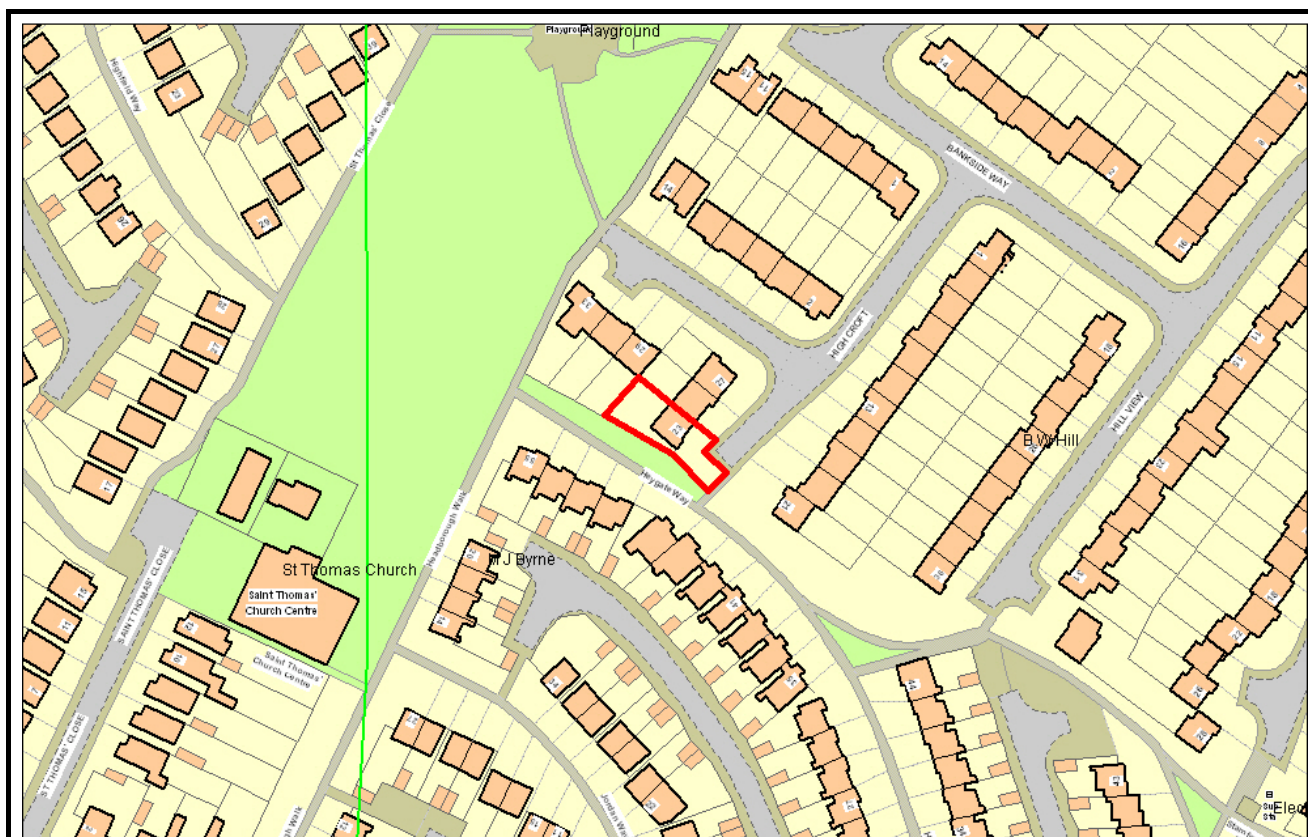
**REASON FOR BRINGING TO COMMITTEE: Significant Community Interest**

**Application Number:** 09/0505/FL  
**Application Type:** Full application  
**Applicant:** Mr Russell Fitzmaurice  
**Proposal:** Front extension to ground floor.

**Ward:** Aldridge North and Walsall Wood

**Recommendation Summary:** Grant Subject to conditions

**Case Officer:** Claire Murphy (H2)  
**Telephone Number:** 01922 652485  
**Agent:** Mr Stuart Bond  
**Location:** 23 HIGH CROFT, ALDRIDGE, WS9 8XL  
**Expired:** 17/06/2009



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## **Application and Site Details**

This application proposes a single storey extension to the front of a semi-detached house, to enlarge an existing porch and garage to the property, with a pitched roof above the existing flat roof canopy across the front elevation.

The existing open porch and garage currently project 0.6 metres forward of the main two storey front elevation to the house, with a flat canopy above, extending across the width of the front elevation to the house, projecting 0.8 metres. The proposed front extension would project 1.0 metre forward of the existing porch and garage, enclosing the porch entrance. The extension would have a pitched roof above measuring 2.3 metres to the eaves and 3.6 metres to the ridge.

The application also proposes a mono-pitched roof above the existing flat roof, which would be 3.0 metres high overall, which would also extend above the brick archway to the side of the garage, providing access to the rear garden (which is enclosed by a 1.8 metre high brick wall). The side elevation of the extended porch would be set 3.1 metres away from the shared side boundary with neighbouring property number 25 High Croft.

The original plans submitted with the application proposed to erect a bay window to project 0.85 metres forward of the lounge, adjacent the extended porch and shared boundary to number 25, positioned underneath the mono-pitched roof. However, upon request, amended plans were requested, to remove the bay window from the application, with retention of the original bow. In addition, the height of the proposed pitched roof above the extended garage and porch has been lowered to 3.6 metres, from 3.9 metres as originally proposed.

The property is located to the top of a cul-de-sac, with the end of the road and footpath, adjoining the driveway to the front of the property. The enclosing garden wall to the side of the house lies adjacent an open grassed verge along a footway to Heygate Way, with the front elevation of properties to Heygate Way facing the footway. The side of number 23 faces the neighbouring properties numbers 47, 49 and 51 Heygate Way. Within the grass verge adjacent the driveway to number 23 and facing the front of number 47 Heygate Way there are two mature conifer trees. Numbers 49, 51, 53 and 55 are two storey link detached houses, with number 47 down to 35 being link detached bungalows.

Number 25 High Croft is the other half of the pair with number 23, and is handed. The side garage to number 25 is attached to number 27. High Croft consists mainly of semi-detached houses, with the porches and garages projecting forward of the main house beneath a canopy roof, with a bow window. Some of the neighbouring houses within the street have mono-pitched roofs above the original flat roof canopies.

## **Relevant Planning History**

None

## **Relevant Policies**

***(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)***

## **Unitary Development Plan Policies**

### **GP2: Environmental Protection**

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

I. Visual appearance.

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

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

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

### **H10: Layout, Design and Dwelling Mix.**

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

## **Supplementary Planning Documents**

### **DESIGNING WALSALL**

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

## **National Policies**

### **PLANNING POLICY STATEMENT 1**

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

## **Consultation Replies**

None

## **Public Participation Responses**

In relation to the original plans submitted with the application, representations have been received from the occupiers of neighbouring properties, numbers 19 and 25 Highcroft, and numbers 45, 47 and 49 Heygate Way. They object to the proposed development for the following reasons;

- The bay window would have an impact upon the privacy to the occupiers of number 25, and would block light to their lounge window
- The extensions would be out of character with the street scene, with the alteration in design being an incongruous feature
- Would not be in keeping with the design of the estate
- The extensions would project forward of the original building line
- Parking
- If the garage is not used, then two cars would be parked on the driveway, which would spoil the outlook for the residents in both High Croft and 45, 47 and 49 Heygate Way
- The extension would cause a hemmed in feeling for the occupier of number 49, with issues of parking to the rear of their property from Headborough Walk

In relation to the amended plans received 2<sup>nd</sup> June, further representations have been received from the occupiers of numbers 45, 47 and 49 Heygate Way, objecting to the amended plans on the following grounds;

- The original outlook from Heygate Way changed in the 1970's with the estate being built, and that the proposed extensions would alter the outlook further
- The extension would cause a hemmed in feeling for the occupier of number 49, with issues of parking to the rear of their property from Headborough Walk
- The minor changes do not address their original objection, with the extension still to project beyond the original building line
- Would be out of character with the estate, which is of an open plan design

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking

### **Observations**

#### **Design of Extension and Impact on Character of Area**

The application proposes to enlarge the original porch and garage which would include a pitched roof above, with a mono-pitched roof proposed to replace the existing flat roof canopy, and would include the addition of an extended covered area fronting the side entrance to the rear garden with a pitched roof above, which is considered to be in keeping with the existing appearance to the property.

The property lies at the end of a cul-de-sac, within a road predominantly characterised by semi-detached houses, with bow windows to the front elevations. The houses were originally built with a flat roof canopy across the front elevations to the pairs, however, a number of these properties have replaced the flat roof canopy with mono-pitched roofs.

A proposed extension which would project beyond the original building line of the property would form part of the overall assessment of the character within the street

scene, but in this instance, it is not considered that the forward projection would have an adverse impact upon the character of the street scene, taking into account the position of the property at the end of a cul-de-sac.

There is a similar porch and garage extension to the front of neighbouring property number 29 High Croft with a pitched gable roof above (located around the corner from number 23). Therefore, the amended plans would be in keeping with the character of the wider area.

### **Impact on Amenity of Nearby Residents**

The application initially proposed to extend the front lounge with the addition of an open bay window, which the occupier of number 25, the other half of the pair, raised an objection to. To address the concerns raised by number 25, the bay window has been removed from the proposal, with the existing bow window to be retained.

The position of the porch and garage extension would be set approximately 3.1 metres away from the shared side boundary. The mono-pitched roof proposed to replace the existing flat roof canopy, which is currently level with the flat roof canopy to number 25, would project a further 0.2 metres however it is not considered that this would cause any greater impact upon the amenities of light to number 25.

The front elevation of neighbouring properties numbers 45 and 47 Heygate Way face the road and front garden to number 21 High Croft, with the front elevation to number 49 facing the side elevation and rear garden to number 23. The front garden areas to the three properties lie adjacent to a footpath, with an open grassed verge to the opposite side of the footpath. The grassed area lies adjacent the side boundary and property / driveway to number 23, and therefore, when taking into account the orientation of the properties, with the front elevations facing the north-east, would mean that the extension to the front of number 23 would not cause any significantly greater impact upon their amenities.

### **Parking**

The proposed extension to the front of the house would absorb a small area of the existing driveway, however, the existing garage is shown to be retained as a garage, with the remaining space to the driveway providing adequate space for at least one more vehicle, and therefore satisfies parking standard requirements.

### **Summary of Reasons for Granting Planning Permission**

The appearance of the proposal is acceptable and takes account of its surroundings. The position of the extension in relation to the adjoining dwellings means that it will cause little additional overlooking, loss of privacy, loss of daylight or sunlight to neighbouring properties.

No additional parking is required to serve the extension.

The proposals would have no adverse impact on the character of the area or the amenities of the surrounding residential occupiers and is considered to accord with the aims and objectives of the development plan, in particular policies GP2, and H10, and T7 and T13 of Walsall's Unitary Development Plan (2005), and the Supplementary Planning Document "Designing Walsall".

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services.

**Recommendation: Grant Subject to conditions**

**Grant subject to conditions**

**Conditions and Reasons for conditions:**

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

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

2: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

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

3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

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

4: This permission relates to the amended drawings, which show retention of the original bow window and a reduced height to the pitched gable roof the porch and garage extension to be 3.6 metres overall to the ridge, as received 2<sup>nd</sup> June 2009.

Reason: To define the permission.

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To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: significant community interest**

**Application Number:** 09/0691/FL  
**Application Type:** Full application  
**Applicant:** Jubilee House Social Club

**Case Officer:** Val Osborn  
**Telephone Number:** 01922 652436  
**Agent:** Advance Land & Planning  
Limited

**Proposal:** Installation of horizontal  
extraction flue and retention of existing  
ventilation 'pods'.

**Location:** JUBILEE HOUSE, SPRING  
LANE SOCIAL CLUB, SPRING  
LANE, WILLENHALL, WV12 4HB

**Ward:** Short Heath

**Expired:** 31/07/2009

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

The application relates to the former private members social club building and proposes the retention of vent pods to a refurbished roof structure. The application also proposes a ventilation flue for a kitchen area to be created within the premises.

Work to refurbish the building commenced in 2007. The applicant opened the refurbished lounge and bar/games room area for business Christmas 2007.

The ventilation pods are 17 in number and coloured brown with a dark plastic capping, and are approximately 600mm in height. The vent pods are aligned in three sets at points within the flat roof structure of the building.

The Design and Access statement explains that the pods were installed to allow the existing flat roof void to 'breathe' in accordance with the requirements of the Council's Building Control Team.

The proposed ventilation flue is required in connection with refurbishment of the premises to provide a food service at the private members club. The proposed flue will be low profile carbon filter system ( height at 700mm) aligned horizontally and located between a ridged part of the roof and a raised flat roof platform. It is proposed to finish the flue in a matt black coating.

The club site is surrounded by commercial and residential development. To the east are houses – Dunby ( fronting Spring Lane) and 6 and 8 Forge Road. To the north is Victoria House, a dance school with a flat above, which fronts Spring Lane. To the west and south are large industrial premises, accessed via Spring Lane and Forge Road. The club has a shared pedestrian access from Spring Lane for beer deliveries and a shared access to the car park and entrance off Forge Road.

The existing club comprises a ridged roof timber building that was the original club hall. The hall was extended by flat roofed brickwork structures in the early 1980's to provide a games room, lounge and children's room. An 'L' shaped bar serves the hall and the lounge and games room.

## **Relevant Planning History**

08/1385/FL – Change of use of premises to public house and banqueting room, with installation of kitchen equipment, extractor flue to roof and gates to car park, refused 6 January 2009, for reasons of;

- in connection with the proposed flue, harm to visual amenity
- in connection with the proposed use, unsustainable location and requirement for a Transport Statement;
- in connection with the proposed change of use, harm to amenity by the extended use of the function room.

BC14319 – extensions and alterations to club, granted 6<sup>th</sup> February 1980.

BC 8464P – extensions to club, granted 15 March 1978.

P 37109 – extension to provide toilets and extra seating area, granted 29 November 1972

BC52466P – for personal permission to change use of Victoria House to a dance school, sharing the social club car park, approved October 1998.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from Planning Services Reception and on the Planning Services Website)*

### **Walsall Unitary Development Plan March 2005**

GP2 – development should be sustainable and contribute to environmental improvement;

3.6 Development should help to improve the environment.

3.16 The Council will consider development in relation to the character and quality of the existing local environment, requiring a high quality of landscape design.

Policy ENV10 development which may cause pollution will only be permitted where it would a) not cause unacceptable effect in terms of noise or smell, have an unacceptable adverse effect on nearby uses, or b) amenity of occupants would be unacceptable affected.

Policy ENV32 states that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

### **Consultations**

**Environmental Health** – the proposed flue extraction system will meet with the appropriate level of DEFRA guidance and is therefore satisfactory.

**Pollution Control, Scientific and Land Contamination Team** – No comments. No specific contaminated land requirements.

**Public Rights of Way** – no objections.

### **Public Participation Responses**

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

Six letters have been received objecting on the following grounds;

- the locality is residential , with houses as immediate neighbours to the site;
- the pods were erected without the appropriate authority;
- the premises are open from 11am until 2am;
- the prevailing westerly winds will blow food smells across to local residents gardens and homes, causing nuisance;
- the applicant is progressing with other developments at the site which need planning permission such as the installation of the kitchen , outside beer garden and extended hours of opening;
- the plans do not accurately show the precise construction for the flue vent system;
- the surrounding ambient noise levels in the evening are at 30 decibels whereas the proposed flue would create 45 decibels of noise. This would cause noise nuisance so as to keep small children awake at night, when windows might be left open;

- the proposed flues and vents are industrial type equipment which will be clearly visible from surrounding homes, which is not acceptable;
- the premises can operate 365 days a year and serve food for 14.5 hours in very day. This represents a considerable potential nuisance to neighbours;
- the premises currently allows outside drinking on an unauthorised basis
- the application relates to the former banqueting suite becoming a function room to hold 150 people and which is available for parties, weddings, birthdays, with catering available. This will cause nuisance to local residents.

### **Determining Issues**

Visual amenity and odour emissions

Issues raised by respondents

### **Observations**

#### **Impact on amenity- ventilation pods**

The ventilation pods element of the application arises because of the requirement of Building Regulations to provide a form of natural ventilation to the roof void areas of the flat roof structure to the building.

The group of 17 would be indirectly visible from first floor windows of nearby houses- Dunby on Spring Lane and nos.6 and 8 Forge Road. The side bedroom window of Victoria House would directly overlook the roof area and pods.

Whilst the number of the pods creates a conspicuous group on the roof, they are relatively small in size at 600mm and the majority of the pods are not visible from on the ground. A group of 6 are arranged above the rear entrance to the premises which project above the roof verge.

The roof form of the building is a mix of flat roofs at different levels and an off-set ridge roof. The proposed vents are set in groups of 5 or 6, generally in lines and finished in a dark and unobtrusive brown colour set against the dark felt of the overall roof covering. The pods allow for natural ventilation and do not have any emissions such as noise or odours. Several of the ventilation pods are sited within the flat roof of the building.

Therefore, although the pods are a frequent feature on parts of the flat roof, they do not stand out by reason of their colour or their operation and would be screened from view by parts of surrounding roof structures. Furthermore most are not visible from ground level.

Therefore, it is considered that, in view of their scale and form, the pods do not form a significant or obtrusive enough feature to be detrimental to the amenity of the occupiers of surrounding properties, sufficient to warrant refusal and their removal.

#### **Impact on amenity- extraction equipment**

The proposed ventilation flue would be located horizontally across the roof with an output vent facing south, so as to direct emissions away from adjacent houses. The duct housing would be 600mm high and coated in matt black finish. It would be located within a lower part of the flat roof structure of the premises, so as to be partially screened by an adjacent flat roof plane. The existing roof of the premises is

finished as a matt felt. It is considered that, from structural and external appearance aspects, the proposed flue would therefore be an unobtrusive addition on the roof of the building.

The proposed extraction equipment is accepted as being able to deal with 90-95% of odour emissions and recognised as amongst the most advanced ( an expensive) currently available to the applicant. The efficiency and satisfactory operation of the equipment is accepted as being dependent on regular maintenance. However, Inspectors at appeal have considered it unreasonable to impose conditions in a planning permission related to long term maintenance. Manufacturer's instructions for this type of equipment require maintenance on a regular, often weekly basis and a condition related to manufacturer's maintenance recommendations is recommended. Nonetheless, any environmental problems arising from the equipment could also be investigated by Environmental Health Officers, under Environmental Health legislation.

### **Issues of use raised by respondents**

Internal refurbishment works at Jubilee House such as the refurbishment of internal rooms and the creation of a suspended ceiling for improved insulation, would be permitted development provided that the changes did not materially change the external appearance or alter use of the premises as a private members club to a different use.

The creation of an internal kitchen for purposes related to a banqueting suite was refused permission in application 08/1385/FL. It is for the applicant to operate his business within the terms of the authorised use of the premises as a private members club. It is understood from the applicant that the kitchen would be available to groups who might occasionally hire the function room as a club member, so that they could provide catering on a limited basis. It may also be the case that the private members club would wish to provide food for members and the provision of a kitchen in this context would not necessarily require the benefit of planning permission.

The Council has to recognise the legitimate right of the business to operate as a private members club, where a function room was open to members and held a large number of people on 'entertainment ' nights. The degree to which 'entertainment' becomes a regular feature and thereby material development will require on-going assessment. However, this would be insufficient grounds to justify refusal of the proposed extractor flue equipment, given its satisfactory appearance.

It is also recognised that the circumstances at the site radically changed in December 2007, when a new licence was granted to the applicant to revise the hours of trading from closure at 23.00 ( 22.30 on Sundays), to closure at 01.30. A further Licence application has been submitted to allow for external drinking, with an external drinking area illustrated containing decking and bench tables. The applicant has been advised of the need for planning permission for the external drinking area.

The 'fact and degree' of changes carried out at the premises would need assessment in the future and continued monitoring of the site and the operation of the premises is recommended.

## **Summary of Reasons for Granting Planning Permission**

The proposal would provide fume and odour control equipment on the roof which meets the requirements of DEFRA guidance and which will not be obtrusive to view. The proposed equipment is of a high specification and be able to deal with a high percentage of odours, so as to fail to cause nuisance to nearby residents. The proposed existing ventilation pods are partially hidden from view, of a dark brown colour and, at 600mm in height, unobtrusive to view. The proposed development is therefore considered not to significantly harm the visual amenity of nearby residents or have a significant impact on the amenity of the occupiers of nearby dwellings. The proposed development is therefore considered to comply with the relevant policies of the development plan, in particular policies GP2, 3.6, ENV10 and ENV32 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

## **Recommendation: Grant Subject to conditions**

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

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

2. No development shall commence until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with manufacturer's or installers requirements.

*Reason;* To ensure the proposal does not create any pollution of water course and drainage systems.

3. This development shall not be carried out other than in conformity with the submitted plans, the details as defined in the accompanying Design and Access Statement, (accompanying the application and received 27<sup>th</sup> May 2009 ) and Information for Environmental Health Officer, dated 6<sup>th</sup> May 2009. and received 21 May 2009. Detailed plans of the proposed structure and its related silencers, manufacturers maintenance requirements, precise location and method of mounting and fixing, and details of the overall dimensions of the equipment including height of the proposal as mounted on the roof, shall be submitted to and approved in writing before any installation work commences. The proposed extraction equipment shall be maintained in accordance with manufacturer's instructions

*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).

4. The ventilation equipment hereby authorised shall be finished in a matt black external surface material, the specification of which shall be submitted to and approved in writing by the Local Planning Authority before installation work commences and thereafter maintained as such.

*Reason;* To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the submitted plans and elevations.

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ITEM NO: 13.

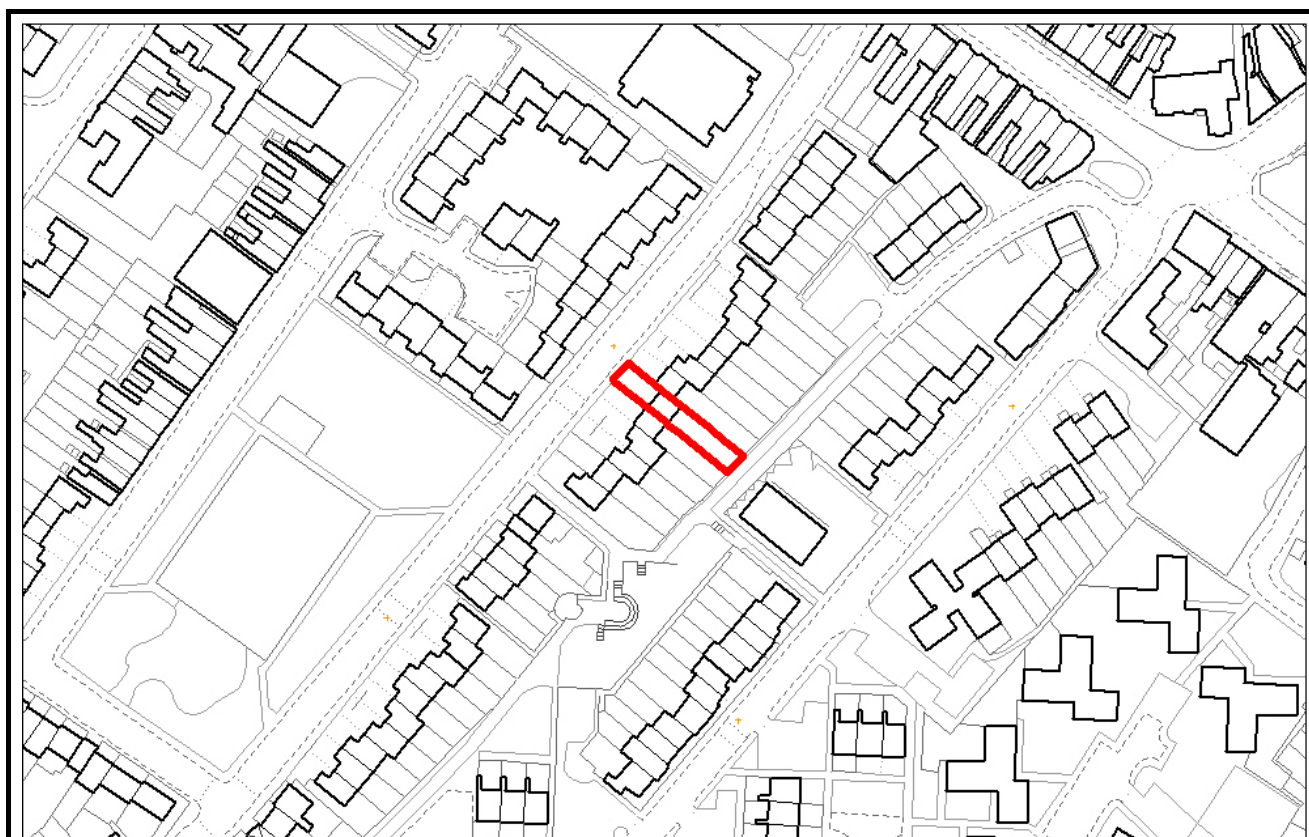
To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Yasin**

**Application Number:** 09/0635/FL  
**Application Type:** Full application  
**Applicant:** Mr Abdul Rehman  
**Proposal:** Front first floor extension to  
domestic dwelling  
**Ward:** Palfrey  
**Recommendation Summary:** Refuse

**Case Officer:** Stuart Crossen  
**Telephone Number:** 01922 652486  
**Agent:** Sueshire Services  
**Location:** 31 RUTTER  
STREET, WALSALL, WS1 4HN  
**Expired:** 08/07/2009



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## **Background**

This application has been called in by Councillor Yasin because he considers that this development is not over development, is in keeping with the character of the area and would not harm the amenity enjoyed by the neighbouring property.

## **Application and Site Details**

This application proposes a first floor front extension to a modern mid-terraced house, to create an extra bedroom, providing a total of 3 bedrooms.

The application house is a modern mid-terrace within a row of similarly styled houses. The house is constructed from brick and has a tiled pitched roof with a sloping roof to the front covering a previous ground floor front extension.

The extension is to lie above an existing single-storey front projection that has a mono-pitch roof which slopes down to the road from half way up the first floor. The proposed extension is to have a forward facing tiled hipped roof at a right angle to and meeting the ridge of the main roof.

The north facing elevation of the proposed front projection will be 1.5 metres from the boundary with the neighbouring house number 33. Number 29 lies further forward than number 31, the proposed extension would be built up to this boundary and would project forward 1.4 metres of the front elevation of number 29.

The extension would have a single window to the front elevation, none are proposed in either side elevation.

The character of the area is defined by modern terraced properties.

The application house has a hardstanding area to the front with space for two car parking spaces.

## **Relevant Planning History**

04/0766/FL/H1 - Single Storey Extensions at Front and Rear at 31 Rutter Street, Walsall. Granted Subject to Conditions 02/06/04

08/1965/FL - First floor bedroom extension to front at 31 Rutter Street, Walsall. Refused - 31/03/09, The proposed front first floor gable extension would be out of keeping with the design of the existing house and its neighbouring houses, and would create a strident feature within a row of terraced houses which would be out of character with the area. Also the proposed extension would have an overbearing impact on the adjoining houses number 29 and 33, because of its excessive depth, height and close proximity to the windows of these properties.

## **Relevant Policies**

***(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site:***

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

## Unitary Development Plan Policies

### GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

### ENV32: Design and Development Proposals.

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

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

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The integration and co-ordination of buildings and external space.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The integration of existing natural and built features of value.
- The maintenance requirements of the development.

### H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

### T7 – Car Parking

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

### T13: Parking Provision

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

## **Supplementary Planning Documents**

### **Designing Walsall**

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

### **National Policies**

#### **PLANNING POLICY STATEMENT 1**

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

### **Consultation Replies**

#### **Pollution Control, Contaminated Land Team**

No objection. Note to be attached

### **Public Participation Responses**

An objection has been received by someone who is looking after the tenancy on behalf of the owner of number 33 Rutter Street who objects on the grounds that the development would reduce sunlight to number 33 and would visually impact on the street.

Number 35 has objected on the grounds that the existing extension has a poor appearance which would be made worse by this proposal.

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

### **Determining Issues**

- Design of Extension and Impact on Character of Area;
- Impact on Amenity of Nearby Residents;
- Parking;
- And whether the application overcomes the previous reasons for refusal.

### **Observations**

#### **Design of Extension and Impact on Character of Area**

The properties adjoining the application house are not built in line and are staggered at various depths of approximately 1 or 2 metres. This application proposes to extend the first floor over an existing ground floor front projection of 4 metres.

A front projection is under construction at number 39 Rutter Street which is next to the end house number 41 of this block of terraced houses. Number 39 and 41 have front extensions. The front projection being constructed at number 39 is in line with the front projection of number 41 and has a hipped roof.

The front of the other neighbouring house, number 41, has also been extended, and is in line with the front elevation of the new extension at number 39. The proposed front projection at number 31 would project 4 metres beyond the front elevation to number 33 which is more than any other projections within the same row of terraced houses and was in part the reason for the previous refusal. The large front projection, and the prominent position of the application house, which is within a row of terraced houses, would present a dominant feature which would harm the streetscene.

It is considered that the proposed front hipped roof and first floor extension would address some of the existing design issues of the existing ground floor front projection which has an unusually long mono-pitched roof and improve the appearance of the property. However the excessive depth of the proposal would still be a prominent, strident feature which would be detrimental to the street-scene.

### **Impact on Amenity of Nearby Residents**

The first floor extension would be 4 metres long and 6 metre high to the roof pitch, with just a 2 metre gap to the windows of number 33. It is considered that the first floor projection would have a significantly greater impact on the amount of natural light available to the ground floor window of number 33, than is currently the case. It also contravenes the Council's 45 degree code. The proposal is considered unacceptable and does not overcome the previous reason for refusal.

In relation to number 29, the proposal would project just 1.4 metres beyond the front elevation and would have no side facing windows, the orientation of the application house is to the south of number 29. The proposed hipped roof would have less impact than the previous proposal, on the amount of light available to the first floor landing room window of number 29 which is located near to the middle of the front elevation and was referred to in the previous application as a habitable room window. The proposal is considered acceptable in relation to this property.

### **Parking.**

There are currently two car parking spaces at this property. The extension would not result in an increased parking requirement.

1. The proposed front first floor gable extension would be out of keeping with the design of the existing house and its neighbouring houses, and would create a strident feature within a row of terraced houses which would be out of character with the area. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall."
2. The proposed extension would have an overbearing impact on the adjoining house number 33, because of its excessive depth, height and close proximity to the windows of these properties. Furthermore the proposal in relation to the ground and first floor windows at number 33 would breach the Council's 45 degree code. The development would therefore be contrary to Walsall's



Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall."

**Recommendation: Refuse**

**Refuse for the following reasons:**

2. The proposed front first floor gable extension would be out of keeping with the design of the existing house and its neighbouring houses, and would create a strident feature within a row of terraced houses which would be out of character with the area. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall."
  3. The proposed extension would have an overbearing impact on the adjoining house number 33, because of its excessive depth, height and close proximity to the windows of these properties. Furthermore the proposal in relation to the ground and first floor windows at number 33 would breach the Council's 45 degree code. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall."
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ITEM NO: 14.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
13 Aug 2009

**REASON FOR BRINGING TO COMMITTEE: Significant Community Interest**

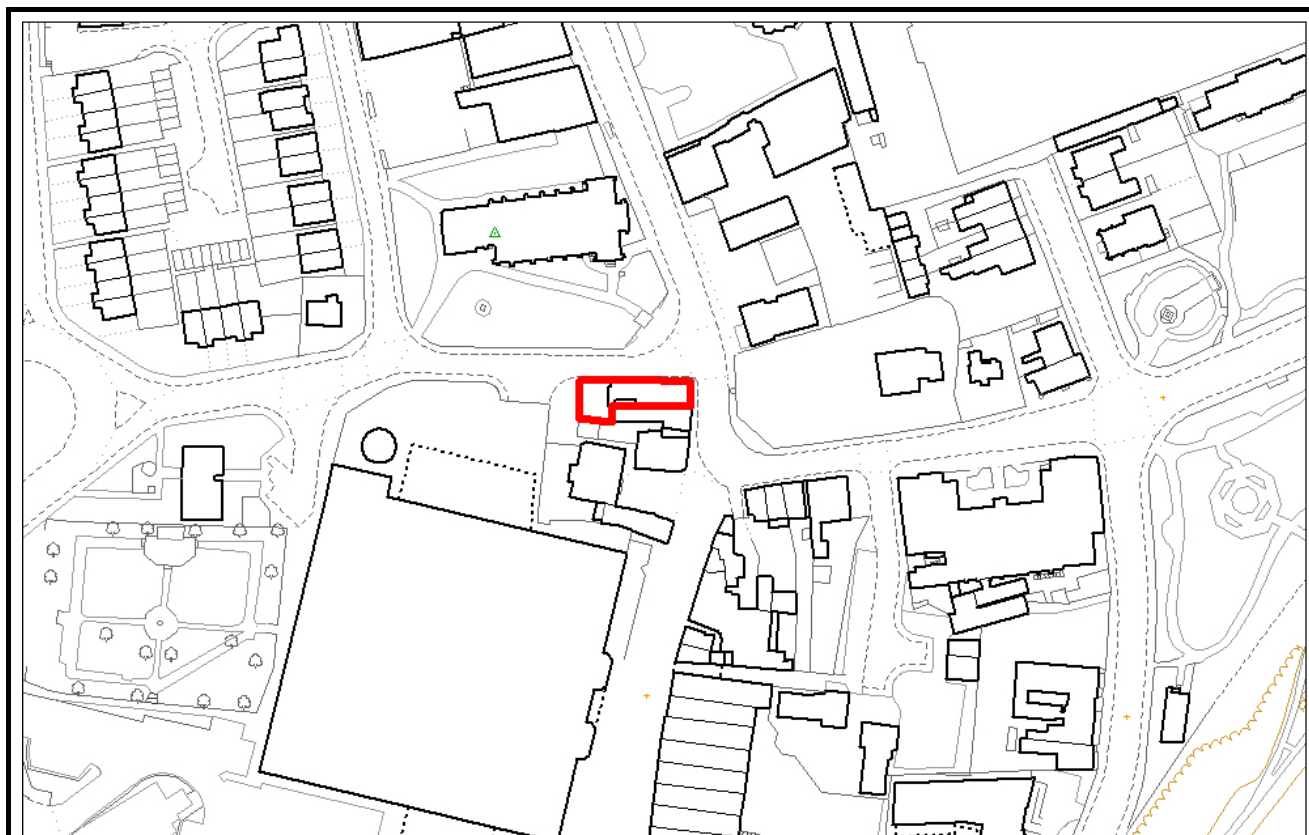
**Application Number:** 09/0722/FL  
**Application Type:** Full application  
**Applicant:** Mrs N Arif  
**Proposal:** Change of use to restaurant  
(A3 use) and installation of extraction flue  
to the rear.

**Ward:** Bentley & Darlaston North

**Case Officer:** Val Osborn  
**Telephone Number:** 01922 652436  
**Agent:**  
**Location:** 3 CHURCH  
STREET, DARLASTON

**Expired:** 25/08/2009

**Recommendation Summary:** Grant subject to conditions and, in respect of the Listed Building application providing that no further material comments are received during the remaining period of advertisement of the Listed Building application.



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### **Application and Site Details**

The application relates to an existing shop on Church Street that is part of a group of shops which are all Listed Buildings, and at the northern end of Darlaston Local centre. The shop has a single storey flat roof extension at the rear, with a door and two small windows on the elevation. This is not part of the original building.

The existing, vacant shop faces Church Street and is a double fronted unit, with an additional shop window and other sash windows on the side of the building facing New Street.

The application proposes the change of use of the premises to a pizza restaurant and includes the provision of an extractor flue on the rear elevation of the building.

The proposed flue outlet would be 300mm in diameter with a cut off cowl, sited on the flat roof extension on the rear of the building and adjacent to a parapet wall on the New Street elevation.

The rear of the shop faces onto a courtyard which has a set of folding gates. The courtyard provides parking for one vehicle as well as rear access to the premises.

The first and second floors of the shops are residential accommodation, with sash windows and other opening lights in the vicinity of the cowl vent system proposed.

The proposed opening hours for the restaurant are weekdays 11.30 -14.00 and Saturdays 11.30 -23.00.

The site is within Darlaston Conservation Area and overlooked by St Lawrence's Church, which is also a Listed Building.

### **Relevant Planning History**

08/1140/ and 08/1120/LB – Installation of shutters and gate to car park, granted 29 October 2009.

At adjacent site;

08/1589/FL ; at 1 Church Street: change of use to a restaurant/ café and erection of a chimney flue - refused. The proposed 5m galvanised metal flue sited on the rear elevation of the two storey building and projecting 0.75m above the eaves of the Listed Building, would be an ugly and obtrusive feature so as to compromise the character of the building and the group of Listed Buildings which surround the site.

### **Relevant Planning Policy Summary**

***(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)***

Policy GP 2 - development to make a positive contribution

3.6 Development should improve the environment

3.7 The Council will seek to protect people from environmental problems

Policy ENV10 sets out that development will only be permitted if it would not;

- (II) cause unacceptable adverse effect in terms of smoke, fumes...vibration, smell, noise or other polluting emissions;
- (III) have an unacceptable adverse effect on nearby land uses....

Policy ENV27 Buildings of Historic or Architectural Interest- alterations will only be permitted where it can be clearly demonstrated that the external appearance of the Listed Building will not be adversely affected.

Policy ENV29 – Conservation Areas- the Council will determine whether a development preserves or enhances the character and appearance of the Conservation Area.

Policy ENV32 states that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

S1; defines Class A3 Food and Drink uses as town centre uses;

S2; District centres provide substantial retail and service facilities and should be regarded as town centres in their own right.

S4; District Centres; All new developments must be acceptable in design and other terms;

S10: A3 uses -Restaurants - These uses will be appropriate in the Town, District and Local Centres (subject to Policy S4) and in some shopping and commercial frontages elsewhere subject to following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on the residential amenity.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

Policy T7 – The Council will seek to ensure an efficient transport network

Policy T13 sets out parking standards for development.

National Policy

Planning Policy Guidance Note 15 'Planning and the Historic Environment, paragraphs 3.12-3.15 & Annex C - the Council has a statutory duty to preserve or enhance the character of Conservation Areas and the character and setting of Listed Buildings.

### **Consultations**

**Conservation:** The property is Grade II listed and is within the Darlaston Conservation Area. The building has also received funding as part of the former Darlaston HERS regeneration scheme which repaired the building's fabric.

This application is fine overall, including the principle of the Change of Use. The extractor flue is the installation of main concern in terms of potential harm to the character and setting of the listed building. However, it does not affect the fabric of the principal building, and it is hidden to a fair extent from a raised parapet on the rear flat roofed extension. However the flue should be powder coated black and be conditioned accordingly, as the natural metal finish detracts and would be harmful to the setting. The internal fittings are generally fine, as the building has little remaining internal historic fabric. However, some internal fittings (the extractor fan hood) may be visible from the outside sash window and mitigating measures, such as a blind to screen this should be provided.

**Transportation:** No Objection.

**Environmental Health:** No objection. The extraction system proposed will provide a carbon filter and this specification is acceptable.

**Fire Service:** No objections.

### **Representations**

One respondent has written two letters objecting on the following grounds;

- abundance of existing catering shops in the centre;
- absence of retail premises in the centre;

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

The period for Advertisement of the Listed Building application remains outstanding.

### **Determining Issues**

- Appropriateness of use;
- Impact on the character and amenity of the Listed Buildings and Conservation area;
- Impact on visual amenity of the locality and for near neighbours;
- Parking and Servicing.

### **Observations**

#### **Appropriateness of use**

The application site is within Darlaston Local Centre and the policies of the UDP set out that café, snack bar and restaurant uses (A3) uses can be appropriate for locations such as this site, subject to environmental and amenity considerations.

The proposed use is therefore appropriate at this local centre, in principle. However the principle is subject to impacts on amenity.

#### **Impact on the character and amenity of the Listed Buildings and Conservation area**

The premises are part of a group of Grade II Listed Buildings.

The rear elevation of 3 Church Street would be open to view from New Street. However, from the side view such as on the opposite side of the road, the cowl will be partially screened by the parapet wall.

The applicant has agreed to finish the cowl in a matt black surface, so as to reduce its visual impact.

The Conservation officer considers the proposal satisfactory and his comments are supported.

#### **Impact on the character and amenity of the area – near neighbours**

The application illustrates the flue projecting above the roof plane of the flat roof of the single storey extension. The outflow direction of the cowl would be facing away from the rear elevation, where there are two windows with opening lights to a first floor flat. The elevation facing New Street has 10 sash windows, which, as open windows, would be vulnerable to odours arising from the premises. However, Environmental Health advise that a carbon filter will be satisfactory in this location to deal with malodours.

In part the proposed use as a restaurant serving primarily pizzas, will generate less fumes and odours than other forms of cooking. For some other food cooking, further filtering and odour control mechanisms would be required which would lead to the provision of sophisticated equipment which may also be inappropriate by reason of its size, scale and location. The applicant has demonstrated that, for the cooking of pizzas, a satisfactory system can be provided within the building, with one small flue outlet at 300mm in diameter.

It is therefore proposed to restrict the proposed use of the restaurant to that serving pizza or similar.

#### **Parking and Servicing**

The site currently exists as a retail premises within Darlaston Local centre where it is expected that general public parking in car parks and on street would adequately provide for the retail uses within the centre.

#### **Summary of Reasons for Grant subject to conditions and, in respect of the Listed Building application providing that no further material comments are received during the remaining period of advertisement of the Listed Building application.**

The proposed development would involve a small scale ventilation system, the external finish and location of which would be unobtrusive to view and be of insignificant visual impact in respect of the Listed Building. The proposed filter system is considered able to deal with any malodours arising from the proposed restaurant. The proposal is therefore considered to comply with the relevant policies of the development plan, in particular policies GP2, 3.6, ENV10, ENV27, ENV29 and S5 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

#### **Recommendation: Grant subject to conditions and, in respect of the Listed Building application providing that no further material comments are received during the remaining period of advertisement of the Listed Building application.**



**Recommendation; Grant subject to conditions and, in respect of the Listed Building application providing that no further material comments are received during the remaining period of advertisement of the Listed Building application.**

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

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

2. Notwithstanding the submitted plans, no development shall be carried out until detailed drawings of the ventilation and fume control equipment, providing for the type and colour of the powder coated protective finish of the cowl/extractor flue, have been approved in writing by the Local Planning Authority. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification except insofar as may be otherwise required by other conditions to which the permission is subject. The approved details shall be implemented before this development is brought into use and thereafter retained in working order.

*Reason;* To ensure the satisfactory appearance of the development.

3. No development shall commence until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with manufacturer's or installers requirements.

4. No development shall commence until details of the refuse collection system and its location have been approved in writing by the Local Planning Authority.

*Reason;* In the interests of the amenity of adjoining occupiers and the Conservation Area.

5. The premises shall not be open for business outside the hours 0900 to 2300 hours Monday to Saturday only.

*Reason;* In the interests of the amenity of adjoining occupiers.

6. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995, or succeeding orders, the premises shall not be used for any purpose other than for the preparation and sale of pizzas and pasta in the restaurant, as described by the applicant in this application, unless otherwise agreed in writing by the Local Planning Authority.

*Reason;* The site is not necessarily suitable for other uses because other cooking methods could give rise to an increased scale of ventilation and filtration equipment to prevent malodour and the installation of additional equipment may harm the

character of the Listed Building and Conservation Area and the amenities of adjoining residents.

7. No new grilles, security alarms, lighting, cameras or other appurtenances shall be fixed on the external faces of the building other than those shown on the drawings hereby approved, unless otherwise approved by a separate planning application.

*Reason;* In the interests of the character of the area and the amenity of adjoining residents.

8. Before development commences a set of photographs shall be submitted to the Local planning Authority to show the areas where it is proposed to fix installations as shown in the approved plans. Such work shall result in no damage to the original fabric of the building, other than consequential on the proper fixing of the installation. Any repairs and redecoration to original condition should be made good. Once development in respect of the installations is complete and before the proposal is brought into use, a further set of photographs are required to be submitted to and approved by the Local Planning Authority so as to evidence the installation as completed satisfactorily, unless otherwise agreed in writing by the Local Planning Authority.

*Reason;* In the interests of the character and appearance of the Listed Building and the Conservation Area.

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