



Planning Committee

Report of Head of Planning and Building Control on 07 January 2021

Plans List Item Number: 1.

Reason for bringing to committee

Major Application

Application Details

Location: FORMER SITE OF CERRO EMS LTD, GOSCOTE LANE, BLOXWICH, WALSALL

Proposal: APPROVAL OF RESERVED MATTERS (LAYOUT, SCALE, APPEARANCE, LANDSCAPING, AND INTERNAL ACCESS) RELATING TO HYBRID PLANNING PERMISSION (REF: 17/1656), COMPRISING 263 RESIDENTIAL DWELLINGS, PUBLIC OPEN SPACE, HARD AND SOFT LANDSCAPING, ATTENUATION BASIN, SWALE AND ASSOCIATED DRAINAGE, CAR PARKING, VEHICULAR ACCESS FROM GOSCOTE LANE, AND ASSOCIATED INFRASTRUCTURE WORKS.

Application Number: 20/1301

Case Officer: Gemma Meaton

Applicant: Taylor Wimpey

Ward: Blakenall

Agent: Turley

Expired Date: 18-Feb-2021

Application Type: Reserved Matters: Major Application

Time Extension Expiry:

Recommendation

1. Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and subject to:

- No new material considerations being received within the consultation period; Amendments in line with consultee comments;
- The amendment and finalising of conditions; No further comments from a statutory consultee raising material planning considerations not previously addressed;



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Proposal

This application follows outline consent (part of hybrid application 17/1656) for residential development of up to 263 dwellings, with all matters reserved. The outline application was approved on 16-11-2020.

This reserved matters application seeks to determine the outstanding matters of 'access' 'layout' 'appearance' 'landscaping' and 'scale'. The site is 8.9 hectares in extent. This application includes the following information:

'Access'

The previous hybrid application included a full application component which was for the access arrangements for the proposed development.

The proposed layout shows vehicular access is to be provided via two points off Goscote Lane, as well as a dedicated pedestrian access. This is in line with the approved access considerations detailed in the full component of the hybrid application.

'Layout'

The outline application as approved indicated that the development would include 263 units, with dwellings of two storeys including detached, semi-detached and short terraces, as well as two small apartment buildings of three storeys, incorporating the one-bedroom component. The overall density of the proposed development would be 29.5 dwellings per hectare. The proposed layout is substantially similar to the indicative layout provided with the outline application.

The layout submitted includes a mix of 1- 4 bedroom private and affordable homes as follows:

12 no. 1 bedroom apartments

44 no. 2 bedroom houses

133 no. 3 bedroom houses

75 no. 4 bedroom houses

The three storey component, comprising the flatted portion of the development in two blocks, is located to the south-west corner of the site, close to the roundabout intersection with Well Lane, and opposite the existing apartments at Ekington House.

It is proposed to relocate the existing telecommunications infrastructure on the site to the north within the landscaped portion of the site. A foul pumping station is also proposed in this area on the boundary in order to serve the development.

The proposed layout includes a hierarchy of streets that respond to the approved internal roads with perimeter block arrangements and dwellings fronting key roads and spaces, areas of open space and landscaped areas.

'Appearance':

The housing design is traditional and mirrors the local pattern of development. Materials include a range of brick, render and tile, whilst other architectural features include projecting porches, gable roof features and render intended to create interest and variation through the development.

Three distinct character areas are proposed: Goscote lane Frontage, Main Core Frontage, Canal View Interface. The Goscote lane frontage responds to the existing housing stock on the adjacent side of the road. Two storey semi-detached properties are proposed along Goscote Lane, using a similar material palette of red brick and brown roof tiles. The canal view interface to the east, are larger in size and consist of detached and semi-detached, ranging between 3 and 4 bed units. The Main core units in the middle of the site range from two to four bed units and include a number of focal plots and plots that turn the corners to help navigate through the site.

'Landscaping'

A detailed landscape plan has been provided which shows a large flood attenuation feature adjacent to the canal, which acts as a focal point for the development, as well as incorporating a large children's play area. A landscape buffer is proposed along the canal towpath with marginal plant species to increase biodiversity value in this area. Trees, shrubs and turfed areas are proposed across the site and within designated open spaces to create suitable provision and access to nature for residents and a net biodiversity gain for the site. It is in these areas that ecological enhancements will be provided including bird and bat boxes, hedgehog fence cut-outs, nest domes, habitat piles and bee bricks.

The attenuation feature is in line with the SuDs strategy for the site and also includes a significant turfed area and new planting and trees that contribute to the landscape features of the development.

Boundary treatments include 1.8m screen brick walls where private amenity space is bounded by access roads, with materials to match the adjacent house, and 1.8m close-boarded fencing and partition panels between amenity areas and low walls with fence panels where gardens are adjacent to parking areas on plots 79 and 96.

A landscape management plan has been submitted with the application which includes the areas to be maintained by the management company created by the S106 agreement. The plan incorporates the canal buffer, attenuation feature and play area together with surrounding green space.

Planning Statement – Describes the site context and history, planning policy environment surrounding the application, pre-application advice, and explanation of the reserved matters for submission. Technical considerations are also expanded on including drainage, highways, ecology, trees and the need to secure sustainability in the proposed development.

The planning statement also asserts that some of the supporting documents submitted provide information that would allow for the discharge of conditions included with the outline application. These include, condition 8 (bird and bat box locations), condition 13 (Construction Environmental Management Plan), condition 15 (tree survey, works and protection details), condition 16 (highway works).

Design and Access Statement - Provides greater detail with regard to the design rationale and how the submitted scheme addresses the feedback received from the local planning authority as a result of pre-application advice.

Construction Management Strategy – The strategy outlines the programme and phasing expectation of the development, with a projected development period of 186 weeks. The report includes information on proposed highway works, construction compound, security provisions, access arrangements, construction hours, management of sales visits, and services provision. The report details site maintenance measures including road cleaning, prevention of dust, noise and vibration, lighting, protection of water resources, waste and recycling arrangements.

Ecological Appraisal –. The appraisal outlines the ecological designations of the site and surrounding area, indicating that there are no statutory or non-statutory designations on the site. The report summarises the methodology and survey work undertaken on the property, and finds that the habitats are ephemeral / short perennial with hardstanding. There are discrete patches of scrub and rough grassland with some semi-mature and mature trees, the loss of which would be of negligible ecological significance. The site offers very limited opportunities for protected species and no evidence of any such species was recorded during the survey work. The proposals present the opportunity to secure a number of biodiversity net gains, including additional native tree planting, new roosting opportunities for bats, and more diverse nesting habitats for birds.

The appraisal concludes that the proposals have sought to minimise impacts on biodiversity and subject to the implementation of appropriate avoidance, mitigation and compensation measures, it is considered unlikely that the proposals will result in significant harm.

Flood Risk Assessment and Drainage Strategy – Assesses risk of flooding at the site and identifies the site within Flood Zone 1 (low risk of fluvial and tidal flooding) and low risk of flooding from other sources. The report demonstrates that the proposed development can be achieved with no risk of flooding and without increasing flood risk to third parties. The report highlights that the existing site area is 8.85 ha and is 100% paved. The post-development impermeable area is estimated to 5.310 ha which is a reduction of 40%.

The Drainage Strategy demonstrates that the scheme is suitable to the location, is adequately flood resilient, will not increase flood risk elsewhere, and will put in place measures to manage surface and foul water. The report recommends that highway swales, permeable paving, tree pits an attenuation basin is considered, and confirms that improvement works to the treatment plant have taken place to provides enough capacity for the development

The report concludes that the proposed scheme meets the flood risk requirements of the NPPF.

Energy Statement – The Energy Statement calculates that efficiency measures will shrink energy consumption by 8.91% and CO2 emissions by 7.96%. The report highlights the need for renewable energy generating technologies within new development, and outlines the proposal for PV arrays capable of generating 18,423.30kWh/year that will be installed across the development. Overall, the Energy Strategy will shrink CO2 emissions by 10.30% and energy consumption by 10%.

Framework Travel Plan – The report concludes that the site is suitable for a residential development of 263 dwellings being in a sustainable location, with vehicular access points provided onto the route of Goscote Lane. A new zebra crossing is planned for the route of Goscote Lane to assist pedestrians in connectivity towards the local primary school and shops. Improvements to the bus stops on Goscote Lane are included with the proposals. The project would create additional traffic on local roads. Travel to work from this part of Walsall is more sustainable, than Walsall as a whole. The report asserts that the developer would promote a Travel Plan and Travel Pack to encourage the use of transport alternatives to the use of a private car (petrol / diesel) with a single occupant.

The proposals for a Travel Plan and Travel Pack, secured by means of a Section 106 Agreement, (finalised with the outline permission) allow the developer to promote a highly sustainable residential project at Goscote Lane, Walsall.

Arboricultural Impact Assessment– A survey of trees on the site was carried out in May 2020 in line with BS5837:2012. The arboricultural impact of the proposed redevelopment is described by net tree losses, totalling four individual trees and two intermittent areas of scrub growth. Planting proposals respond to the tree losses. A preliminary tree protection drawing demonstrates the deliverability of safeguarding measures. The assessment concludes that the redevelopment proposal is supportable from the arboricultural perspective, subject to the implementation of a high quality scheme of replacement tree planting and safeguards for retained trees during construction

Site and Surroundings

The site is situated on the eastern side of Goscote Lane and comprises previously developed land that has been unoccupied for over 10 years. The site has former mine workings beneath the surface and has been used as a brass works and latterly for metal treatment. The site has known contamination as a result of these former uses. All the former buildings on the site have been removed but large areas of hardstanding remain.

There is an existing telecommunications mast within the site.

The site has an area of 8.9 hectares.

The application site is within flood zone 1.

The site is bounded by the Wyrley and Essington Canal with open space within the Green Belt beyond, both designated as a Site of Local Importance for Nature Conservation (SLINC). On the opposite side of the canal to the north is a mobile home site with established residential properties. Residential properties in Henley Close bound the site to the north-west and houses on the western side of Goscote Lane face the site. To the south are industrial units with residential beyond.

The site has a gradual fall of 2 to 4m across its 200m width, from west to east, falling towards the canal. At the south-east boundary there is a change in level of up to 3.75m between the site and the canal

Relevant Planning History

BC64417P - 15m telecoms mast, equipment cabin and associated equipment, refused 25-09-01 Subsequent appeal allowed May 2002

Between 2012 and 2017 various Telecom Regulation 5 notifications for additional equipment to the existing mast.

17/0491 - screening opinion for residential development of the site. EIA Screening not required 09-05-17.

17/0996 - Remediation works comprising: Soil stabilisation, excavation, storage and disposal or cleaning of soil contaminated with hydrocarbon, grouting and capping of mine-workings and mine shafts. GSC 03-11-2017

17/1656 - Hybrid planning application comprising - An outline application for the construction of up to 263 dwellings with associated garden areas, minor estate roads, parking areas and driveways, along with public open space provision and all other associated works - A full planning application for three new points of access, main estate roads through the site, as identified on the submitted plans, and for the site infrastructure drainage strategy. GSC and a S106 Agreement to secure affordable housing, landscape management and a Travel Plan 16-11-2020

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**

- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H4: Affordable Housing parts g, h, i and j
- T1 - Helping People to Get Around
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making

- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM1: Sustainable Waste and Resource Management
- WM5: Resource Management and New Development
- MIN1: Managing and Safeguarding Mineral Resources

Walsall Site Allocation Document 2019

HC1: Land allocated for New Housing Development

EN1: Natural Environment Protection, Management and Enhancement

EN3: Flood Risk

EN4: Canals

M1: Safeguarding of Mineral Resources

T4: The Highway Network

LC5: Greenways

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW9 High Quality Public Realm

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications

Affordable Housing

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

Air Quality SPD

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

Consultation Replies

Strategic Planning Policy – No objection provided the details adhere to the conditions of the outline planning permission and the section 106 agreement.

Severn Trent Water – Comments awaited

Cadent Gas – No objection. Standard advice provided related to development adjacent to apparatus.

Housing Standards - No comments

Ecology – No objection subject to amended conditions in line with the submitted details, and amendment of the landscape specification to include a higher proportion of native tree species and wildflower planting.

Natural England – No objection

Public Health – No objection, recognises that it will be provide high quality, energy efficient housing to Walsall. The transport plan supports sustainable modes of transport. The application also utilised an available brownfield site.

Fire Officer – No objection. Standard advice provided with reference to complying with building regulations.

West Midlands Police – No objection, recommendations provided for designing out crime.

Canal and Rivers Trust – No objection but additional details requested. Details required to show, preventative measures to stop cars or other vehicles accidentally or otherwise entering into the canal from the frontage access road, cross section to understand the relationship of the road in front of plots 124-126 with the canal. Root protection zones for canal side trees are supported but amendments to the planting mix requested. It is requested that the landscaping scheme is amended to include details of the site boundary edge treatment with the canal to provide enhancement of this habitat by including at the canal edge diverse native wildflowers, sedges, rushes and reeds that are important to water vole habitat. Details of screening around the foul pumping station is requested. Discharge into the canal is agreed in principle.

Inland Waterways – Support. Redevelopment of canal side Brownfield sites for housing in preference to Greenfield sites is supported in principle. This site has been derelict and its redevelopment is an opportunity to greatly improve the local canal environment. The Planning Layout and Landscape plans shows a broad landscaped open space buffer zone along the canal frontage which will both enhance the canal corridor and enable the canal to be enjoyed by local residents and the public. This linear parkland will help create a visually attractive transition zone between the urban area and the Green Belt of the Goscote Valley on the opposite side of the canal. The House Type and Street Scene plans show traditional 2 storey brick houses facing the canal across access roads and the landscaped area which will provide an attractive setting for the canal. Therefore, IWA is pleased to support this application.

Lead Local Flood Authority – Comments awaited.

Pollution Control – The comments Pollution Control submitted on Application 17/1656 remain relevant.

It is noted from the application that a 'Construction Management Strategy', Document Ref: 22663-CMS, Date Created: 07.10.20 has been submitted. The document addresses our concerns and a condition that requires its commencement upon the start of works or a continuation of Condition 13 of 17/1656 is required.

The 'Enclosure Plans', Drawing 22663_EN_01C, 25/06/20 addresses concerns about acoustic impacts to garden amenity areas. However, no Plans have been included that address acoustic glazing and ventilation as required by Condition 7 of 17/1656, therefore this condition needs to be carried forward into any permission.

No information has been submitted on complying with the Air Quality SPD, although the Design Statement does include information on bus routes and cycle paths. Therefore, Condition 9 of 17/1656 needs to be carried forward into any permission or a modified condition be included based on compliance with the Air Quality SPD.

Pollution Control have not received any further information about the contaminated land and ground gas monitoring or compliance requirements from 17/1656 or 17/0996. Part of these requirements included long term monitoring requirements from the Environment Agency. Condition 12 of 17/1656 needs to be included within any permission and the applicant be reminded about the need to discharge relevant condition from 17/0996 and 17/1656.

Coal Authority – Further Information required. The applicant should submit a proposed site plan which shows the plotted positions of the recorded mine entries and their associated 'no-build' zones. This plan should demonstrate to the LPA that the detailed layout of built development currently under consideration has been suitably informed by the presence of the mine shafts.

Officer comment: *The required plan has been provided and submitted to the coal authority for their amended comments, which are awaited.*

Highways Officer – No objection, subject to the submission of an amended layout to show a segregated pedestrian footway along the entire length of the access road that serves Plots 201 to 206 and Plots 210 to 221. Conditions recommended in relation to highway works, visibility splays, cycle storage. Note that the Travel Plan has been secured through S106 agreement.

Tree Officer – Comments awaited.

Representations

Three representations were received from a surrounding property owners. Issues highlighted by the objections were as follows

- Support the redevelopment of the site for residential purposes
- The impact on local infrastructure and services as a result of the addition of new families to the area.
- Anti-social behaviour, noise and nuisance as a result of the proposed children's play area adjacent to Henley Close. No new play area needed on the development.

- Siting of the communications tower and pumping station close to surrounding properties and impacts from them.

Determining Issues

- Principle of Development
- Access
- Layout and Residential Amenity
- Landscaping
- Appearance
- Ecology
- Planning Obligations
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The principle of redevelopment of this site for residential uses and the access to the site was previously considered and approved at the outline planning stage.

BCCS policy CSP1 seeks to create a network of regeneration corridors to provide for strategic local employment and new homes. The Housing Key Diagram identifies the Goscote area as a housing renewal hub. Policy CSP2 states that the hubs will be the focus for housing renewal activity.

Policy HOU2 states that developments of 15 dwellings or more should provide a range of house types and sizes that will meet the accommodation needs of both existing and future residents, this has been demonstrated by the proposed housing mix and layout. .

Policy HC1 of the Site Allocation Document allocates the site for housing (site reference HO29), with an estimated capacity of 395 dwellings. The policy lists assets and constraints that apply to or adjacent to the site. These comprise the canal, Site of Local Importance for Nature Conservation, Mineral Safeguarding Area, and a waste operation (Goscote Sewage Works). The implications of some of these are expanded on below.

The capacity of the site has been accounted for in helping towards the delivery of sufficient housing numbers to meet the Boroughs future housing need. The Government requires all Council's to provide a rolling programme of sufficient housing numbers as part of the Council's development plan.

Policy MIN1 states that proposals for non-mineral development within the Areas of Search (relating to sites or areas of 5ha and over in the urban areas outside the Green Belt) are encouraged to provide for the extraction of minerals before the commencement of development and will not be permitted unless it can be demonstrated that the development will not result in the needless sterilisation of the resources within these areas. Details have been provided of previous activity which are considered to confirm that minerals present at the site have already been extracted, as evidence of this there are two coal mining shafts present at the site. For these reasons the proposal is considered to accord with policy MIN1.

The current proposal is supported in principle on planning policy grounds. The site is a vacant brownfield site that is in a highly sustainable area.

In view of the above and on balance, it is considered that the proposed principle of residential use is acceptable.

Access

The location and design of the access to the site from Goscote Lane was granted permission at the outline stage via the full portion of the hybrid application 17/1656. Access of the internal layout remains a reserved matter of the outline portion of the application and therefore must be considered.

Internal roads follow a clear hierarchy with the use of private drives, particularly where roads front areas of open space. According to the design and access statement submitted with the application, a safe and attractive footpath network has been incorporated with and around the site following the green infrastructure. The new footpaths link new homes with the open space and existing footpath networks to the west of the site. This approach is considered practical, and is supported.

The internal roads closely follow the canal in the eastern portion of the development, with access from plots directly onto this road at right-angles to the waterway. Although this design is supported from an access point of view, details will be required to show, preventative measures to stop cars or other vehicles accidentally or otherwise entering into the canal from the frontage access road.

Internal road junctions provide appropriate turning facilities to accommodate domestic vehicles, refuse collection and emergency appliances, with swept paths having been provided to demonstrate this at all key intersections.

Although, shared surface roads have been minimised and raised table traffic calming features have been utilised in key areas in order to prevent conflict between pedestrians and vehicles, the Highways officer has required that the remaining shared surfaces be removed from the layout and segregated footways provided, an amended plan has been requested.

Additional visitor parking spaces have been incorporated in areas likely to experience parking stress in order to minimise the potential for inconsiderate and inconvenient on street parking taking place within the site.

Subject to the provision of footways to all plots, the access arrangements and internal roads are considered to be appropriate, improve the functionality, legibility and safety of the development and can be supported.

Layout and Residential Amenity

The proposed layout very closely follows the indicative layout submitted at outline stage. The layout makes efficient use of the site while providing housing that is in demand at densities which are appropriate to the local area which will assist in assimilating the development into the wider residential context.

The design of internal roads utilises both linear and radial streets, creating a street pattern that is legible and easy to navigate by private car, pedestrians and cyclists. The proposed road network overlooks the Canal at key points.

The layout shows the position of the various house types and sizes that have been generally arranged so that dwellings face onto the public realm, ensuring safe and secure pedestrian and cyclist routes through the site, and encourages natural surveillance, speed-mitigation measures and an awareness of orientation.

House types are mixed across the development to provide a varied and natural layout, with 3 character areas providing a sense of cohesiveness and variation within the site. Larger 3 and 4 bedroom detached homes are located on prominent corners and fronting onto the canal and open spaces, which provides for improved views and makes good use of the more spacious corner plots for larger homes. Short terraces are in the centre of the blocks which frames the streets and provides structure to the urban grain of the proposal. A more uniform arrangement, with smaller semi-detached houses, is provided to the south west which mirrors the existing housing on the opposite side of Goscote Lane.

Streets are provided with footways on both sides throughout, which while providing for pedestrians also ensures that there is good separation between frontages ensuring that an open character is created. Plots are provided with at least two off-street parking spaces per dwelling, with larger homes having three spaces and/or a separate garage, which would minimise parking on streets keeping them clear for traffic and pedestrians. Houses within the development are set close to the road edge, while parking areas are located to the sides of houses. This design ensures that houses respond to the street establishing a strong building line and provides for an efficient layout, improves surveillance and security and minimises on-street parking or the propensity for front gardens to be hard surfaced.

In general the plot layouts are considered appropriate and practical. Amenity spaces are considered adequate and appropriate to house sizes with larger four-bedroom homes having between approximately 100m² and 140m² while smaller 2 bedroomed and terraced houses having smaller spaces of between 50m² and 100m². While this provision in some instances is below the extent required by the Designing Walsall SPD (68m²), the shortfall is not widespread and is found in the smaller homes that are less likely to be occupied by families. In addition, the development has access to additional open spaces and recreation areas for example the Wyrley and Essington Canal and is consistent with the urban grain of the area. Given the size of the amenity areas coupled with the ground gas considerations it is considered that the removal of permitted development rights for extensions is appropriate.

Separation distances between proposed dwellings to the rear are considered adequate at 18-35m, with most separation being maintained at 24m which is the recommendation of the Designing Walsall SPD for habitable room windows at two storeys and above. The layout has been designed to offset the back-to-back urban design pattern, which mitigates for the few instances where separation distances are decreased, and provides for glimpsed views from the rear of dwellings through to the street beyond, which would create a more open environment within the development. As any shortfall is between new dwellings and not existing this is considered acceptable as there are no existing residents and new occupiers will take up residence and be aware of the "as built" relationship between dwellings.

The small apartment buildings in the south of the development create a prominent building on arrival to the development, providing a suitable entrance to the development from the south, with the increased height reflecting Ekington House on the other side of Goscote Lane. The blocks remain at a human scale and would integrate well into the wider scheme.

The closest surrounding properties are located on Henley Close and on Goscote Lane opposite the application site. The area closest to the houses on Henley Close would be the green space surrounding the proposed 'Local Area Equipped for Play' (LEAP). The play area would be located at least 14m from this boundary and would be separated by existing retained trees as well as new planting as proposed by the landscape plan, and 1.8m close board boundary fencing. This would protect the surrounding properties from the potential noise and disturbance that could be associated with a play area.

Plot 1 is proposed directly adjacent to 'Westview' at No 396 Goscote Lane. The layout would maintain the building line across the frontage on Goscote Lane and the adjacent houses at plots 1-7 would be forward of the rear elevation of the existing houses, meaning that there would be no negative impacts in terms of privacy or overshadowing to these adjacent houses.

On balance it is considered that the layout is practical and would create a positive environment for future occupiers without impacting negatively on the amenity of the surrounding area. The proposal would integrate into the surrounding urban fabric and not harm the character of the surrounding area.

Landscaping

The landscape plan follows the design principles set out at the outline stage. Two large areas of open space are included as well as significant enhancements to the canal. The first area of open space is located to the west of the site and comprises a children's play area together with incidental areas of open space, linking to the proposed swale and attenuation feature surrounding the canal.

An attenuation basin is proposed to be located at the north of the site, within the landscape buffer leading up to the canal. Additional marginal plant species are proposed here in order to increase the biodiversity value. Tree losses have been minimised and mainly focus on the clearance of young scrub within the site interior.

It is recommended that where practicable new planting within this area and remainder of the site be comprised of native species of local provenance, including trees and shrubs appropriate to the local area. Although the landscaping scheme is generally supported, it should also include details of the site boundary edge treatment with the canal to provide enhancement of this habitat, as well as details of wildflower planting within the landscape design. Conditions are proposed to secure these additional details. Where non-native species are proposed, these should include species of value to wildlife, such as varieties listed on the RHS' 'Plants for Pollinators' database, providing a nectar source for bees and other pollinating insects.

To enhance the setting of the Wyrley and Essington Canal SLINC designation and to ensure the safety of residents a landscape buffer is proposed as part of the development proposals. The proposed landscape buffers are considered to provide an appropriate transition between the canal and the development.

The proposed attenuation feature is in line with the SuDs strategy for the site but also includes a landscaped area with new trees and planting that contribute to the landscape features of the development. The feature will improve the residential environment while providing additional recreation areas and form a focal point around which the development is arranged, positively contributing to the character and place making of the development.

Existing mature trees around the boundary of the site have been retained where possible, with appropriate root protection measures, this will ensure that the development appears grounded in the landscape rather than a new import to the area, especially before the planting reached full maturity. The use of hedgerows and trees are as structural elements to define public and private spaces, also contributes to landscape quality, prioritising natural elements over hard landscaping.

Turfed areas are used to provide amenity spaces in private gardens and along access roads. Boundary treatments include 1.8m screen brick walls where private amenity space is bounded by access roads, 1.8m close-boarded fencing and partition panels between amenity areas which is considered appropriate and contributes positively to residential amenity. Lower 600mm wall with 1200mm fence panels fixed on top are proposed where amenity spaces adjoin a larger parking area of the apartments.

Management and maintenance of the landscaped areas is secured by the S106 agreement that accompanied the outline permission.

On balance, the landscaping is considered to positively impact on the development, and provides a good residential environment while taking into account ecology of the area and flood mitigation requirements.

Appearance

The proposed dwellings are proposed in a traditional design taking reference from the local vernacular both in terms of detailing, construction materials and hard landscaping. The design strategy is to create a cohesive sense of place that compliments the existing neighbourhoods. The appearance of buildings adopts a similar vernacular and palette of materials to the local context with subtle contrast and visual interest brought in to maintain variation.

Design details are proposed including articulated frontages, bay windows, canopies and a variation in the roof lines of dwellings. Sparing use of rendered sections has been included at key points to highlight intersections, and provide punctuation to the street scene.

No details have been provided of the appearance of the proposed pumping station and how its appearance is integrated into the wider development. It is recommended that a condition be included to require details of the proposed design and screening measures be included in order to secure this.

High quality materials are proposed throughout the development that are distinctive and sustainable. Red brick facing is proposed interspersed with some pale coloured render. Detailing over windows and doors in contrasting colours, chimneys, brick banding, corbel eaves and canopies add further interest and assist in tying the development into the local area. Modern materials sit comfortably alongside the more traditional, contributing to the sense of place, variety and interest.

The appearance of the proposed development is considered to be in line with the character of the area, would create a positive residential environment and demonstrates quality design while respecting traditional patterns of development and providing accommodation that is in demand in the area.

Ecology

An ecological appraisal was carried out by a qualified specialist. The outline application confirmed that the principle of the development would be acceptable from an ecological point of view. The newly completed appraisal confirms no priority habitats are present within the site, and no priority species were recorded within the site when the survey was undertaken. Individuals of some mammals, birds and invertebrates may potentially make limited or ad hoc use of the site, although overall the site is likely to be of negligible importance for local populations of these species.

Mitigation measures are proposed to protect trees, watercourses, ensure sensitive lighting, protect mammals during construction, provide an updated badger survey, and time works so as to avoid nesting birds. These measures are supported and conditions are recommended to secure they are undertaken during and after construction.

Additional measures to ensure net biodiversity gains are proposed and expanded from the outline application submission. These include the landscape buffer included as a substantial feature within the layout, the creation of wildflower grassland, wetland features through the attenuation basin, the use of bat and bird boxes as well as hedgehog domes, and allowing garden permeability for movement of wildlife. Wood piles are recommended to support invertebrates. It is recommended that a condition be included in order to expand the requirement from the outline permission to include invertebrate habitat piles and garden fence cut-outs for hedgehogs, in line with the ecological appraisal and the comments from the ecological consultant.

The recommendations and conclusions of the ecological appraisal are considered valid and are supported subject to conditions as recommended in the appraisal. This is in accordance with BCCS policy ENV1 and saved UDP policy ENV23 and SPD Conserving Walsall's Natural Environment.

Planning Obligations

A S106 agreement was concluded as part of the outline application, and is not affected by this reserved matters application.

Local Finance Considerations

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

This application proposes 263 new homes.

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

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

Conclusions and Reasons for Decision

The principle of redevelopment for residential purposes has previously been accepted by Planning Committee in their resolution to grant outline permission in 2019 and the site is allocated for residential development in the Site Allocation Document. The proposal is supported in principle and accords with BCCS policy CSP1 and HC1 of the Site Allocations Document.

The layout is practical and would create a positive environment for future occupiers without impacting negatively on the amenity of the surrounding area. The proposal would integrate into the surrounding urban fabric and not harm the character of the surrounding area. This accords with the principles of the NPPF and BCCS policies CSP4 and HOU2 and saved UDP policies GP2, ENV32 and H3.

The landscaping proposals are considered to positively impact on the development, and provides a good residential environment while taking into account ecology of the area and flood mitigation requirements, which is in line with saved policy ENV33 of the UDP, ENV5 of the BCCS and EN3 of the Site Allocation Document.

The appearance of the proposed development is considered to be in line with the character of the area, would create a positive residential environment and demonstrates quality design while respecting traditional patterns of development and providing accommodation that is in demand in the area, in line with the principles of the NPPF and BCCS policies CSP4 and HOU2 and saved UDP policies GP2, ENV32 and H3.

Potential harmful effects from pollution are addressed through safeguarding measures to be secured through conditions in accordance with BCCS policies ENV7 and ENV8 and saved UDP policies GP2, ENV10 and ENV14 and Air Quality SPD.

The coal mining legacy can similarly be addressed by requirement for appropriate intrusive investigations and mitigation to be secured through conditions in accordance with saved UDP policies GP2 and ENV14. Flood Risk can be appropriately mitigated against in accordance with BCCS policy ENV5 and saved UDP policy ENV40.

Ecology will not pose a constraint to development on site subject to conditions as recommended in the ecological appraisal. The redevelopment of this derelict site for residential purposes considered to offer an improvement to the area and will have a positive impact on the adjacent SLINC. This is in accordance with BCCS policy ENV1 and saved UDP policy ENV23 and SPD Conserving Walsall's Natural Environment.

The S106 agreement has been completed for the outline permission.

There is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing. This application proposes up to 263 new homes.

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

Positive and Proactive Working with the Applicant

Approve

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

Recommendation

1. Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and subject to:

- i. No new material considerations being received within the consultation period;
- ii. Amendments in line with consultee comments;
- iii. The amendment and finalising of conditions;
- iv. No further comments from a statutory consultee raising material planning considerations not previously addressed;

Conditions and Reasons

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

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

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

Site Location Plan, drawing 22663/SLP/01A, received 20/11/20

Character Area Plan, drawing 2263-CA-01C, received 20/11/20

Planning Layout, drawing 22663-PL-01L, received 20/11/20

Enclosure Plan, drawing 22663-EN-01C, received 20/11/20

Material Plan, drawing 22663-MP-01D, received 20/11/20

Boundary Treatment Plan, drawing TWM-BD-01, received 16/11/20

Storey Heights Plan, drawing 22663-SH-01C, received 20/11/20

Unit Mix Plan, drawing 22663-UM-01C, received 20/11/20

Street Scenes, drawing 22663-SS-01, received 16/11/20

House Type BL Blackthorn Elevations, drawing 22663-BL-PL1, received 16/11/20

House Type BL Blackthorn Plans, drawing 22663-BL-PL1, received 16/11/20

House Type Benford Main Core Plans and Elevations, drawing 22663-NA30-PL1, received 16/11/20

House Type Byford Main Core Plans and Elevations, drawing 22663-NA32-PL1, received 16/11/20

House Type Huxford Main Core Plans and Elevations, drawing 22663-NA42-PL1, received 16/11/20

House Type Landford Canal View Plans and Elevations, drawing 22663-NA43-PL1, received 16/11/20

House Type Manford Canal View Plans and Elevations, drawing 22663-NA44-PL1, received 16/11/20

House Type Manford Main Core Plans and Elevations, drawing 22663-NA44-PL1, received 16/11/20

House Type Janford Main Core Plans and Elevations, drawing 22663-NA49-PL1, received 16/11/20

House Type Dunham Canal View Plans and Elevations, drawing 22663-ND41-PL1, received 16/11/20

House Type Dunham Main Core Plans and Elevations, drawing 22663-ND41-PL1, received 16/11/20

House Type Trusdale Canal View Plans and Elevations, drawing 22663-NT41-PL1, received 16/11/20

House Type Trusdale Main Core Plans and Elevations, drawing 22663-NT41-PL1, received 16/11/20

House Type Canford Main Core Plans and Elevations, drawing 22663-PA25-PL1, received 16/11/20

House Type Flatford Goscote Lane Plans and Elevations, drawing 22663-PA25-PL1, received 16/11/20

House Type Flatford Main Core Plans and Elevations, drawing 22663-PA33-PL1, received 16/11/20

House Type Gosford Goscote Lane Plans and Elevations, drawing 22663-PA33-PL1, received 16/11/20

House Type Gosford Main Core Plans and Elevations, drawing 22663-PA34-PL1, received 16/11/20

House Type Corsham Main Core Plans and Elevations, drawing 22663-PA34-PL1, received 16/11/20

House Type Rosedale Canal View Plans and Elevations, drawing 22663-PT35-PL1, received 16/11/20

House Type Rosedale Main Core Plans and Elevations, drawing 22663-PT35-PL1, received 16/11/20

House Type Easedale Canal View Plans and Elevations, drawing 22663-PT36-PL1, received 16/11/20

House Type Easedale Goscote Lane Plans and Elevations, drawing 22663-PT36-PL1, received 16/11/20

House Type Easedale Main Core Plans and Elevations, drawing 22663-PT36-PL1, received 16/11/20

House Type Yewdale Main Core Plans and Elevations, drawing 22663-PT37-PL1, received 16/11/20

Landscape Plan 1 of 4, drawing LDS473-01B, received 16/11/20

Landscape Plan 2 of 4, drawing LDS473-02B, received 16/11/20

Landscape Plan 3 of 4, drawing LDS473-03B, received 16/11/20

Landscape Plan 4 of 4, drawing LDS473-04B, received 16/11/20

Landscape Master Plan, drawing, LDS473-05B, received 16/11/20

Landscape Management Plan, drawing LDS473-06B, received 16/11/20

Design and Access Statement, 19.10.2020 Rev A, prepared by Taylor Wimpey, received 16/11/2020

Planning Statement, TAYQ3037, prepared by Turley, received 16/11/2020

Landscape Management Schedule, prepared by Landscape Design Solutions LDS473(B)-LMS , received 16/11/2020

Landscape Specification, prepared by Landscape Design Solutions LDS473(B)-LS , received 16/11/2020

Arboricultural Method Statement, prepared by Aspect 10611_AIA.001 , received 16/11/2020

Ecological Appraisal , prepared by Aspect 1005254 EcoAp , received 16/11/2020

Framework Travel Plan and Travel Pack, prepared by Banners Gate Highways & Transportation October 2020 , received 16/11/2020

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

3a. Prior to commencement above damp course details shall be provided to the local planning authority and approved in writing of bat boxes, bird boxes and hedgehog domes, fence cut-outs and invertebrate habitat piles to be incorporated into the house designs, retained trees and open areas of the site.

3b. The details shall include a schedule for installation that refers to specific locations of installations and the timescales for installations.

3c. Details shall include the number and location of boxes, domes, piles and cut-outs with accompanying evidence that the number and locations have been determined by a qualified ecologist.

3d. The development shall not be carried out otherwise than in accordance with the agreed details.

Reason: To conserve local bat, bird and hedgehog populations and to comply with NPPF15, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

4a. Prior to the commencement of the development hereby permitted, plans for the disposal of foul drainage shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall not be carried out otherwise than in accordance with the approved details.

Reason: To ensure the development is provided with a satisfactory means of drainage and to minimise the risk of pollution and in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

5a. Prior to the commencement of the development details of surface water drainage and a flood risk management scheme shall be submitted in writing to and approved in writing by the Local Planning Authority. This should include details of:

- i. Measures to limit the surface water run-off generated by the site during the a critical storm duration such that it will not increase the risk of flooding off-site
- ii. Provision of attenuation flood storage on the site to a 100yr + CC standard.
- iii. Provision of sustainable drainage elements to provide water quality improvements.
- iv. And shall accord with the Flood Risk Assessment and Drainage Strategy Dated November 2017.

5b. The scheme shall be fully implemented in accordance with the approved Surface Water Drainage and Flood Risk Management Scheme and the Flood Risk Assessment and Drainage Strategy, dated November 2017, submitted by Hydrock and subsequently maintained, in accordance with the agreed details of part a.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure lifetime maintenance of the system to prevent flooding issues and to ensure the development is provided with satisfactory means of drainage to comply with the requirements of the Canal and River's Trust and the Lead Local Flood Authority and UDP policy GP2 and UDP policy ENV10.

6a. Prior to commencement of the development details of clean cover and no-dig layers shall be submitted in writing to and approved in writing by the Local Planning Authority.

6b. If during the undertaking of remedial works, or, the construction of the approved development, unexpected ground contamination not identified by previous site investigations is encountered, all development to a distance of 5m around the unexpected contamination shall immediately cease until such time as additional remedial or mitigation works are submitted in writing to and approved in writing by the Local Planning Authority (see Notes CL1, CL2, and CL3).

6c. Prior to the development being brought into use, 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 in writing to and approved in writing by the Local Planning Authority. (see Note for Applicant CL3)

Reason: To ensure safe development of the site, protect human health and the environment and to comply with UDP policy GP2 and ENV10

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

- v. the parking and turning of vehicles of site operatives and visitors;
- vi. the loading and unloading of plant and materials;
- vii. the storage of plant and materials used in constructing the development;
- viii. dust mitigation measures including measures to avoid impact on the adjacent canal;
- ix. wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway or the adjacent canal;
- x. details of the method to be employed for disposing of silty water;
- xi. a timetable of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons);
- xii. details of safeguards to be implemented during construction to prevent harm to mammals and other wildlife;
- xiii. persons responsible for:
 - Compliance with legal consents relating to nature conservation;
 - Compliance with planning conditions relating to nature conservation
 - Provision of training and information about Environment Protection measures to all construction personnel on site.
- xiv. details of the siting of areas for the storage for chemicals, fuels, or any other substances hazardous to groundwater, which should be physically distant from the adjacent canal

- xv. Details of the construction of areas for the storage for chemicals, fuels, or any other substances hazardous to groundwater which should include an impervious base within an oil-tight bund and no drainage outlet;
- xvi. details of a designated area for the refuelling of plant with an impermeable surface;
- xvii. details of temporary construction lighting, which shall be kept to a minimum in the vicinity of the canal, and where necessary incorporate directional lighting and deflectors to direct the light into the site and away from the canal.

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

8a. Prior to commencement of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority, to include inter alia:

- i. native planting where practicable
- ii. details of the site boundary edge treatment with the canal to provide enhancement of this habitat,
- iii. details of boundary treatment to prevent vehicles from entering the canal
- iv. details of wildflower meadow planting
- v. screening of the foul pumping station

8b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

8c. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

9a. Prior to installation of the glazing to bedrooms facing Goscote Lane written confirmation shall be provided to the Local Planning Authority that the glazing will achieve a minimum sound reduction, R_w , of 38 decibels.

- i. Prior to installation of the ventilation on units adjacent to Goscote Lane written confirmation shall be provided to the Local Planning Authority that the ventilation will achieve a minimum sound reduction, $D_{n,e,w}$, of 38 decibels.
- ii. Prior to occupation of the dwellings hereby approved a continuous barrier of at least 1.8m in height constructed of either brick wall or close boarded wooden fencing shall be provided along the whole of the southern boundary of the site.
- iii. Prior to occupation of the dwellings hereby approved close boarded fencing shall be provided to connect buildings for plots adjacent to Goscote Lane such that there is a continuous 1.8m high barrier formed between the road and rear gardens.

- iv. Prior to occupation of the dwellings hereby approved a written Validation Report that demonstrates the agreed acoustic mitigation measures have been fully installed shall be submitted in writing to and approved in writing by the Local Planning Authority.

Reason: In order to protect the amenities of the future occupiers of the premises in compliance with Policies GP2 and ENV32 of the UDP.

10a. Prior to the first occupation of any dwelling in the development hereby permitted, all access ways, parking and vehicle manoeuvring spaces serving that dwelling shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or adoptable highway any highway drain or adoptable highway drain. All parking bays shall clearly demarcated on the ground.

10b. These areas shall thereafter be retained and used for no other purpose.

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

11. Prior to the first occupation of any Apartment Plots 80 to 91, details of a cycle storage facility for the use of residents (which can be internal or external) shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details and thereafter retained.

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN4.

12a. Prior to first occupation of the development hereby permitted details of an electric vehicle charging point for each dwelling shall be submitted in writing to and agreed in writing by the Local Planning Authority.

12b. Prior to first occupation of each plot within the development the approved electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the lifetime of the development.

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

13a. No clearance of vegetation shall be undertaken during the bird-nesting season (1st March to 31st August inclusive) unless the area has been first checked no more than 3 days prior to clearance by a qualified ecologist to determine the location of any active nests

13b. If nests are discovered by the ecologist, they should be cordoned off by a minimum 5m buffer until the end of the nesting season or until the birds have fledged.

Reason: To conserve local bird populations and to comply with NPPF15, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

14a. Prior to commencement of the development hereby permitted the following details shall be submitted in writing to and approved in writing by the local planning authority:

- i. A plan showing the location of and allocating a reference number to each existing tree on the site which has a stem with a diameter measured over the bark at a point 1.5 metres above ground level exceeding 75mm showing which trees are to be retained and the crown spread of each retained tree;
- ii. Details of the species, diameter (measured in accordance with paragraph i) and the approximate height and an assessment of the general state of health and stability of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs iii and iv apply;
- iii. Details of any proposed topping or lopping of any retained tree or of any tree on land adjacent to the site;
- iv. Details of any proposed alterations in existing ground levels and of the position of any proposed excavation within the crown spread of any retained tree or any tree on land adjacent to the site;
- v. Details of the specification and position of fencing and of any measures to be taken for the protection of the retained trees from damage before and during the construction of the development.

14b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: In the interests of amenity and ecology and to comply with UDP policies ENV23 and ENV32

15a. Prior to the commencement of any adoptable highway works or any works within the existing public highway, full engineering details of all such highway infrastructure works including layouts, alignments, widths and levels, together with all necessary drainage arrangements and run off calculations, shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i. The new bellmouth access points onto Goscote Lane together with the adoptable internal estate roads;
- ii. A zebra crossing on Goscote Lane within proximity to the development in a position to be agreed with the Highway Authority, with the developer responsible for the following:
 1. The zebra crossing design
 2. Public consultation
 3. The siting of the crossing
 4. Installation
- iii. The removal and reinstatement of all existing redundant vehicle footway crossings that are directly adjacent to the development along Goscote Lane back to full kerb height;
- iv. The modification and/or replacement, as necessary, of all traffic calming features on Goscote Lane required as a result of the development;
- v. The relocation of the existing bus stop on Goscote Lane to a position to be agreed with the Highway Authority in consultation with Transport for West Midlands; and
- vi. All adoptable street lighting within the boundary of the site and immediately adjacent required as a result of the development.

15b. Prior to the first occupation of any dwelling on the development, the highway infrastructure works detailed in Part a) shall be carried out.

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

16. The two new junctions on Goscote Lane shall, at all times, provide 2.4m x 43m visibility splays in both directions within which no structure or planting shall exceed 600mm in height above carriageway levels.

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

17. All individual vehicular access points on the development shall provide 2.4m x 3.4m pedestrian visibility splays, measured from the centre of each access at the back of the reconstructed footway, within which no planting or structures exceeding 600mm in height above footway levels shall be permitted at any time.

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

18. Prior to the first occupation of the any of the dwellings hereby approved details of the proposed external lighting for the development, including details of foundations, luminance in candelas, hours of operation, and details of the timing of its implementation relative to the full occupation of the development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house;

- Class A (enlargement, improvement or other alterations),
 - Class D (porches),
 - Class E (building incidental to the enjoyment of a dwelling house),
 - Class F (hard surfaces incidental to the enjoyment of a dwelling house),
- shall be installed in any part of this hereby approved development.

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

Notes for Applicant

1. Fire Service

Approved Document B, Volume 1, Dwellings, 2019

Requirement B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Requirement

Limits on application. Access and facilities for the fire service B5. (1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life. (2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult).

Section 13: Vehicle access

Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.2 For flats, either of the following provisions should be made.

- a. Provide access for a pumping appliance to within 45m of all points inside each flat of a block, measured along the route of the hose.
- b. Provide fire mains in accordance with paragraphs 13.5 and 13.6.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

Blocks of flats fitted with fire mains

13.5 For buildings fitted with dry fire mains, both of the following apply.

- a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.

b. The fire main inlet connection point should be visible from the parking position of the appliance, and satisfy paragraph 14.10.

13.6 For buildings fitted with wet fire mains, access for a pumping appliance should comply with both of the following.

- a. Within 18m, and within sight, of an entrance giving access to the fire main.
- b. Within sight of the inlet to replenish the suction tank for the fire main in an emergency

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 1, Table 13.1).

Section 14: Fire mains and hydrants – flats

Provision of fire mains

14.2 Buildings with firefighting shafts should have fire mains provided in both of the following.

- a. The firefighting stairs.
- b. Where necessary, in protected stairways.

The criteria for providing firefighting shafts and fire mains are given in Section 15.

14.3 Buildings without firefighting shafts should be provided with fire mains where fire service vehicle access is not provided in accordance with paragraph 13.2(a). In these cases, the fire mains should be located within the protected stairway enclosure, with a maximum hose distance of 45m from the fire main outlet to the furthest point inside each flat, measured on a route suitable for laying a hose.

Design and construction of fire mains

14.4 The outlets from fire mains should be located within the protected stairway enclosure (see Diagram 15.1).

14.5 Guidance on the design and construction of fire mains is given in BS 9990.

14.6 Buildings with a storey more than 50m above fire service vehicle access level should be provided with wet fire mains. In all other buildings where fire mains are provided, either wet or dry fire mains are suitable.

14.7 Fire service vehicle access to fire mains should be provided as described in paragraphs 13.5 and 13.6.

Provision of private hydrants

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

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

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

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

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

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

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

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

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

Section 15: Access to buildings for firefighting personnel – flats

Provision of firefighting shafts

15.1 In low rise buildings without deep basements, access for firefighting personnel is typically achieved by providing measures for fire service vehicle access in Section 13 and means of escape.

Sprinklers

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:

- a) the distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m:
- b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

Section 7: Compartmentation/sprinklers – flats Page 59

7.4 Blocks of flats with a top storey more than 11m above ground level (see Diagram D6) should be fitted with a sprinkler system throughout the building in accordance with Appendix E. NOTE: Sprinklers should be provided within the individual flats, they do not need to be provided in the common areas such as stairs, corridors or landings when these areas are fire sterile.

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

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 7)

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

2. Air Quality SPD

Pollution Control is of the opinion that the Application falls under the Type 1 category, therefore the Applicant needs to install at least one electric vehicle charging point per Plot and/or one charging point per 10 parking spaces for shared parking, and low NOx boilers.

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

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

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

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

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

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

3. Environmental Legislation Hours of Construction

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 not take place other than between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday, Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

4. Ground Contamination

1. CL1 – Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A2:2017 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); 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.
2. CL2 – When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.
3. 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.

5. West Midlands Police

Please see SBD construction security guide 2021.

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

Rivers and canals can provide vulnerability, access other than via road.

Secured by Design features known crime reduction principles borne from experience. SBD Homes 2019 8.3 The designer must ensure that the security of the development is not compromised by excessive permeability

8.4 A review of available research in this area concluded that: "Neighbourhood permeability... is one of the community level design features most reliably linked to crime rates". SBD 9.1 1 Communal areas, such as playgrounds, toddler play areas, seating facilities have the potential to generate crime. 9.2 They should be designed to allow natural surveillance from nearby dwellings with safe and accessible routes for users to come and go. 9.4 Consideration should be given to a single dedicated entry and exit point to enable parental/guardian control and supervision. Fencing at a minimum height of 1200mm can often discourage casual entry, provide a safe clean play area.

Please refer to crime prevention and home security advice contained within SBD New Homes. Please see https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf

If required cycle stores, approved products, are recommended (SBD Homes 2019 page 68, 56). Located in a clearly visible area.

For the apartments.

Secure mail is recommended without providing unnecessary access to private areas. (SBD Homes 2019 page 58 2b. 38). SBD strongly recommends where possible, mail delivery via a 'secure external letter box' Standard TS009 (DHF TS009) (SBD Homes 2019 page 58 38.3). 'Through the wall mail delivery into secure internal letter boxes' can be considered Standard TS008 (DHF TS008) (SBD Homes 2019 page 59 38.4-5).

Consider card entry system or similar. With correct management and maintenance. Access control to the building see SBD Homes 2019 page 41, 27. To allow residents entry, to their area and apartment.

Lighting must be at the levels recommended by BS 5489-1:2013. External LED lights with daylight sensors to the external walls, particularly by entrances and lighting to parking areas. This to provide security for residents entering and leaving. (SBD Homes 2019 page 63 49.1). I would recommend 24 hour lighting (switched using a photoelectric cell) to internal communal areas. Providing security to residents as they make their way within the building. (SBD Homes 2019 page 63 49.2.).

I would recommend electric gates for access control to communal parking areas.

Any gates occupants open physically are likely to be left in the open position offering no security. In particular in inclement weather conditions or persons not willing to manoeuvre gates. Without remote access if gates are utilised there is temptation to leave vehicles with engines running with safety and crime implications.

Consider cctv multiplex cctv system for shared areas in particular facial view on entrances. A height to 120% of the screen is required for identification. (SBD Homes 2019 page 47 29.1 – 30.7). Capture of persons and vehicles particularly entering and leaving. Alarm and cctv installers should be approved by NSI, SSAIB or both please see <https://www.nsi.org.uk/> and <https://ssaib.org/>

Dwelling flats entrance door-sets (SBD Homes 2019 page 29, 21.1-8).

PAS 24: 2016 standard doors for houses and apartments. Communal shared entrances doors and visitor door entry to standards LPS 1175 or STS 202. Please see: <https://www.securedbydesign.com/guidance/standards-explained>

6. Cadent Gas / National Grid

Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

Affected Apparatus

The apparatus that has been identified as being in the vicinity of your proposed works is:

Low or Medium pressure (below 2 bar) gas pipes and associated equipment. (As a result it is highly likely that there are gas services and associated apparatus in the vicinity)

Above ground gas sites and equipment

Requirements

BEFORE carrying out any work you must:

Note the presence of an Above Ground Installation (AGI) in proximity to your site. You must ensure that you have been contacted by Cadent and/or National Grid prior to undertaking any works within 10m of this site.

Carefully read these requirements including the guidance documents and maps showing the location of apparatus.

Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.

Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from overhead electric power lines'.

This guidance can be downloaded free of charge at <http://www.hse.gov.uk> In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

Guidance

Excavating Safely - Avoiding injury when working near gas pipes:

http://www.nationalgrid.com/NR/rdonlyres/2D2EEA97-B213-459C-9A26-18361C6E0B0D/25249/Digsafe_leaflet3e2finalamends061207.pdf

Standard Guidance

Essential Guidance document:

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=8589934982>

General Guidance document:

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=35103>

Excavating Safely in the vicinity of gas pipes guidance (Credit card):

<http://www.nationalgrid.com/NR/rdonlyres/A3D37677-6641-476C-9DDA-E89949052829/44257/ExcavatingSafelyCreditCard.pdf>

Excavating Safely in the vicinity of electricity cables guidance (Credit card):

<http://www.nationalgrid.com/NR/rdonlyres/35DDEC6D-D754-4BA5-AF3C-D607D05A25C2/44858/ExcavatingSafelyCreditCardelectricitycables.pdf>

Copies of all the Guidance Documents can also be downloaded from the National Grid and Cadent websites.

7. Highway Authority

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

The applicant will be expected to enter into an agreement under S38 and S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team at Stephen.Pittaway@Walsall.gov.uk



Planning Committee

Report of Head of Planning and Building Control on 07 January 2021

Plans List Item Number: 2.

Reason for bringing to committee

Major application

Application Details

Location: LAND OFF UPPER NAVIGATION STREET, WALSALL

Proposal: RESIDENTIAL DEVELOPMENT OF 15 TOWN HOUSES WITH NEW TOWN CENTRE PUBLIC SQUARE AND POCKET PARK

Application Number: 20/1160

Case Officer: Fiona Fuller

Applicant: Urban Splash House Ltd

Ward: St Matthews

Agent: Georgia Barrett

Expired Date: 25-Dec-2020

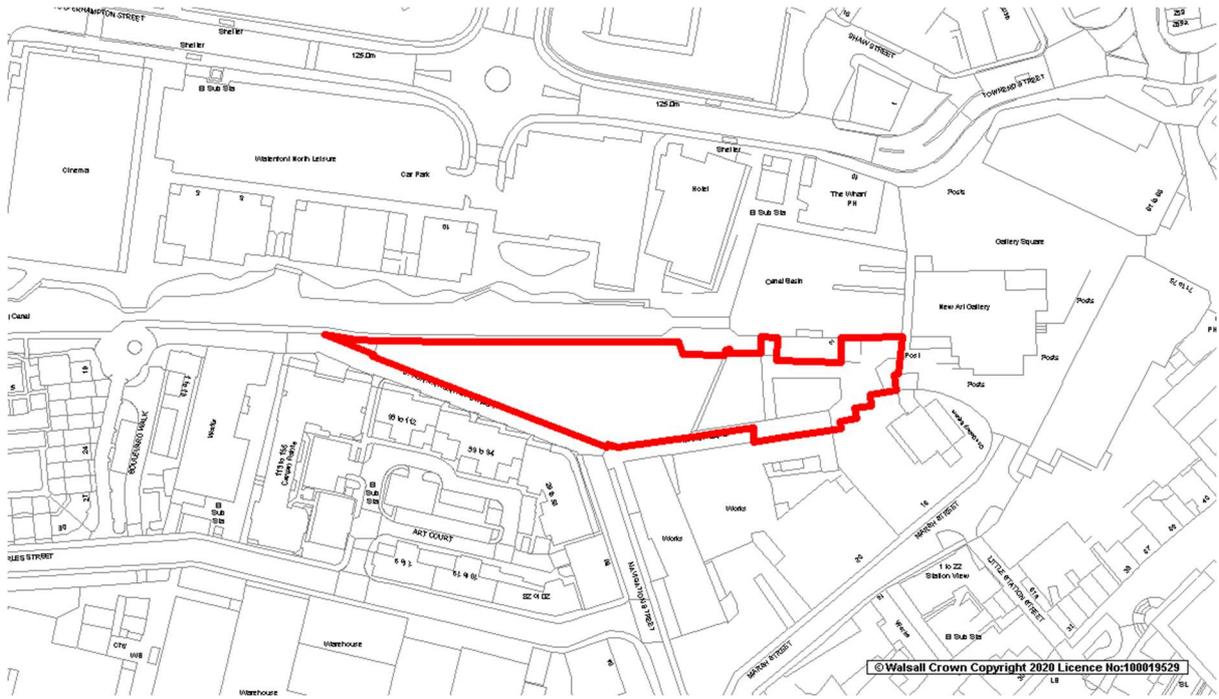
Application Type: Full Application: Major Mixed Use Classes

Time Extension Expiry:

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to:

- the amendment and finalising of conditions;
- the completion of a Section 106 Planning Obligation;
- no new material considerations being raised by consultees;
- advertisement of application as a departure from the Development Plan; and
- referral to the Secretary of State.



Proposal

This application seeks the erection of 15 terraced town houses on a triangular-shaped plot of land currently designated as Urban Open Space in the Council's Town Centre Area Action Plan which lies next to the Walsall Canal and Walsall Locks Canal Conservation Area. This application is a resubmission of planning application reference 18/1213 for 20 dwellings which was previously withdrawn in order to address the Local Planning Authority concerns.

The proposed dwellings would be comprised of eleven two-storey and four three storey Town Houses arranged in a single terrace of fifteen houses. The development would be a modular method of construction and providing a bespoke internal layout for each individual home.

Each town house will have a south-facing timber decked terrace, separated from a managed shared residents' garden by raised planting beds. All houses use a shared, secure parking court to the rear of the site, accessed from Navigation Street. There is one parking space per house. The boundary treatments to the communal areas are 2.4m in height.

Along the canal towpath boundary the town houses are set back, providing each dwelling with a front garden area of low level planting and path leading to the main entrance door. The front gardens are enclosed by a low level metal railing fence and entrances marked by coloured metal detail with house number signage.

Two areas of public open space are also proposed. At the western end of the site, 'Canalside Gardens' would provide a softer, greener and more informal canal-side public space and at the eastern tip of the site 'Waterside Square' would provide a re-landscaped urban park along including outdoor seating and children's play.

The following supporting documents have been submitted in support of the application:

- Design and Access Statement
- Planning Statement
- Heritage Statement
- Transport Statement
- Noise Assessment
- Air Quality Assessment
- Drainage Statement
- Desk-based Coal Mining Risk Assessment
- Ecological Assessment
- Construction Management Plan
- Open Space Design and Access Statement

Site and Surroundings

This is a triangular shaped site bounded between the Walsall Canal towpath to the north and Upper Navigation Street and Marsh Street to the south. Fronting Upper Navigation Street is Art Court apartment block of varied height, up to eight stories. There is a derelict site fronting Marsh Lane, which recently secured planning permission for an eight story high apartment block known as Saddlers Quay.

The site fronts the wharf area that includes Piri-Fino restaurant within the Wharfingers Cottage. Walsall Art Gallery, Bar 10 and the six storey Premier Inn Hotel with restaurant below also front this area. The application site is within the Town Centre boundary and defined as Urban Open Space within the Council's Area Action Plan for the Town Centre.

A man-made grass mound currently occupies the majority of the application site between 1.8m and 2.8m in height which is bounded by a brick wall to the south running in an east-west direction and the remainder is fenced off by knee-rail post and rail. Two trees are currently present on the top of the mound.

Walsall Locks Conservation Area adjoins the application boundary to the north.

Both Upper Navigation Street and Marsh Lane are single width carriageway/footway. Access if from Marsh Lane with vehicle access is prohibited with bollards placed across both Upper Navigation Street and Marsh Lane.

Relevant Planning History

Application Site:

18/1213 - Proposed 15 houses with car parking, landscaping, public realm improvements and—Withdrawn – 19/11/2019

Saddlers Quay:

17/1573 - Demolition of existing buildings and residential development of 222 one and two bedroom apartments plus associated works, landscaping and creation of 90 on-site car parking. GSC 17/1/19.

Wharfingers Cottage:

15/1120 - Change of use of former boat yard to restaurant. GSC 4/12/15. Condition 9 controls delivery times 8am-10pm Monday to Saturday, 10am-4pm Sundays), condition 10 opening hours (11am-11pm) and 11 noise from machinery and equipment.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On planning conditions the NPPF (para 55) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously- Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV27: Buildings of Historic or Architectural Interest

- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV34: Public Art
- S1: Definition of Town Centre Uses
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S8: Housing in Town Centres
- H4: Affordable Housing parts g, h, i and j NOTE for case officer: (saved)
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space
- 8.7 to 8.9 Strategic Policy Statement

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres

- CEN3: Growth in the Strategic Centres
- CEN4: Regeneration of Town Centres
- CEN8: Car Parking in Centres
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

Walsall Town Centre Area Action Plan 2019

- AAP1: Walsall Town Centre Boundary
- AAPLE1: New Leisure Development
- AAPLE4: Walsall Canal
- AAPLV1: Residential Developments
- AAPLV5: Protecting and Enhancing Historic Character and Local Distinctiveness
- AAPLV6: Securing Good Design
- AAPLV7: Enhancing Public Realm
- AAPLV8: Environmental Infrastructure
- AAPPT1: Pedestrian Movement, Access and Linkages
- AAPINV4: Walsall Waterfront
- AAPINV7: Addressing Potential Site Constraints

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

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

Appendix D: 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. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing.

Open space, sport and recreation

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

Waterfront

- WA12: Walsall Waterfront

Affordable Housing

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

Air Quality SPD

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

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

In determining any planning application, special attention shall be paid to the desirability of preserving listed buildings and preserving or enhancing the character or appearance of conservation areas as set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Consultation Replies (Officer comments in italics)

HOUSING STANDARDS – No comments received. To be updated in the supplementary paper

COMMUNITY SAFETY TEAM - Offered advice –They have raised a number of outstanding issues including boundary fencing details and landscaping.

STRATEGIC PLANNING POLICY – objected to the proposed development of the grounds of loss of public open space, impact on the natural and historic environment and residential amenity

PUBLIC HEALTH – No objection

NATURAL ENGLAND – No comments to make

COAL AUTHORITY – No objection

ECOLOGY BBC Wildlife – Object on the grounds the proposed development impacts on the ecological and visual amenity.

LEAD LOCAL FLOOD AUTHORITY – No objection subject to a detailed surface water drainage condition being imposed.

DRAINAGE – Concur with the Flood Authority comments

CANAL AND RIVER TRUST – Object to the impact of the development on the historic canal environment but if permission is granted they recommend conditions on the foundation construction (to protect the canal), drainage, biodiversity, sustainable travel signage of routes through the site, external lighting, boundary treatment details, landscaping and requested a monetary donation to enhance the canal network conditions and offered advice

LIMESTONE – No comments to make

POLLUTION CONTROL – No objection subject to construction management, contaminated land, acoustic, air quality conditions and an informative

INLAND WATERWAYS ASSOCIATION BIRMINGHAM – No comments received. To be updated in the supplementary paper

AREA PARTNERSHIP - No comments received. To be updated in the supplementary paper

TRANSPORTATION PLANNING – No highways safety concerns

ARCHAEOLOGY - No objection subject to a programme of archaeological work and a watching brief conditions being imposed

TREE PRESERVATION OFFICER – No comments received. To be updated in the supplementary paper

PUBLIC LIGHTING – No objection subject to an external lighting condition being imposed

EDUCATION WALSALL - offered comment on the lack of information/ details on the number of bedrooms.

CYCLING AND PEDESTRIAN OFFICER - No road safety comments

CLEAN AND GREEN – lack of details regarding a bin collection and concerns the revised plans and offered advice

SEVERN TRENT WATER – No objection subject to a drainage conditions being imposed

LOCAL HIGHWAY AUTHORITY – Concerns raised about delivery arrangements on the restaurant but a waste, recycling and serving, highway safety operation and construction methodology statement conditions should be imposed and offered informative.

WEST MIDLANDS FIRE SERVICE - Support and offered informative advice (*this would be added as note to applicant*)

WEST MIDLANDS POLICE - No objection subject to security measure condition and offered informative (*this would be added as a condition and note to applicant as necessary*)

CADENT GAS LIMITED – offered informative advice (*this would be added as note to applicant*)

TOWN CENTRE MANAGER (Walsall) – No comments received. To be updated in the supplementary paper

ENVIRONMENTAL HEALTH - No comments received. To be updated in the supplementary paper

Councillor Farhana Mazhar – No response received at the time of writing this report

Valerie Vaz MP –The development contravenes the Council's Development Plan Policies and fails to meet NPPF open space tests, unacceptable impacts on neighbour amenity, change of use of land would undermine the Council's bid to achieve accessible open space target by 2026, inappropriate replacement of open space and undermines the Council's efforts to improve air quality.

Councillor Abdus Samad Nazir – No response received at the time of writing this report

Councillor Aftab Nawaz – No response received at the time of writing this report

Representations

Surrounding occupiers have been notified by letter, site notices displayed and advertised in local newspaper.

192 letters sent to occupiers of neighbouring properties. Nine letters received objecting to the application on the following grounds:

- Design and appearance of the development is not in keeping with the surrounding area/ design is unacceptable – too high.
- Proposed materials are not suitable to the local setting

- Impact on landscape
- Layout, density and over-development
- Local needs
- Overbearing presence near a common boundary
- Impacts on residential amenity - loss of light, light pollution, noise, overlooking, loss of privacy, overshadowing
- Crime fears and anti- social behaviour
- Road issues: traffic generation, vehicle access, road safety
- Impact on car parking provision
- Capacity of infrastructures
- Impact on nature conservation interests and biodiversity opportunities
- Impact on archaeological finds or sites
- Risk of flooding and climate change impacts
- Risk of fire
- Poor design (looking at a brick wall) and impact on mental health.
- Green belt policy to prevent urban sprawl
- Strategic Housing land Availability Assessment – updated in May 2016 – list potential sites.
- Canal and Rivers Trust identified the site – as a Site of Local Importance for Nature Conservation.
- Proposed work shouldn't start until the residents return to the office.
- Local residents do not want the development to go ahead
- Local businesses will suffer because residents will not be using the amenities.
- Loss of green space and impacts on resident's mental health.
- Change to the neighbourhood dynamics.
- Proposed application similar to the previous application (18/1213)
- Lack of equal access to buildings.
- Area is used by wildlife
- Increase in litter.
- Other sites should be prioritised for development.
- The development contradicts policies as set out in the UDP, NPPF, TCAAP and Black Country Joint Core Strategy.

Determining Issues

- Impacts on Heritage Assets
- Principle of development
- Sustainability Assessment of the Proposal
- Impact upon the character and appearance of the area
- Impact upon residential amenities
- Site Access, Highways and Parking Considerations
- Impact on the Natural Environment
- Flooding and Drainage
- Planning Obligation Requirements
- Local Finance Contributions

Impacts on Heritage Assets

AAP Policy AAPLV5 explains development proposals that affect sites identified as heritage assets will need to demonstrate how they will be considered and enhanced, including the need to protect views. Where there is archaeological potential then the development will be required to undertake an archaeological assessment.

The canal and the canal towpath adjoin the application site and is part of the Walsall locks conservation area. Historic mapping shows the site as part of the historic wharf, remaining undeveloped with buildings since the mid-19th century.

There are no Listed Buildings located near the application site or located within the Conservation Area but there are Listed Buildings in the wider vicinity, however these are considered would not be negatively impacted by the proposed scheme.

The proposal is considered would not harm the views of the historic character of the conservation area by introduction of built form along the waterfront. This change is considered would have a positive impact on the character and appearance of the conservation area by obscuring the open character of the historical wharf site.

Public open space would retain the historical character of the site in a way that would create amenity for the many whilst preserving and enhancing the character of the adjacent Conservation Area to the benefit of the town's regeneration.

The overall reduction in the number of houses since the original application has reduced the bulk of the development, and as such also reduced the perceived level of obstruction to views along the canal. Two step-backs have also been introduced to break up the massing further. The application is supported by a Heritage Statement that confirms the development has no harm on the character and appearance of the conservation area.

At the time of writing the report, the Conservation Officer's comments have not been provided and will be updated in the Supplementary Paper.

The Archaeology and Historic Environment Officer explains that historic maps suggest a possible wharf wall. It is possible that the foundations of these early structures are still present within the site boundaries. Should planning permission be approved a programme of archaeological work would be necessary conditions.

The applicant has revised the development so that the repositioned, terraced and the materiality of the buildings on the application site so that it wouldn't harm the views of the historic character of the conservation area.

The amended design will have a positive impact on the character and appearance of the conservation area by not obscuring the open character of the historical wharf site. Therefore, the development would have a positive impact on the character and appearance of the Walsall Locks Conservation Area.

Furthermore, the proposed development would lead to less than substantial harm to significance of the non-designated heritage asset Wharfingers Cottage, and this harm must be weighed against the public benefits of development. In this instance it is considered that public benefits arising in terms of provision of new homes and enhanced public open space areas weighs in favour of the proposal and outweighs any harm arising.

Principle of development

The National Planning Policy Framework sets out a clear presumption in favour of sustainable development referring (at paragraph 14) to this being a 'golden thread running through both plan-making and decision-taking'. It notes that, for decision takers, this means approving development proposals that accord with the Development Plan. Section 6 of the National Planning Policy Framework for housing specifically states in paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development.

As part of the recently adopted (January 2019) Walsall Town Centre Area Action Plan (AAP) the application site, (TC12) has been allocated as one of two new urban open spaces for the town centre; the second being St Matthew's Church open space (TC28) 650m to the east. AAP Policy AAPLV8 explains these open spaces should be protected and enhanced and that any loss will only be permitted if in accordance with the criteria set out in NPPF paragraph 97 and an assessment against the NPPF is therefore set out below:

A) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

The AAP has been through its formal process including an examination in public prior to being formally adopted January 2019. This is now part of the development plan and must form part of the current assessment of this planning application. The previous regeneration strategy for this site has now been superseded and has no weight in the assessment of this planning application. This is an allocated area of open space whose need has been recently demonstrated through the statutory plan making process to serve the local needs of the community.

The open space is not therefore considered to be surplus to requirements.

B) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

The proposed public open space as part of this development, whilst being lower in quantity, is considered to be of a significantly higher quality than what is currently offered. It should be noted that the current grass-mound area is fenced off and its public use is discouraged by way of current signage. The proposed landscaping strategy has been meticulously designed and the application proposes a diverse offer of seating, shelter, and planting that allows local residents, visitors, and wildlife to spend more quality time enjoying the space. The size of this proposed public open space has also been increased following negotiations with the Local Planning Authority from 115sqm to 483sqm at the Canalside Gardens and from 296sqm to 976sqm at the Waterside Square totalling an increase from 411sqm to 1,459sqm.

On balance, taking account of the above it is considered that the proposal represents a better overall provision of higher quality public open space to serve the area which outweighs the loss of part of the existing area of open space.

However, as the NPPF requires any loss to be replaced by equivalent or better open space provision in both quantity and quality, this application will need to be referred to the Secretary of State as a departure.

C) The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

It is considered that the proposed areas of enhanced open space would meet this test by providing areas of multi-functional spaces which would be managed in perpetuity to the benefit of the area.

The applicant and their agent has engaged in extensive communication with the Local Planning Authority to aim to address and overcome the issue of the partial loss of the existing urban open space.

Therefore part c) of NPPF para 97 test is also considered to have been met by this current proposal.

On balance, it is considered that this proposal accords with the above criteria and the principle of development is therefore acceptable.

There were numerous objections regarding the amended scheme would have a detrimental impact on the loss of public open space. Concerns ranged from the impact on the effects physical and mental health to the lack of recreational activities.

All the objections have been noted and addressed in this report. The amended scheme is considered would provide enhanced areas of public open space as set out above.

Sustainability Assessment of Proposal

The National Planning Policy Framework at Paragraph 8 explains that the planning system has three overarching objectives to achieve sustainable development; economic, social and environment which should be delivered through Development Plans and the application of other relevant policies in the NPPF. The assessment of this proposal against such policies is set out further within this report, and a summary is also provided below of how this proposal is considered to be a sustainable form of development.

Economic – the proposal is likely to contribute to a strong, responsive and economy through the creation of construction related jobs and ongoing contribution to the local economy.

Social – the proposal would contribute towards providing the supply of homes required to meet the needs of the present and future generations in the area.

Environment – the proposal would provide enhanced areas of open space and landscaping and a high quality development which would enhance the appearance of the locality.

Overall, the proposal is considered to represent sustainable development and accords with the National Planning Policy Framework.

Impact upon the character and appearance of the area

Walsall's Unitary Development Plan states that development will be of a high-quality design that respects local distinctiveness, enhancing the character and appearance of the area. It states that within existing settlements proposals will be supported where they do not have a negative impact on the character and appearance of the surrounding locality and should respect the scale and density of surrounding development. The surrounding buildings in the area generally vary in height and facade surrounding the town centre.

The immediate area has been regenerated in recent years resulting in a mix of tall modern buildings, Art Court, with stepped roof designs and balcony projections, the simple but striking Premier Inn and the asymmetrical Art Gallery, complemented by the recently approved Saddlers Quay all within close proximity of the current application site.

The submitted plans and the supporting documents demonstrate that the design of the local setting has been taken into consideration through the use of a modern overall appearance of the row of 15 terraced properties which vary in height from two to three storey with identical repeating architecture and cladding finish which is considered acceptable. Final external materials would be secured by condition.

It is considered, the applicant has been able to demonstrate they can provide better quality provision. It would greatly enhance the existing provision as opposed to the poor quality existing open space which is not used to its full capacity or potential. In this instance, the combination of the improved open space which seamlessly integrates with the canal network and urban environment is considered would have a positive benefit to local residents and visitors by way of health, wellbeing and visual amenity.

The density of the development would be acceptable given the context of the immediate area and the strategic town centre location.

Concerns regarding fear of crime are noted, with this part of town having examples of suffering from known levels of anti-social behaviour. There is no evidence that the development would increase crime in the area. The Designing Out Crime Officer was consulted and did not object to the amended scheme and recommends a number of security measures which would be secured by condition and note to applicant as necessary.

Objectors cited concerns that the amended design didn't appear to be in keeping with the character and appearance of the local setting and questioned the type of materials would not be suitable in the setting. However, given the varied scale of development and mixed use of materials in the locality it is considered that the proposal would complement the character and appearance of the local setting.

The LPA consider the proposal has taken into account local characteristics in its design and layout.

A further condition would be included to remove permitted development rights to ensure satisfactory appearance of development and prevent additions which would otherwise result in harm to the character and appearance of the development and locality.

Impact upon residential amenities

Due to the proposed bespoke internal fit-out, details of the final position of habitable windows to each of the new dwellings is not provided. However, the separation from the rear elevations of proposed dwellings to facing habitable room windows and balconies serving Art Court would be between 17.5m to 23.6m. In terms of the separation with the approved Saddlers Quay development, the proposed rear elevations to nearest habitable windows at the approved Saddlers Quay development would be between 20.5m and 22.5m.

The Council's Designing Walsall SPD, Appendix D, recommends a 24m separation between habitable room windows and explains window to window separation distances across a public highway can be reduced and more flexible. Whilst Upper Navigation Street and Marsh Lane are not adopted highways, they do provide some level of urban separation between existing and future occupiers.

AAP policy AAPLV1, explains the Council will be flexible in applying the numerical guidance set out in Appendix D of the Designing Walsall SPD for town centre proposals, provided developers have demonstrated consideration for the amenity of existing and future residents in the design process.

The applicant explains that the proposal would reflect the separation distances between Saddlers Quay and Art Court of between 16-18m.

Whilst the separation distances fall below the recommended minimum, when taking into account the urban context of the locality which is characterised by closer relationships between buildings combined with the significantly lower height of proposed dwellings, any additional impacts on neighbours amenity are considered to be limited. Due to the angled nature of Art Court and Saddlers Quay, any habitable windows would not directly face windows in the proposed dwellings which helps to further minimise impacts, including loss of privacy. Furthermore, a landscaped boundary to the rear of the site is proposed to provide a level of screening which would also provide some mitigation in terms of loss of outlook for some existing occupiers and full details would be secured by condition. A further condition would be included to secure the details of the internal layout of each dwelling prior to first occupation and this would enable further consideration of the placement of habitable windows at that time to help minimise impacts on amenity.

On balance, taking account of the above and combined with the resulting provision of new homes within this sustainable town centre location the proposal is considered to be acceptable in this instance.

Neighbours object to loss of views and outlook. Whilst it is a well-established planning principle that loss of view is not a material planning consideration, loss of outlook is and this has been considered above and found to be acceptable in this instance.

Policy GP2 of the Walsall Unitary Development Plan (UDP) requires the consideration of overlooking, loss of privacy and the effect of the development on daylight and sunlight. Due to the plot orientation, any shading is likely to occur to the proposed development rather than to existing occupiers as shown in the submitted shading plans. The proposal is therefore considered would not result in any significant additional loss of light or shading to neighbours.

Neighbours objections on loss of light and privacy have been considered above and found to be acceptable in this instance. A further safeguarding condition would be imposed requiring details of external lighting.

For future occupiers of the development, the proposal is considered to provide a satisfactory residential environment and level of privacy.

Neighbours object on the grounds of noise and disturbance and smells from the development. Given the context of the area, it is considered that further residential use would not give rise to harmful noise, disturbance or smells for existing and planned residential neighbours.

The submitted noise report considers the use of acoustic glazing/cladding systems and trickle ventilators to provide adequate mitigation given the site's location being near bars and restaurants. Pollution Control raised no objection subject to a condition being imposed.

Neighbours also object on the grounds of increase in litter. There is no evidence that future residential occupiers would result in increased litter in the area and presence of future occupiers would offer increased overall natural surveillance.

Regarding comments about equality access to the building, the submitted drawings show level access from the front doors at the canal and the rear car park.

The Air Quality Assessment demonstrates that subject to a condition requiring a Construction Environmental Management Plan to deal with dust the construction of the development and on-going use of the site would not create any further air quality issues. The existing site is not at risk of poor air quality. Conditions would also be included to secure the use of electric vehicle charging points and low NOx boilers to minimise additional air pollution.

A further condition would be included to remove permitted development rights to safeguard neighbours amenity and to safeguard the amenity of intended occupiers.

Site Access, Highways and Parking Considerations

Walsall's Unitary Development Plan requires vehicular access into and out of the site to be safe and an assessment made as to whether the existing local roads can be suitably accommodate the impact of the proposal, whether adequate parking and turning spaces exist within the site and that the needs of pedestrian and cyclists have been met. This policy is considered to carry significant weight in the determination of the application as it complies with paragraph 32 of the National Planning Policy Framework which requires all schemes to provide safe access for all. The proposed development will be accessed by safe and efficient vehicular access arrangement.

Vehicular access to the site is from Navigation Street to the south of the site where the residents' car park is located and the car park accommodates 15 cars for the 15 houses.

The Highway Authority has raised a concern about the impact the subsequent delivery arrangements would have on the existing canal side of the restaurant which will effectively be isolated by the proposal. However, they have raised no objection subject to highway conditions being imposed.

Impact on the Natural Environment

The proposed development will be for residential use. It is considered, the site adequately addresses above ground attributes which will not have an adverse impact on living conditions, usability of proposed amenity areas, whilst not having a detrimental impact to the visual amenity of the surrounding area.

The site lies adjacent to the Walsall Canal, a Site of Local Importance for Nature Conservation (SLINC). Whilst it is understood that the proposal would result in some impacts to the conservation value of the SLINC, on balance, it is considered that the enhanced areas of public open space which can include appropriate species planting, when combined with the proposed high quality development weighs in favour of this proposal which would integrate well with the surrounding urban

environment. Objections on this point from the Wildlife Trust are noted, and has been considered to be acceptable in this instance for the reasons set out above.

Flooding and Drainage

The Flood Risk Manager and the Drainage Team in their initial response didn't have any significant concerns but requested additional details on the drainage layout and calculations, impermeable areas to be drained, plans illustrating flooded areas and flow paths and provision of a management and maintenance plan. A follow up meeting with all parties was arranged to address these points and a condition is now included to secure the necessary final details.

Planning Obligation Requirements

The viability of the application has been assessed and found to be unviable and unable to offer any provision towards affordable housing or off-site open space contribution which would otherwise be required for this scale of development. The on-going maintenance and management of the site open space areas would however be secured in a Section 106 Agreement in accordance with BCCS Policy DEL1, Saved UDP Policies GP3 and LC1, and the Open Space SPD.

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the 3 following statutory tests to make the development acceptable in planning terms:

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

These tests are set out in The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 and National Planning Policy Framework paragraph 56.

Based on the above tests it is considered that on-going maintenance of the urban open space is considered necessary to make the development acceptable in planning terms. This urban open space would be considered to be directly related to the development.

The provisions of an in-perpetuity Management Strategy for the areas of open space and amenity space within the development site would be secured along with a claw-back clause to revisit and re-assess the development's viability at a future time to enable some or all policy compliant levels of planning obligations to be secured in the event of any improvement in overall viability.

The applicant, Canal and River's Trust and Walsall Council will enter into an agreement to sign up to a S106 Legal Agreement.

Local Finance Considerations

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

This application proposes 15 x new homes.

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

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

Conclusions and Reasons for Decision

The development is considered acceptable and accords with local and national planning policies and legislation as set out in this report, with the exception of NPPF Paragraph 97(b) hence the recommendation to refer this application to the Secretary of State.

Overall, it is considered there are no adverse impacts that would significantly or demonstrably outweigh the benefits of delivering up to 15 no townhouses in this location. Hence, in this instance the presumption in favour of sustainable development is considered to apply in accordance with the National Planning Policy Framework and most importantly supported by Local Plan.

Positive and Proactive Working with the Applicant

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. The National Planning Policy Framework encourages pre-application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to:

- the amendment and finalising of conditions;
- the completion of a Section 106 Planning Obligation;
- no new material considerations being raised by consultees;
- advertisement of application as a departure from the Development Plan;
- and
- referral to the Secretary of State.

Conditions and Reasons

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

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

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

- Air Quality Assessment on behalf Urban Splash for Land at Marsh Lane/ Upper Navigation Street/Walsall WS2 9LT – Report date – 21st August 2020 Report Number 1001907V3
- Application Form dated 10th September 2020
- Viability Assessment Report - September 2020
- Construction Management Plan (Construction Methodology and Management Strategy) dated 17th August 2020
- Cover letter dated 10th September 2020
- Walsall Waterside Design and Access Statement – dated June 2020
- Desk Based Mining Risk Assessment – (Ref: LKC 18 1151) – dated May 2018
- Drawing No. 2321-PLA-XX-XX-DR-L-0004 (Revision P06) –Drawing Title: Detail Area 01: Walsall Waterside - Created 25th October 2019
- Drawing No. 2321-PLA-XX-XX-DR-L-0005 (Revision P06) –Drawing Title: Detail Area 02: Walsall Waterside - Created 23rd October 2019
- Drainage Statement – Rev B (Ref: 306/01) – dated August 2020
- Ecology Assessment – dated August 2018
- Existing Plan – WW (PL) 02 – Rev C – 8th September 2020
- Drawing No. 2321-PLA-XX-XX-DR-L-0002 (Revision P05) –Drawing Title: Hardworks and Lighting GA- Created 25th October 2019
- Heritage Statement – August 2020
- Location Plan – WW (PL) 01 – Rev A- 8th September 2020
- Noise Exposure Assessment (Report 13769-NEA-02) - Prepared on 20 August 2020
- Notice under Article 13 – dated 10th September 2020
- Phase 1 Preliminary Risk Assessment – Date May 2018 (Ref: LKC 18 1151)
- Open Space Design & Access Statement (Ref: 2321- 03-ID-001-02) dated 4th September 2020
- Drawing No. 2321-PLA-XX-XX-DR-L-0001 (Revision P05) –Drawing Title: Overall Landscape GA- Created 25th October 2019
- Planning Statement – dated September 2020
- Proposed Plan First – WW (PL) 04 – Rev C - 8th September 2020
- Proposed Plan Ground – WW (PL) 03 – Rev G - 8th September 2020
- Proposed Plan Roof – WW (PL) 06 –Rev C – 8th September 2020
- Proposed Plan Second - WW (PL) 05– Rev C- - 8th September 2020
- Proposed Section AA- WW (PL) 07– Rev C- - 8th September 2020
- Proposed Section AA- Part 01 WW (PL) 08– Rev C- - 8th September 2020
- Proposed Section AA- Part 02 WW (PL) 09– Rev C- - 8th September 2020
- Proposed Section BB WP (PL) 10 –Rev –BB-- 11th June 2020

- Proposed Section CC WP (PL) 11 –Rev – 8th September 2020
- Proposed Section CC- Part 01 WW (PL) 12– Rev C- - 8th September 2020
- Proposed Section CC- Part 02 WW (PL) 13– Rev C - 8th September 2020
- Proposed Section DD- WW (PL) 14– Rev C-- 8th September 2020
- Proposed Section DD- Part 01 WW (PL) 15– Rev C- 8th September 2020
- Proposed Section DD- Part 02 WW (PL) 16– Rev C- - 8th September 2020
- Proposed Section EE WW (PL) 17 (Rev B) dated 11th June 2020
- Proposed Section FF WW (PL) 18 (Rev B) dated 11th June 2020
- Proposed Section GG WW (PL)) 19 (Rev B) dated 11th June 2020
- Proposed Section HH WW (PL) 20 (Rev B) dated 11th June 2020
- Drawing No. 2321-PLA-XX-XX-DR-L-0003 (Revision P05) –Drawing Title: Softworks GA- Created 23rd October 2019
- Transport Statement - August 2020

3a. Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of all external materials roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

3b. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

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

4: Prior to the first occupation of first dwelling on the development, the existing bollards in Upper Navigation Street to prevent vehicular traffic shall be repositioned to allow the full turning manoeuvre for a Refuse Wagon as shown on submitted Eddisons Swept Path Analysis drawing 2343-SP02 Rev F attached to the Transport Statement and thereafter retained as such for the life time of the development.

Reason: To ensure the satisfactory collection of waste and recycling and servicing of the development and in accordance with UDP policy GP2, T7 and T13.

5a): Prior to the first occupation of the first dwelling on the development, all parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

5b: These areas shall thereafter be retained and used for no other purpose.

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

6: The development shall be constructed in accordance with the submitted Construction Methodology Statement (Construction Methodology and Management Strategy) dated 17th August 2020

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety and in accordance with UDP policy GP2, T7 and T13.

7a: The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority.

7b: The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2.

8a: No building shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure that archaeological remains and features are recorded and published prior to their destruction.

8b: To secure the conduct of a watching brief during development groundworks. The applicant/developer shall ensure that all groundworks, including geotechnical works, are monitored and recorded by an archaeologist or an archaeological organisation to be approved by the council and in accordance with the approved Written Scheme of Investigation.

Reason: To record remains of archaeological interest before destruction.

9a: No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00; and 08.00 to 14.00 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 and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

9b: The applicant shall implement the Construction Management Plan upon commencement of engineering/remediation works. All agreed measures shall be implemented and maintained throughout the duration of engineering and construction activities.

9c: Levels of structure-borne vibration transmitted to occupied buildings from ground stabilisation works (such as piling and vibro-compacting) shall not exceed specified criteria for 'low probability of adverse comment' as stated in British Standard BS 6472- 1:2008 Guide to evaluation of human exposure to vibration in buildings.

Reason: To protect the amenities of the surrounding occupiers and minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway due to the access constraints to the site, in the interests of amenity and highway safety in accordance with Policy GP2, ENV32, T7 and T13 of the UDP.

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

- i) Prior to built development commencing the '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)
- ii) The remedial measures as set out in the 'Remediation Statement' required by part i) of this condition shall be implemented in accordance with the agreed timetable.
- iii) 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 i) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- iv) 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. in the interests of amenity and highway safety in accordance with Policy GP2, ENV32, T7 and T13 of the UDP.

11a: Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the acoustic performance of building structures and glazing shall be submitted to and agreed in writing by the Local Planning Authority.

11b: Prior to first occupation of any units within the hereby approved development, the agreed mitigation measures shall be implemented and thereafter retained for the life time of the development and a written Validation Statement shall be submitted to and agreed by the Local Planning Authority.

Reason: In the interests of the amenities of the area in accordance with saved polices GP2 and ENV32 of Walsall's Unitary Development Plan.

13a: The Applicant shall agree an Air Quality Low Emission Scheme in writing, with the Local Planning Authority, to install electric-vehicle charging points and ultra-low NOx boilers.

13b: The agreed Scheme shall be fully implemented, in accordance with the approved details, before the development is first brought into use.

13c: Prior to first occupation of any of the units in the development hereby permitted, the Applicant shall provide a written Low Emission Scheme Validation Statement to the Local Planning Authority that demonstrates scheme has been installed as agreed.

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

14: Prior to built development commencing a detailed surface water drainage design shall be submitted to and agreed in writing by the Local Planning Authority. The design shall demonstrate:

- Surface water drainage system(s) designed in accordance with the Non-technical standards for sustainable drainage systems (DEFRA, March 2015).
- SuDS design to provide adequate water quality treatment, in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria.
- Limiting the discharge rate generated by all rainfall events up to 100 year plus climate change in accordance with the guidance in the SCC SUDS Handbook. Provision of surface water runoff attenuation storage to achieve the limited discharge.
- Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations.
- Regarding the point of discharge, permission from Severn Trent Water to connect to their assets; any permission should explicitly define the point of discharge and specify an allowable rate.
- Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system, including pump failure where applicable. Plans to include proposed drainage levels, site levels, finished floor levels and flow arrows.
- Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water drainage systems shall be maintained and managed for the lifetime of the development.
- To include the name and contact details of the party(-ies) responsible.

Reason: To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development.

15a. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

15b. No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

16: The development shall be constructed to meet the following minimum security measures and thereafter retained for the life time of the development:

- Pedestrian and vehicle gates to include access control.
- LED lights with daylight sensors to external walls at entrances and to parking areas.
- PAS 24: 2016 standard doors for houses and apartments.

Reason: To ensure the safety and security of the development itself and the safety and security of patients, visitors and employees in accordance with Saved Policy GP2 of the Unitary Development Plan, DW2 of the Designing Walsall SPD and the National Planning Policy Framework.

17: No boilers shall be installed in any of the units hereby permitted, save for

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh.

- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

Notes for Applicant

West Midlands Fire Service:

Please consider fire service access into the premises if access is through a height restricted archway (As per Section 15) and consideration for out of hours (OOH) access into the site and OOH contacts in the event of an emergency

Requirement B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Requirement

Limits on application Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

Cadent Gas Limited:

An assessment has been carried out with respect to Cadent Gas Limited, National Grid Electricity Transmission plc's and National Grid Gas Transmission plc's apparatus. Please note it does not cover the items listed in the section "Your Responsibilities and Obligations", including gas service pipes and related apparatus.

For details of Network areas please see the Cadent website (<http://cadentgas.com/Digging-safely/Dial-beforeyou-dig>) or the enclosed documentation.

Are My Works Affected?

Searches based on your enquiry have identified that there is apparatus in the vicinity of your enquiry which may be affected by the activities specified.

Can you please inform Plant Protection, as soon as possible, the decision your authority is likely to make regarding this application.

If the application is refused for any other reason than the presence of apparatus, we will not take any further action.

Please let us know whether Plant Protection can provide you with technical or other information that may be of assistance to you in the determination of the application.

Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

Your Responsibilities and Obligations

The "Assessment" Section below outlines the detailed requirements that must be followed when planning or undertaking your scheduled activities at this location.

It is your responsibility to ensure that the information you have submitted is accurate and that all relevant documents including links are provided to all persons (either direct labour or contractors) working for you near

Cadent and/or National Grid's apparatus, e.g. as contained within the Construction (Design and Management) Regulations.

This assessment solely relates to Cadent Gas Limited, National Grid Electricity Transmission plc (NGET) and National Grid Gas Transmission plc (NGGT) and apparatus. This assessment does NOT include:

Cadent and/or National Grid's legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent and/or National Grid's assets in private land. You must obtain details of any such restrictions from the landowner in the first instance and if in doubt contact Plant Protection.

Gas service pipes and related apparatus

Recently installed apparatus

Apparatus owned by other organisations, e.g. other gas distribution operators, local electricity companies, other utilities, etc.

It is YOUR responsibility to take into account whether the items listed above may be present and if they could be affected by your proposed activities. Further "Essential Guidance" in respect of these items can be found on either the National Grid or Cadent website.

This communication does not constitute any formal agreement or consent for any proposed development work; either generally or with regard to Cadent and/or National Grid's easements or wayleaves nor any planning or building regulations applications.

Cadent Gas Limited, NGGT and NGET or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements.

If you require further assistance please contact the Plant Protection team via e-mail ([click here](#)) or via the contact details at the top of this response.

ASSESSMENT

Affected Apparatus

The apparatus that has been identified as being in the vicinity of your proposed works is:

Low or Medium pressure (below 2 bar) gas pipes and associated equipment. (As a result it is highly likely that there are gas services and associated apparatus in the vicinity)

Requirements

BEFORE carrying out any work you must:

Carefully read these requirements including the attached guidance documents and maps showing the location of apparatus.

Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.

Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 -

'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>

In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

GUIDANCE

Excavating Safely - Avoiding injury when working near gas pipes:

http://www.nationalgrid.com/NR/rdonlyres/2D2EEA97-B213-459C-9A2618361C6E0B0D/25249/Digsafe_leaflet3e2finalamends061207.pdf

Standard Guidance

Essential Guidance document:

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=8589934982>

General Guidance document:

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=35103>

Excavating Safely in the vicinity of gas pipes guidance (Credit card):

<http://www.nationalgrid.com/NR/rdonlyres/A3D37677-6641-476C-9DDAE89949052829/>

[44257/ExcavatingSafelyCreditCard.pdf](http://www.nationalgrid.com/NR/rdonlyres/A3D37677-6641-476C-9DDAE89949052829/44257/ExcavatingSafelyCreditCard.pdf)

Excavating Safely in the vicinity of electricity cables guidance (Credit card):

<http://www.nationalgrid.com/NR/rdonlyres/35DDEC6D-D754-4BA5-AF3CD607D05A25C2/>

[44858/ExcavatingSafelyCreditCardelectricitycables.pdf](http://www.nationalgrid.com/NR/rdonlyres/35DDEC6D-D754-4BA5-AF3CD607D05A25C2/44858/ExcavatingSafelyCreditCardelectricitycables.pdf)

Copies of all the Guidance Documents can also be downloaded from the National Grid and Cadent websites.

Severn Trent Water

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

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

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

If your query is regarding drainage proposals, please email to the aforementioned email address and mark for the attention of Rhiannon Thomas (Planning Liaison Technician).

WMBC Community Safety

Access to frontages should be closed with boundary fencing at a minimum of 1m in height and should include a gate to enable distinct delineation between spaces.

At junction points where lower level fencing meets higher, I would advise strategic planting to prevent access from one to the other.

In addition to this I would advise that the open spaces be populated with more robust seating as wooden planters and seating are likely to be subject to arson.

Fire

Section 13: Vehicle access

Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 1, Table 13.1)

Water

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

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

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

Sprinklers

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:

- a) the distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m:
- b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

Blocks of flats with a floor more than 30m above ground level should be fitted with a sprinkler system, throughout the building (ADB Vol 1, Section 7)

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

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 1, Section 7)

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

West Midlands Police Service

If required cycle stores, approved products, are recommended (SBD Homes 2019 page 68, 56) and located in a clearly visible area.

Lighting must be at the levels recommended by BS 5489-1:2020.

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

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

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

The applicant may wish to consider crime prevention and home security advice contained within SBD New Homes.

Please see :

https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf

PAS 24: 2016 standard doors for houses and apartments.

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

Pollution Control

Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A2:2017

'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association

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

CL2

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

CL3

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

Air Quality SPD

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

Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

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

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

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality

Planning Guidance

- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle

Supply Equipment Association (April 2015),

- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Ultra-low NOx boilers have maximum dry-NOx emission no greater than 40 mg/kWh for gas and liquefied petroleum gas (LPG) boilers, and a maximum of 120 mg/kWh for oil-fired boilers. The latest models are future-proofed to the European Union's Energy-related

Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502

Pt 1 2015 Class 6 for NOx, and are eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

Highway Authority

1. 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.

2. The installation of bollards on Marsh Lane to control traffic movements to the public square will require the prior confirmation of a Traffic Regulation Order. For further information please contact the Traffic Management Team at Traffic.Management@walsall.gov.uk

3. Access to the shared parking court appear to be directly off the end of Navigation Street beyond the extent of the adopted highway boundary and from an area bollarded off with private bollards. The applicant shall satisfy themselves that they have access rights over this 'unadopted' area – see highway boundary plan below with the adopted highway in brown.

4. The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority for any works within the public highway. For further information please contact the Highways Development Control Team at Stephen.Pittaway@walsall.gov.uk

5. Access to the shared parking court appear to be directly off the end of Navigation Street beyond the extent of the adopted highway boundary and from an area closed off with private bollards.

The applicant shall satisfy themselves that they have access rights over this 'unadopted' area.

6. Marsh Lane is a public highway but is not publicly maintainable. It is understood that the ownership of Marsh Lane is not known. The applicant will need to establish ownership of the road prior to undertaking any works to improve access to the site.

7. Upper Navigation Street is a private road and ownership is unknown. It is not clear if there are public rights over the road.

Natural England

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>.

Canal and Rivers Trust

1. The applicant/developer is advised to contact the CRT Works Engineering Team on 0330 040 4040 *in order to ensure that any necessary consents are obtained and that the works comply with the Trusts Code of Practice for works affecting Canal & Rivers Trusts.*

2. The applicant/developer is advised to contact Joanna Bryan of the Canal & River Trust Utilities Team on Joanna.bryan@canalrivertrust.org.uk or on 07825 975550 to discuss the acceptability of discharging surface water from the site to the adjacent canal in order to ensure that any necessary consents are obtained. Please be advised that the Trust is not a land drainage authority, and such discharges are not granted as of right- where they are granted, they will usually be subject to completion of a commercial agreement.

3) The applicant/developer is advised to contact Jeff Peake of the Canal & River Trust Estates Team on jeff.peake@canalrivertrust.org.uk or on 07795 226721 to seek advice on the need for any agreements around the provision of direct access to the towpath from the proposed development frontages. (Garden gate agreements are often required in circumstances such as this.)



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 07 January 2021

Plans List Item Number: 3.

Reason for bringing to committee

Major Application

Application Details

Location: SUNNYSIDE FARM, NORTHGATE, WALSALL WOOD, WALSALL

Proposal: ERECTION OF 15 RESIDENTIAL UNITS WITH ANCILLARY ROADS AND BOUNDARY TREATMENT.

Application Number: 19/1615

Case Officer: Devinder Matharu

Applicant: Jason Bennett

Ward: Aldridge North And Walsall Wood

Agent: Mr John Williams

Expired Date: 22-Apr-2020

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

Time Extension Expiry:

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- District Valuer's Advice on scheme viability and completion of any necessary Section 106 Agreement
- Overcoming the objections from Flood Risk Officer and Severn Trent Water



Proposal

The application proposes the erection of 15 residential units with ancillary roads and boundary treatment.

The development would include four pairs of semi-detached houses, a detached dwelling and a block of flats.

The layout would include a pair of semi-detached houses to the north of the site fronting Northgate (plots 14 and 15) with the flatted development (flats 1 to 6) partly fronting Northgate and returning to front the access road into the site. Plots 7, 8 (a pair of semi-detached dwellings) and 9 (detached dwelling) facing the access road adjacent the flatted development. Plots 10 to 13 consecutive facing the side of plot 62 and the rear of plots 14 and 15.

The proposed development is two and three storeys high.

Planting is proposed fronting Northgate and in between the rear parking area for the flats and plots 7, 10 and 15.

The following plans and documents have been submitted with the proposal:

- A post demolition plan
- Drainage layout plan
- A geo-environmental report identifying ground conditions on site.
- Flood risk assessment addressing flooding issues
- Design and Access Statement addressing the proposed scheme.
- A financial viability report.

Site and Surroundings

The application site refers to the north eastern part of the site fronting Northgate and to the rear of numbers 1 to 15 (odd numbered) Sunnyside.

Building works to commence the extant 2017 planning permission for sixty two homes has already commenced on site.

Sunnyside Farm is located on the western side of Northgate, which is a main district distributor road between Walsall, Aldridge and Brownhills. Access to the site is from Northgate.

The overall site was a large rectangular parcel of land to the eastern part of the site, to the south of the access road is the only part of the site, which is currently open space and allocated as King's Hayes Fields Site of Importance for Nature Conservation (SINC). The site is located within the Green Belt.

Relevant Planning History

Sunnyside Farm

17/0902 – Demolition of existing buildings and the erection of 62 dwellings, the creation of open space and associated infrastructure and works. Granted subject to conditions 01-Nov-2018.

15/1358- Retrospective: retention of car sales for a period of five years. Grant Permission Subject to Conditions 2016.

08/1585/FL- Change of use from Light Industrial Storage to MOT station and car repair centre. Grant Permission Subject to Conditions 2008

08/1585/FL- Change of use from Light Industrial Storage to MOT station and car repair centre. Grant Permission Subject to Conditions 2008.

05/0879/FL/E3 - Change of use from storage area to display garden area, new summer house to be used as sales office, storage bays, car parking and access gates. Refused permission 2005

02/1991/FL/M1- Temporary permission for a period of 18 months for the storage and processing of hardcore on part of site (land south of 45-47 Sunnyside). Refused permission 2003.

BC47631P – certificate of existing lawful use granted 1997 for the use of the land as a haulage depot for 23 vehicles and 21 trailers, the use of the land for storage of bricks in stock piles not exceeding 3m high and the use of building as a warehouse.

BC47617P laying of hardcore to southern end of yard for the parking of transport fleet vehicles. Granted subject to conditions 1996.

BC41744P outline demolition of 2no dwellings and storage unit and erection of 4no units. Refused 1994. Dismissed at appeal January 1996.

BC10845P demolition of existing derelict cottage and erection of 1 pair of semi detached houses. Granted subject to conditions 1984.

BC10032P erection of detached house and garage. Refused 1984.

BC02450P erection of enlarged replacement building to store loaded vehicles. Grant subject to conditions 1982.

BC05698P erection of seven storage units. Granted subject to conditions 1982.

BC10929 reserved matters erection of warehousing and offices. Granted subject to conditions 1978.

BA4211 erection of lorry servicing building. Granted subject to conditions 1976.

EAB5785 garage space, transit warehouse, offices and warehousing. Refused 1974.

EAB/5747 new access from Aldridge Road. Granted 1974.

EAB/5466 new 12ft vehicular access and drive from Walsall Wood Road. Granted 1973.

Aldridge Motor Bodies LTD

06/1070/FL/E12 - Erection of Spray Booth and Extraction Duct. Refused permission 2006

06/2156/FL/E12- Retrospective Change of Use of building to vehicle repairs and installation of extraction flue with associated parking to provide 3 spaces for staff and 3 customer spaces. Grant Permission Subject to Conditions 2007

45-47 Vigo Road

BC403 extensions and improvements to dwelling. Granted subject to conditions 1974.

BC3046 extensions and improvements to dwelling. Granted subject to conditions 1975.

EAB 5280 alterations and extensions. Granted subject to conditions 1978.

Swiss Cottage (to the north of the site)

15/1257 Demolition of existing property and erection of 5 new dwellings. Granted subject to conditions 2016.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV7: Countryside Character
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T7: Car Parking
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces

Black Country Core Strategy

CSP1: The Growth Network

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy

- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

GB1: Green Belt Boundary and Control of Development in the Green Belt

EN1: Natural Environment Protection, Management and Enhancement

T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

- Development with the potential to affect species, habitats or earth heritage features
 - NE1 – Impact Assessment
 - NE2 – Protected and Important Species
 - NE3 – Long Term Management of Mitigation and Compensatory Measures
- Survey standards
 - NE4 – Survey Standards
- The natural environment and new development
 - NE5 – Habitat Creation and Enhancement Measures
 - NE6 – Compensatory Provision
- Development with the potential to affect trees, woodlands and hedgerows
 - NE7 - Impact Assessment
 - NE8 – Retained Trees, Woodlands or Hedgerows
 - NE9 – Replacement Planting
 - NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity

- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH4: Provision Location

Air Quality SPD

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

Consultation Replies

Natural England – No objection

Police – no objection but makes comments regarding secure by design which would be added as note to applicant.

Housing Standards – No objection

Fire Officer – no objection but makes comments on Building Regulations which would be added as note to applicant.

Network Rail – No objection

Highways England – No objection

Flood Risk Officer – Objection. The proposed development may present risks of flooding on-site and/or off-site if surface water runoff is not effectively managed. The absence of an adequate drainage strategy is therefore sufficient reason in itself for a refusal of planning permission.

Severn Trent Water – Objection. The phase 2 drainage layout does not show the clear outfall points and proposals for foul sewage and surface water discharge.

Community Safety Officer – No objection but makes comments on boundary fencing.

Transportation – No objection subject to planning conditions relating to highway works, parking and manoeuvring, cycle shelter and height of boundary treatments.

Archaeology – No objection but makes comments there is no heritage statement or archaeological desk-based assessment submitted for this application and a programme of archaeological works should be sought by planning condition.

Historic England – No objection

Strategic Policy – No objection

Environment Agency – No objection

Sport England – No objection

Public Health – No objection

Local Access Forum – No objection

Pollution Control – No objection subject to pollution conditions imposed on previous application 17/0902.

Representations

Three letters have been received objecting to the proposal on the following grounds:

- Concerns over proposed boundary treatments adjacent existing properties along Sunnyside
- Overshadowing
- Loss of privacy
- Loss of sunlight
- Noise pollution from construction works
- Holding up works to garden project until outcome of this proposal known
- Parking issues including existing problem of on street parking, on street parking issues exacerbated,

Determining Issues

- Principle of development
- Archaeology
- Layout and Design
- Loss of trees, Impact upon SINC, ecology and landscaping
- Impact upon locally listed building
- Impact upon neighbouring occupiers
- Drainage
- Parking and access

- Planning Obligations
- Local Finance Considerations

Assessment of the Proposal

Principle of development

The site is within the Green Belt and the application is an amendment to a previous approval under planning reference 17/0902 for the erection of sixty two homes. The number of flats has been reduced in favour of more houses on this section of the site. The site now incorporates part of the adjacent site to the north (this is the area that lies outside the Green Belt). The scale of development is supported on strategic planning policy grounds. It may be necessary to vary any previous section 106 agreement relating to affordable housing and open space contributions to reflect the change in the number of units and house types.

There is a locally listed building directly opposite (Kings Hayes Farm) that does not appear to be referred to in the Design and Access Statement. However, the current application does not appear to materially change the impacts on this building compared with the previous approval.

Archaeology

There is no heritage statement or archaeological desk-based assessment submitted for this application. However, the site has been assessed for archaeological potential in adjacent/previous application 17/0902. The heritage statement by Prospect Archaeology submitted as part of 17/0902 concludes there is a moderate to high potential for the site to contain locally or regionally important remains of the prehistoric period and the ground conditions are such that geophysical survey is not possible, but trial trenching would be possible.

Where archaeology is confirmed to be present, full excavation and recording work based on the results of this initial assessment would be required, as a condition on the planning permission. This is in line with National Planning Policy Framework (NPPF) guidelines.

Should permission be granted therefore, a condition requiring a programme of archaeological work prior to development would be appropriate. This should comprise trial trench evaluation in the first instance, with further mitigation if necessary, depending on results.

Design

Amended plans have been sought to address officers concerns regarding layout and design.

The layout of the proposed scheme includes dwellings fronting both Northgate and the proposed access road into the wider housing estate. The proposal includes landscaping and parking fronting both Northgate and the access road. The layout includes houses backing onto each other to provide secure private rear gardens and active street frontages. In principle, the layout is considered acceptable.

The Police have advised the amendments have improved security on site, parking to plots 14 and 15 have been moved to the frontages, which will improve security. Security to plots 10 to 15 have improved with reduced rear access. They also make comments on tandem parking for Plot 8 remains distant increasing their vulnerability and small non habitable rooms facing parking with natural surveillance, which means lighting becomes important. Lighting details can be sought by planning condition to improve security on site.

The community Safety Officer has advised a shared gate to the front building line should be installed between Plots 11 and 12 to reduce entry where burglaries are made from the rear of properties. All gates should be in line with the front of the building. The external boundary treatments to properties should be min 2.2-2.4m in particular where the treatment is at the rear of side car parking and this can be achieved by trellis. A note for applicant regarding secure by design can be added for the developer.

The design of the proposed dwellings is considered acceptable and in keeping with the design of the previously approved scheme in 2017.

The separation distance between plot 15 to the apartment block is eight metres and the separation distance between plots 7 and 8 to the side elevation of plot 10 is eight metres. The Council's residential standards requires a minimum distance of 13m, whilst the proposal falls short of this distance by 5m, it is considered the proposal would not unduly harm the amenities of these neighbouring occupiers in respect of loss of light or excessive shading.

Loss of trees, Impact upon SINC, ecology and landscaping

There are no trees along this part of the application site. The issues of the SINC and ecology were addressed under the previous application 17/0902 as it related to the previous larger residential scheme. This scheme introduces landscaping within the site which is considered acceptable.

Impact upon locally listed building

Whilst locally listed buildings are not included in the protection afforded by the Planning (Listed Buildings and Conservation Areas) Act of 1990, historic environment policy offers some scope to comment proposals affecting the setting of non-designated heritage assets as outlined above. In its current format this application is assessed to create a marked change in the semi-rural surroundings of the locally listed Kings Hayes Farm, and whilst the farm is not nationally designated the NPPF provides guidance on the need to consider the impact of development proposals on the significance of heritage assets regardless of their designation status.

It is assessed that the siting of the apartment block in the proposed location introduces a three storey building in the vicinity of the essentially single storey Kings Hayes Farm, which is a locally listed building. Siting the block further away from the farm would reduce the impact upon the locally listed building. Moving the apartment block further back from the Northgate road alignment would provide more space for green landscaping. It is also considered that the number of different external materials and colours proposed for this building is excessive and that a simpler palette would be preferred.

There is an existing hedgerow running along the western side of Northgate to the south of the proposed access point to the new housing estate, extending this hedgerow could provide a green boundary between the new housing estate (indicated as Phase 1 in the submitted plans) and the King Hayes Farm, creating a visual boundary that would retain an element of the rural setting of the locally listed farm house. The proposed development would alter the setting of the locally listed building affecting its special architectural and historic interest and it is assessed that while this impact is not considered to be substantially harmful.

Impact upon neighbouring occupiers

The principle of residential development has already been established on the site. The proposal includes a small parcel of land to the north of the site to the rear of numbers one and five Sunnyside.

The separation distance between the rear of numbers three and five Sunnyside to the side of plot 14 is 9m. The Council's residential standards requires a minimum distance of 13m, whilst the proposal falls short of this distance by 4m, it is considered the proposal would not unduly harm the amenities of these neighbouring occupiers in respect of loss of light or excessive shading. There is a small window in the side elevation, which belongs to a landing window; it is considered the installation of this non habitable window would not unduly harm the amenities of these neighbouring occupiers.

The separation distance between the rear of numbers 9 and 11 Sunnyside and the side elevation of plot thirteen is ten metres. The Council's residential standards requires a minimum distance of 13m, whilst the proposal falls short of this distance by 3m, it is considered the proposal would not unduly harm the amenities of these neighbouring occupiers in respect of loss of light or excessive shading. There is a small window in the side elevation, which belongs to a landing window; it is considered the installation of this non habitable window would not unduly harm the amenities of these neighbouring occupiers.

A condition would be included to ensure these side facing landing windows are obscure glazed to help safeguard neighbours amenity.

Drainage

The Flood Risk Officer and Severn Trent Water have objected to the proposal on the grounds of the proposed development may present risks of flooding on-site and/or off-site if surface water runoff is not effectively managed. The absence of an adequate drainage strategy is therefore sufficient reason in itself for a refusal of planning permission. Furthermore, the phase two drainage layout does not show the clear outfall points and proposals for foul sewage and surface water discharge. It is considered the application is delegated to the Head of Planning and building Control to allow the planning agent to address these issues.

Parking and access

The proposal provides adequate parking in accordance with policy T13 of the UDP. Whilst neighbouring occupiers have raised issues about parking resulting in on street parking, the proposal provides adequate off road parking to serve the development without impacting upon highway safety.

Planning obligations

Under the terms of policies GP3 and LC1 of the UDP and policy HOU3 of the BCCS and the adopted supplementary planning documents for public open space and affordable housing the scale of the development triggers the requirement for a planning obligation to secure provision for open space and affordable housing. This equates to a financial contribution towards public open space of **£198,316.00** and a requirement for **25% (4) affordable units**.

The agent has submitted a financial viability statement which is currently under consideration by the by the District Valuer.

Should the Members of Planning Committee be minded to support this development proposal, it is requested that any resolution explains what position should be taken on Planning Obligations:

- a) In the event the scheme is found to be entirely unviable, whether Members agree not to seek any contribution or affordable housing provision;
- b) In the event the scheme is found to be wholly viable, whether Members agree to seek the full open space contribution and affordable housing provision;
- c) In the event the scheme is found to be partially viable, whether Members agree to seek any potential contribution solely towards open space or solely towards any affordable housing provision;
- d) In the event the scheme is found to be partially viable, whether Members agree to seek any potential contribution / provision to be split equally between open space and affordable housing provision.

In any case, a review would need to be carried out to determine whether the terms of the original Section 106 Agreement for would need to be varied to reflect the changes in this current proposal and this could be resolved by delegation back to the Head of Planning and Building Control as set out in the recommendation.

The proposal to relocate the existing SINC and the securement of the landscape and habitat management and maintenance of these areas were secured within a section 106 agreement.

Local Finance Considerations

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

This application proposes 15 new homes.

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

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

Conclusions and Reasons for Decision

The principle and design and layout of the development are considered acceptable.

The proposals would not unduly harm their amenities of neighbouring residential occupiers.

The proposed development would alter the setting of the locally listed building affecting its special architectural and historic interest and it is assessed that while this impact is not considered to be substantially harmful.

There are no trees on this site and the issue regarding the SINC were addressed in the previous application.

The proposal complies with the policies as set out in the policy section of this report.

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

Positive and Proactive Working with the Applicant

Approve

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

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- District Valuer's Advice on scheme viability and completion of any necessary Section 106 Agreement;
- Overcoming the objections from Flood Risk Officer and Severn Trent Water.

Conditions and Reasons

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

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

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

- Location plan submitted 28-10-2020
- Site layout plan 1004-202E submitted 05-10-2020
- The apartments elevation PD-003-1A 09-10-2020
- The apartment PD-003-4A submitted 05-10-2020
- The apartment ground floor PD-003-3a submitted 05-10-2020
- The apartment second floor plan PD-003-4a submitted 05-10-2020
- The apartment first floor plan PD-003-4A submitted 05-10-2020
- The apartment side and rear elevation PD-003-2a submitted 05-10-2020
- The Bracket proposed elevation PD-001-1 submitted 05-10-2020
- The Bracket Proposed floor plan PD-001-2 submitted 05-10-2020
- The Guskat proposed elevation PD002-01 submitted 05-10-2020
- The Guskat proposed floor plan PD002-2 submitted 05-10-2020
- Street scene 1004-AD-250-RevA submitted 05-10-2020

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

3i. 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)

3ii. 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 identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

3iii. Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures, methodologies, and materials to be used to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

3iv. The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be implemented.

3v.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.

3vi.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)

3vii.A remediation strategy to deal with the risks associated with contamination of the site and shall include the following components:

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; and
 - 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 results of the site investigation and the detailed risk assessment referred to in (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 the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. shall be submitted to and approved in writing by the local planning authority in consultation with the Environment Agency.

3viii. The development shall be completed in accordance with the approved scheme approved under 3vii and any changes to the components in part 3vii will require further details to be submitted and approved in writing by the local planning authority in consultation with the Environment Agency.

Reason: To ensure safe development of the site, to protect human health, and the environment in accordance with Policies ENV10 and ENV40 of the UDP.

4a. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

1. Construction working hours
2. Parking and turning facilities for vehicles of site operatives and visitors

3. Loading and unloading of materials
4. Storage of plant and materials used in constructing the development
5. A scheme for recycling/disposing of waste resulting from construction works
6. Temporary portacabins and welfare facilities for site operatives
7. Site security arrangements including hoardings
8. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
9. Measures to prevent flying debris
10. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
11. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
12. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

4b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

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

5a. Prior to commencement of the development hereby permitted details of a programme of site investigations and archaeological work shall be submitted in writing to and approved in writing by the Local Planning Authority.

5b. No development shall be carried out on site otherwise than in accordance with the approved details.

Reason: In order to secure an adequate record of the site's archaeology in accordance with saved policy ENV25 of Walsall's Unitary Development Plan.

6a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

6b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

6c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

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

7a. Prior to commencement of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

7b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

7c. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

8a. Prior to the first occupation of the apartment element of the development, full details of the proposed cycle shelter, which shall be covered and illuminated, and proposed bin store, shall be submitted to and approved in writing by the Local Planning Authority and the facilities shall be fully implemented in accordance with the approved details.

8b. The development shall not be carried out otherwise than in accordance with the approved cycle shelter and bin storage facilities shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13, Black Country Core Strategy TRAN4 and in the interests of the satisfactory servicing of the development.

9a. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

9b. No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

10a. Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces that match the existing materials including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

10b. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

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

11. Prior to the first occupation of any dwelling on the development, the adoptable highway infrastructure works and works within the existing highway, including layouts, alignments, widths and levels, together with all necessary drainage arrangements, required under Condition 7 (a) and (b) of planning permission 17/0902, shall be implemented.

Reason: To ensure the satisfactory completion and operation of the public highway and in the interests of highway safety.

12a. Prior to first occupation of any dwelling on the development, all access ways, parking and vehicle manoeuvring areas serving that dwelling shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the adoptable highway, the existing highway or any highway drain.

12b. These areas shall thereafter be retained and used for no other purpose.

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

13. The proposed boundary treatments, either hard or soft, fronting Plot 9 and Apartments 1 to 6, shall not at any time exceed 600mm in height above footway levels.

Reason: To ensure adequate forward visibility around the road junction and visibility at the access points, in the interests of highway safety.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house:

- Class A (enlargement, improvement or other alterations)

-Class B (additions to the roof)

-Class C (other alterations to the roof)

-Class D (porches)

-Class E (building incidental to the enjoyment of a dwelling house)

-Class F (hard surfaces incidental to the enjoyment of a dwelling house)

shall be installed in any part of this development.

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

15. Notwithstanding the details submitted of the development hereby permitted and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, the proposed side facing windows serving landings to Plots 13 and 14 shall be obscure glazed to Pilkington (or equivalent) privacy level 4 and there shall be no opening parts lower than 1.7metres from the floor level of the rooms they serve and the window[s] shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the neighbours and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

Notes for applicant

Planning conditions

Condition 3 to be discharged in accordance with Pollution Control and Environment Agency

Condition 4 shall be discharged in accordance with Pollution Control and Highways.

Condition 5 shall be discharged in accordance with Archaeology Officer.

Condition 6, 7 and 10a to be discharged in accordance with Case Officer

Condition 8 to be discharged in accordance with highway officer

Condition 9 to be discharged in accordance with public lighting manager

Highways

1. 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.

2. The applicant will be expected to either enter into an agreement under S38/278 of the Highways Act 1980 with the Highway Authority for all adoptable highway works and works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

Contaminated Land

CL1 - Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A1:2013 '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 and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3- Validation Reports 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 records and results of any post remediation ground gas testing are available then these 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.

Acoustics

Pollution Control cannot verify that the actual glazing and ventilation has been or will be installed as per manufacturer's instructions or as stated in drawings that may be supplied by the applicant. It is recommended that such confirmation be obtained from a suitable third party, such as a Building Control Inspector or the acoustic performance verified by a person or organisation certified for the purposes of sound insulation testing by either by the Association of Noise Consultant (ANC) or the United Kingdom Accreditation Service (UKAS).

Air Quality SPD

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

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

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

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

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

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

Environment Agency

The request for condition 6a and 6b is based on the need to fully delineate the nature, extent and source of the contamination found on the site as indicated by the submitted report 'Phase 1 Desk Study & Phase 2 Geo-Environmental Assessment For a site at Sunnyside Farm, Walsall Wood' (WML Consulting, March 2016) discussed above. Any contamination present has the potential to impact on the 'Controlled Waters' receptors of the adjacent watercourse and the underlying Secondary Aquifer. Consequently the significance of the contamination to these receptors should be assessed to determine the need for remedial actions.

Model Procedures and good practice

We recommend that developers should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
2. Refer to the [Environment Agency Guiding principles for land contamination](#) for the type of information that we required in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
3. Consider using the [National Quality Mark Scheme for Land Contamination Management](#) which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
4. Refer to the [contaminated land](#) pages on GOV.UK for more information.

The Environment Agency's approach to groundwater protection

The applicant / developer should refer to our document 'The Environment Agency's approach to groundwater protection', available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heating and cooling
- Drainage
- Storage of pollutants and hazardous substances
- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website (www.gov.uk/environment-agency).

Waste on site

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position Statement on the Definition of Waste: Development Industry Code of Practice and;
- The [Environmental regulations](#) page on GOV.UK.

Waste to be taken off site

Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework **for the** Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

- If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the [Hazardous Waste](#) pages on GOV.UK for more information.

Odour issues

The proposed development is in close proximity to a hazardous waste transfer and treatment plant, which is also a lower tier COMAH establishment. Historically this site was regarded as a contentious site however we have received fewer complaints recently.

We do occasionally get complaints regarding odour and noise from the residents who live on the canal boats that borders the site along its Eastern boundary, which is in the same direction to where the proposed housing will be built. However complaints are infrequent but can result in nuisance complaints if the wind is in the right direction.

Severn Trent Water

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contact our Development Services Team (Tel: 0800 707 6600). You will also need to provide the proposed pumped rate and frequency with your application.

Fire Authority

Approved Document B, Volume 1, Dwellings, 2019

Requirement B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Requirement

Limits on application

Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult).

Section 13: Vehicle access

Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.2 For flats, either of the following provisions should be made.

- a. Provide access for a pumping appliance to within 45m of all points inside each flat of a block, measured along the route of the hose.
- b. Provide fire mains in accordance with paragraphs 13.5 and 13.6.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

Blocks of flats fitted with fire mains

13.5 For buildings fitted with dry fire mains, both of the following apply.

- a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.
- b. The fire main inlet connection point should be visible from the parking position of the appliance, and satisfy paragraph 14.10.

13.6 For buildings fitted with wet fire mains, access for a pumping appliance should comply with both of the following.

- a. Within 18m, and within sight, of an entrance giving access to the fire main.
- b. Within sight of the inlet to replenish the suction tank for the fire main in an emergency

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 1, Table 13.1).

Section 14: Fire mains and hydrants – flats

Provision of fire mains

14.2 Buildings with firefighting shafts should have fire mains provided in both of the following.

- a. The firefighting stairs.
- b. Where necessary, in protected stairways.

The criteria for providing firefighting shafts and fire mains are given in Section 15.

14.3 Buildings without firefighting shafts should be provided with fire mains where fire service vehicle access is not provided in accordance with paragraph 13.2(a). In these cases, the fire mains should be located within the protected stairway enclosure, with a maximum hose distance of 45m from the fire main outlet to the furthest point inside each flat, measured on a route suitable for laying a hose.

Design and construction of fire mains

14.4 The outlets from fire mains should be located within the protected stairway enclosure (see Diagram 15.1).

14.5 Guidance on the design and construction of fire mains is given in BS 9990.

14.6 Buildings with a storey more than 50m above fire service vehicle access level should be provided with wet fire mains. In all other buildings where fire mains are provided, either wet or dry fire mains are suitable.

14.7 Fire service vehicle access to fire mains should be provided as described in paragraphs 13.5 and 13.6.

Provision of private hydrants

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

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

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

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.

b. For buildings not provided with fire mains – hydrants should be both of the following.

i. Within 90m of an entrance to the building.

ii. A maximum of 90m apart.

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

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

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

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

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

Section 15: Access to buildings for firefighting personnel – flats

Provision of firefighting shafts

15.1 In low rise buildings without deep basements, access for firefighting personnel is typically achieved by providing measures for fire service vehicle access in Section 13 and means of escape.

15.2 A building with a storey more than 18m above the fire and rescue service vehicle access level should have one or more firefighting shafts, each containing a firefighting lift (Diagram 15.1). The number and location of firefighting shafts should comply with paragraphs 15.4 to 15.7. Firefighting shafts are not required to serve a basement that is not large or deep enough to need one (see paragraph 15.3 and Diagram 15.2).

As per the May 2020 amendment to this guidance –

Wayfinding signage for the fire service

15.13 To assist the fire service to identify each floor in a block of flats with a top storey more than 11m above ground level (see Diagram D6), floor identification signs and flat indicator signs should be provided.

15.14 The floor identification signs should meet all of the following conditions.

a. The signs should be located on every landing of a protected stairway and every protected corridor/lobby (or open access balcony) into which a firefighting lift opens.

b. The text should be in sans serif typeface with a letter height of at least 50mm. The height of the numeral that designates the floor number should be at least 75mm.

c. The signs should be visible from the top step of a firefighting stair and, where possible, from inside a firefighting lift when the lift car doors open.

- d. The signs should be mounted between 1.7m and 2m above floor level and, as far as practicable, all the signs should be mounted at the same height.
- e. The text should be on a contrasting background, easily legible and readable in low level lighting conditions or when illuminated with a torch.

15.15 The wording used on each floor identification sign should take the form Floor X, with X designating the number of the storey, as intended for reference by residents. The floor number designations should meet all of the following conditions.

- a. The floor closest to the mean ground level (see Diagram D4) should be designated as either Floor 0 or Ground Floor.
- b. Each floor above the ground floor should be numbered sequentially beginning with Floor 1.
- c. A lower ground floor should be designated as either Floor –1 or Lower Ground Floor.
- d. Each floor below the ground floor should be numbered sequentially beginning with Floor –1 or Basement 1.

15.16 All floor identification signs should be supplemented by flat indicator signs, which provide information relating to the flats accessed on each storey. The flat indicator signs should meet all of the following conditions.

- a. The signs should be sited immediately below the floor identification signs, such that the top edge of the sign is no more than 50mm below the bottom edge of the floor identification sign.
- b. The wording should take the form Flats X–Y, with the lowest flat number first.
- c. The text should be in sans serif typeface with a letter height of at least half that of the floor indicator sign.
- d. The wording should be supplemented by arrows when flats are in more than one direction.
- e. The text and arrows should be on a contrasting background, easily legible and readable in low level lighting conditions or when illuminated with a torch. NOTE: In the case of multi-storey flats with two or more entrances, the flat number should only be indicated on the normal access storey.

Sprinklers

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:

- a) the distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m:
- b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

As per the May 2020 amendment to this guidance –

Section 7: Compartmentation/sprinklers – flats Page 59

7.4 Blocks of flats with a top storey more than 11m above ground level (see Diagram D6) should be fitted with a sprinkler system throughout the building in accordance with Appendix E. NOTE: Sprinklers should be provided within the individual flats, they do not need to be provided in the common areas such as stairs, corridors or landings when these areas are fire sterile.

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

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 7)

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

Secure by Design

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

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



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 07 January 2021

Plans List Item Number: 4.

Reason for bringing to committee

The site is Council owned land

Application Details

Location: LAND ADJACENT KWIK FIT, HIGH STREET, BROWNHILLS, WALSALL

Proposal: CREATION OF AN OUTDOOR RECREATIONAL PUBLIC SQUARE (USE CLASS F.2(C)) AND ASSOCIATED WORKS

Application Number: 20/1185

Case Officer: Leon Carroll

Applicant: Jag Raan

Ward: Brownhills

Agent:

Expired Date: 23-Dec-2020

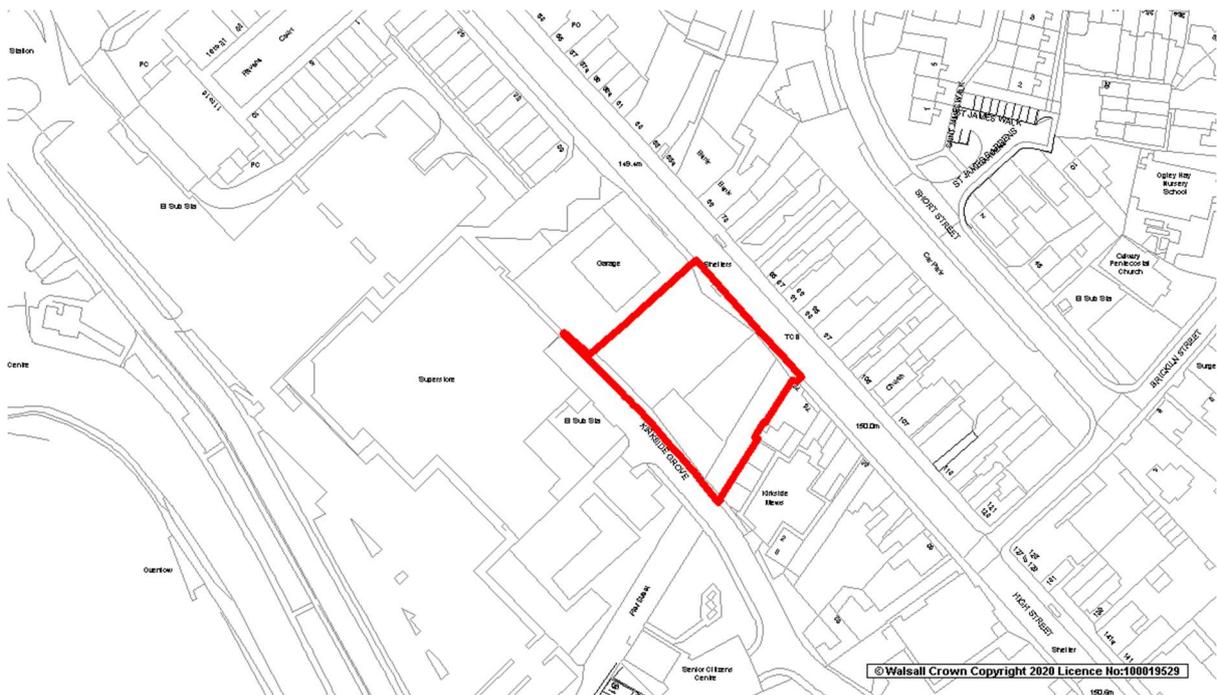
Application Type: Full Application: Change of Use

Time Extension Expiry: 28-Jan-2021

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to

- The amendment and finalising of conditions



Proposal

The proposal relates to the change of use of the site to planning use class F2(c) and the construction of a public civic square featuring hard and soft landscaping, street furniture and lighting, bicycle stands, play features and a curved gabion bench seating area. The site will be used for a variety of civic events, and infrastructure will be installed to provide power to seasonal market stalls and a central Christmas tree mounting point.

Site and Surroundings

The site is a vacant parcel of land situated on Brownhills High Street, which lies within the local centre and the Black Country Core Strategy Regeneration Corridor for Brownhills. The broadly rectangular site is level, and is bounded to the north west by a Kwik Fit car repair workshop, to the south west by Kirkside Grove beyond which is a Tesco supermarket and to the south east by a strip of pedestrian precinct with two storey commercial units beyond. The north east boundary of the site fronts onto the High Street, on which there are a range of traditional commercial units, including retail units, hot food takeaways and a barber shop.

Historic maps show that the site once featured a Methodist chapel, whilst records held by Pollution Control indicate the site has previously been used as a builders yard.

Relevant Planning History

10/0300/ND: Screening opinion to ascertain whether an Environmental Impact Assessment is required- Proposed replacement retail store, shop units, access improvements and car parking. **Screening Opinion EIA not required 12/04/2010.**

10/0375/FL: Comprehensive redevelopment to provide new Tesco foodstore (Class A1 retail), shop units (Classes - A1 retail, A2 - financial & professional services, A3 - restaurants & and cafes, A4 - drinking establishments and A5 - hot food takeaway), new access. **GSC 08/02/2011**

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- LC1: Urban Open Spaces
- LC3: Children’s Play Areas
- LC8: Local Community Facilities

- BR1: Primary Shopping Area
- BR2: Brownhills Market
- BR4: Redevelopment / Refurbishment Schemes
- BR6: Public Art
- BR7: Environmental Enhancement
- BR9: Leisure, Service and Community Development Opportunities
- BR11: Traffic Within the Centre
- BR13: Pedestrian Routes

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CEN4: Regeneration of Town Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- CEN8: Car Parking in Centres
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation

Site Allocation Document

- OS1: Open Space, Sport and Recreation
- SLC1: Local Centres

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows

- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm

Open space, sport and recreation

- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Consultation Replies

Pollution Control – Pollution Control advised that the history of the site was such that the potential for contaminated material remains an issue. Pollution Control therefore recommended a pre-commencement condition requiring the applicant to submit a revised site clearance methodology to address potential contamination

Archaeology and Historic Environment Officer - There are no archaeological implications for this proposal

Natural England - No comments

Canal and Rivers Trust - No objections subject to retention or replacement of existing wayfinding street furniture within the site.

Severn Trent Water - No objections subject to a suitable surface water drainage condition

Birmingham and Black Country Wildlife Trust - No objections provided any site clearance is carried out undertaken outside nesting bird season

Markets Team - No objections, however the Markets team advised that separate permissions may be required to hold seasonal markets on the site

Strategic Planning Policy – Proposal would not represent a departure from the Development Plan

Public Lighting – no objections

Tree Officer - No comments received

Public Rights of Way - No objections.

Town Centre Manager - No comments received

Clean and Green - No comments received

Environmental Health - No comments received

Community Safety Team - No comments received

Local Highway Authority – No objection

Police – no objection subject to implementation of suggested security measures which will be controlled by condition and note to applicant

Representations

None received

Determining Issues

- Principle of development
- Design and appearance
- Impact on amenity
- Highway safety
- Flood risk and drainage
- Ecology

Assessment of the Proposal

Principle of Development

Brownhills is classified as a Town Centre in Policy CEN2 of the 2011 Black Country Core Strategy, having previously been identified as a District Centre in the 2005 Walsall Unitary Development Plan. The site was also identified in the UDP as being within the Primary Shopping Area and providing an opportunity for retail development. Given that the UDP was adopted 15 years ago and the site is still vacant, it would appear unlikely that the site would come forward for retail purposes. The Strategic Planning Policy Team has confirmed that the proposal would not represent a departure from the development plan, and that use of the land as urban open space would not be a barrier to built retail development in the future.

The proposal would bring back into use a piece of previously developed land which has lain vacant for some time, and redevelopment of the site would therefore be in accordance with saved Policy ENV14 of the Walsall Unitary Development Plan. Policy ENV6 of the Black Country Core Strategy states that development that would increase the overall value of the open space, sport and recreation network will be

encouraged, especially in areas of deficiency, including the creation of multifunctional open spaces. The site is in a sustainable and accessible location which accords with saved policies S1 and GP2 of the Walsall Unitary Development Plan.

The Council's Markets Team suggested that further permissions would be required for use as a market. The applicant has advised that the scheme will simply provide the infrastructure for a pop-up market as part of this application, and it should be noted that permitted development rights currently offer the ability to hold temporary markets for a certain number of days each year without the need for planning permission. Any other permissions required outside of the Planning process would be applied for separately. Dependant on the type of event that is run from the site, Street trading licence(s) / Temporary Entertainments Notice (TEN) and a safety advisory group application form will need to be completed for all events. Organisers of these events would be required to contact the market team separately and a note to applicant is included to cover this.

Taking all the above into consideration the proposal is considered to be acceptable in principle and likely to enhance the overall town centre experience of visitors to Brownhills, thereby supporting existing businesses and the local economy.

Design and Appearance

The proposal is considered to provide a pleasant and attractive outdoor space which is accessible to all. The mixture of hard and soft landscaping will provide a useable area for visitors to the local centre and will soften the urban landscape whilst bringing back into use a derelict site. The proposal is therefore considered to be in accordance with saved policies LC1, GP2 and ENV33 of the Walsall Unitary Development Plan

Impact on Amenity

The surrounding area is predominantly commercial in nature with some residential uses. The proposed civic square is not considered likely to have any significant additional adverse impacts on neighbouring residents over and above any already arising in this town centre location. The proposal is considered represents an enhancement to the local area through provision of a valuable community space.

Highway Safety

The Highway Authority advised that they were supportive of the proposal, and it is not considered likely to result in additional pressure on the highway network or to result in adverse impacts on highway safety. The site is positioned in a sustainable location and is accessible via public transport and other sustainable forms of transport. The Wyrley & Essington Canal is located a short distance away to the south west, and provides additional connectivity for pedestrians and cyclists from other parts of the district, whilst a bridge over the canal at the bottom of Pier Street also provides access to Clayhanger Common.

Flood Risk and Drainage

The proposal entails the remodelling of the site from an overgrown piece of waste ground to a hard and soft landscaped area, with no other built development. The submitted Design and Access Statement states that the ratio of hard standing to soft landscaping will be 3:2, and that permeable asphalt will be used. Severn Trent Water had no objections to the proposal subject to the submission and approval of a foul and surface water drainage scheme. An appropriate condition will therefore be added to the decision notice.

Ecology

Birmingham and Black Country Wildlife Trust recommended that site clearance be undertaken outside of the bird nesting season. The applicant has confirmed that the site clearance has already been carried out in the months of October and November 2020, which is outside nesting bird season.

Conclusions and Reasons for Decision

The proposed civic square will provide a high quality community space which will enhance the high street experience and support existing local businesses, residents and visitors. The square will provide a focal point for the community and a pleasant outdoor space for visitors, and enable seasonal markets to increase footfall to the district centre thereby contributing to the local economy. Subject to appropriate conditions the proposal will not have any adverse impacts on the local environment or highway safety.

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

Positive and Proactive Working with the Applicant

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. The National Planning Policy Framework encourages pre-application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to

- The amendment and finalising of conditions

Conditions and Reasons

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

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

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

Location Plan received 28th October 2020

Amended Site Plan received 28th October 2020

Access Chamber and Duct Arrangement Dwg No 20022-MET-HEL-DW-004 Rev A received 29th September 2020

Feeder Pillar Arrangement Dwg No 20022-MET-HEL-DE-003 Rev A received 29th September 2020

Festive Tree Supply Arrangement Dwg No 20022-MET-HEL-DE-001 Rev A received 29th September 2020

Gabion Retaining Wall Construction Detail Dwg No 20022-MET-HGT-DE-001-002 Rev A received 29th September 2020

General Arrangement Dwg No 20022-MET-GEN-DR-001 Rev A received 29th September 2020

Kerbs, Footways and Paved Areas Layout Dwg No 20022-MET-HKF-DR-001 Rev A received 29th September 2020

Kerbs, Footways and Paved Areas Construction Details Dwg No 20022-MET-HKF-DE-001-002 Rev A received 29th September 2020

Landscape Layout Dwg No 20022-MET-ELS-DR-001 Rev A received 29th September 2020

Market Stall Supply Arrangement Dwg No 20022-MET-HEL-DE-002 Rev A received 29th September 2020

Plant Species Dwg No 20022-MET-ELS-DE-002 Rev A received 29th September 2020

Proposed Drainage Construction Detail Dwg No 20022-MET-HDG-DE-001-003 Rev A received 29th September 2020

Proposed Gabion Wall Arrangement Dwg No 20022-MET-HGT-DR-001 Rev A received 29th September 2020

Proposed Market Stall and Festive Power Supply Layout Dwg No 20022-MET-HEL-DR-001 Rev A received 29th September 2020

Proposed Surface Water Drainage Dwg No 20022-MET-HDG-DR-001 Rev A received 29th September 2020

Street Furniture Palisade Fence Detail Dwg No 20022-MET-HFE-DE-CH-001 Rev A received 29th September 2020

Tree Grille Detail Dwg No 20022-MET-ELS-DE-003 Rev A received 29th September 2020

Tree Species Dwg No 20022-MET-ELS-DE-001 Rev A received 29th September 2020

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

3a. In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority.

3b. Development shall cease until an investigation and risk assessment has been submitted in writing to and approved in writing by the Local Planning Authority.

3c. If remediation is found to be necessary, a remediation scheme shall be submitted in writing to and approved in writing by the Local Planning Authority prior to recommencement of development.

3d. Following completion of measures identified in the approved remediation scheme and prior to the commencement of the use of the approved development a verification report shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

4. The proposal shall not be carried out other than in accordance with the details as shown on Proposed Surface Water Drainage Plan Dwg No 20022-MET-HDG-DR-001 Rev A received 29th September 2020 and the approved details shall be retained thereafter.

Reason: To ensure that the development is provided with a satisfactory means of drainage and to manage the risk of flooding and pollution in accordance with saved Policy ENV10 of the Walsall Unitary Development Plan, Policy ENV5 of the Black Country Core Strategy, Policy EN3 of the Walsall Site Allocations Document and Section 14 of the National Planning Policy Framework.

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

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works

- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- xiii. Vegetation clearance should be undertaken outside the nesting bird season. Where this is not practicable then measures to prevent disturbance and harm to breeding birds are to be incorporated within the CEMP.
- xiv. Measures to manage invasive species on site.

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

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

6a. The approved landscaping details as shown in Landscape Layout Dwg No 20022-MET-ELS-DR-001 Rev A received 29th September 2020 and Plant Species Dwg No 20022-MET-ELS-DE-002 Rev A received 29th September 2020 shall be carried out in the first planting season following completion of development.

6b. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree, shrub or plant, or any tree, shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree, shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

Notes for Applicant

Pollution Control

The area of this proposed development has been utilised as a garage, which may have resulted in contaminated soil that could present Health and Safety implications. This information should be brought to the attention of the builder(s) or contractor(s) undertaking the development in order that they may implement any Health and Safety at Work precautions appropriate when undertaking work at the site of the proposed development.

Severn Trent Water

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

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

Markets Team

Dependant on the type of event that is run from the site, Street trading licence(s) / Temporary Entertainments Notice (TEN) and a safety advisory group application form will need to be completed for all events. Organisers of these events should contact the Council's Market Team on 01922 652300.



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 07 January 2021

Plans List Item Number: 5.

Reason for bringing to committee

Called in by Councillor Hussain on grounds of derelict and eyesore site and the applicant has been engaging with officers for a resolution

Application Details

Location: 1, HOPE STREET, WALSALL, WS1 3RG

Proposal: DEMOLITION OF EXISTING OUTBUILDINGS AND REDEVELOPMENT OF SITE TO FORM RESTAURANT, TWO RETAIL UNITS AND RESIDENTIAL BIN STORAGE ON THE GROUND FLOOR AND FIVE FLATS ON THE UPPER FLOORS.

Application Number: 17/0938

Case Officer: Leon Carroll

Applicant: Hope & Barons Ltd

Ward: St Matthews

Agent: Mr Stan Ceney

Expired Date: 01-Nov-2017

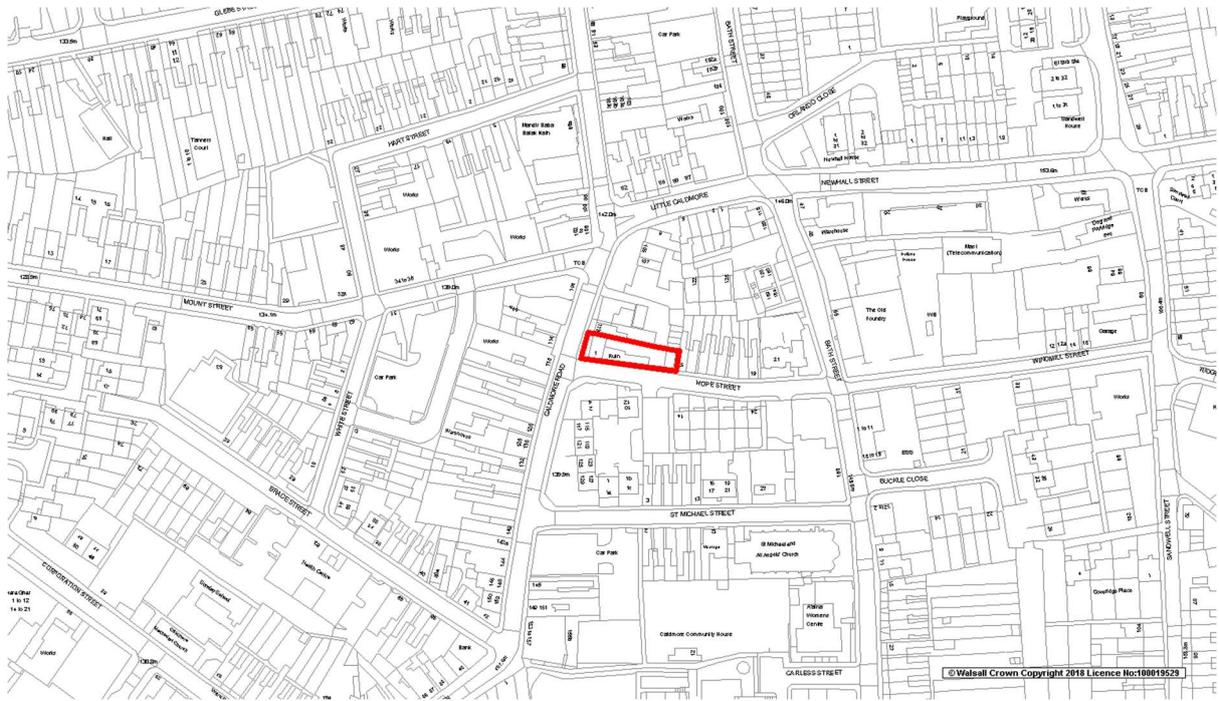
Application Type: Full Application: Major Mixed Use Classes

Time Extension Expiry: 19-Jul-2019

Recommendation

Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and subject to ...

- i. No new material considerations being received within the consultation period;
- ii. The amendment and finalising of conditions;
- iii. No further comments from a statutory consultee raising material planning considerations not previously addressed;



Current Status

This planning application was published and due to be presented to the 4th October 2018 Planning Committee with a recommendation to refuse for the following grounds;

- 1. The application has failed to justify and demonstrate that this town centre use development, within an edge of centre location, meets a specific need day-to-day need and that local provision could not be better met by investment in Caldmore Local Centre or Walsall Town Centre. The proposal has the potential to draw trade and investment away from Caldmore Local Centre to the detriment of the local centre. Accordingly the development is contrary to the aims and objectives of the National Planning Policy Framework, policies CEN5, CEN6 of the Black Country Core Strategy and saved policies S2, S3, S5, S6, and S10 of the Walsall Unitary Development Plan and policy SLC1 of the emerging Walsall Site Allocations Document*
- 2. The proposal would result in the loss of a locally listed building. The application has not been supported by any evidence that demonstrates that this non-designated heritage asset can no longer be retained. Accordingly the development is contrary to the aims and objectives of the National Planning Policy Framework and saved policy ENV28 of the Walsall Unitary Development Plan.*
- 3. The proposed development would appear as an incongruous feature that does not adequately integrate with the street frontage. The proposal fails to provide continuity appearing unrelated to the surrounding development and as a consequence it would cause harm to the character and appearance of the area. The application fails to take account of the context that defines the character of the area to the detriment of visual amenity. Accordingly the proposal is contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 the Walsall Unitary Development Plan and policies DW3 and DW4 of Supplementary Planning Document: Designing Walsall.*
- 4. The application has failed to demonstrate how existing neighbouring residential occupiers and the proposed residential occupiers would be protected from noise, smell and disturbance as a result of the proposed restaurant and shops. Accordingly, the proposal is contrary to the aims and objectives of the National Planning Policy Framework, policy ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6, 3.7, ENV10 and S10 of the Walsall Unitary Development Plan and appendix D of Supplementary Planning Document: Designing Walsall.*
- 5. The application has failed to provide sufficient amenity space or justify the absence of amenity space for potential residential occupiers. Accordingly, the*

proposal is contrary to the aims and objectives of the National Planning Policy Framework, policy ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6, 3.7, ENV10 and S10 of the Walsall Unitary Development Plan and appendix D of Supplementary Planning Document: Designing Walsall

With the agreement of the Chair consideration of the item was deferred in order to allow the applicant the opportunity to provide an amended scheme to overcome the recommended reasons for refusal. This year, the applicant approached the LPA with a new planning agent in order to amend the application. The LPA has worked proactively with the new planning agent in trying to overcome the previous concerns.

Proposals

Originally the proposals included complete demolition of the property which is locally listed and construction of a much larger building to accommodate a proposed restaurant, two retail shops and five flats.

The revised scheme proposes to retain the locally listed building front elevation facing Caldmore Road (western elevation) as a two storey structure. The development would extend rearwards as a new two storey building stepping up along Hope Street as it rises from Caldmore Road.

Ground Floor of the proposal

The part of the building at the corner of Caldmore Road and Hope Street is proposed to be a restaurant which has its access from Hope Street including a new shop front to the Hope Street elevation (the proposal retains the locally listed building frontage to Caldmore Road).

Adjacent to 5 Hope Street the proposal includes the construction of two retail units.

Between the proposed restaurant and the two retail units the applicant proposes to create a bin storage area and residential drying area.

First floor of the proposal

Above the proposed restaurant will be two one-bedroomed apartments, accessed from the Caldmore Street frontage via an enclosed staircase.

Above the two proposed retail units the proposal features two further apartments, one of which will have a single bedroom whilst the other has one bedroom on the first floor and a second bedroom in the roof space. Both apartments will be accessed from the Hope Street frontage via an enclosed staircase.

Above the bin storage and residential drying area a further one bedroom apartment is proposed, accessed from the Hope Street frontage via its own front door and enclosed staircase

The historic features of the locally listed building would be retained in the front façade facing onto Caldmore Road and the scale of the development has been modified significantly in the terms of height, bulk and massing compared to the scheme as originally submitted.

Ground levels rise along Hope Street, and the proposed building and roof design have been adapted to reflect the variation in the ground level. The height of the building on the Caldmore Road elevation would be 8.1m and 7.1m at eaves level. The buildings on the Hope Street would vary in the height to topographical changes from 6.7m to 8.1m high. The development would extend along the full length of the Hope Street frontage of the application site.

Site and Surroundings

This long-standing derelict mid-late C19 locally listed building at the corner of Caldmore Road and Hope Street was formerly used for leather goods manufacture with an industrial return frontage to Hope Street. Caldmore Local Centre is directly opposite (to the west) and includes a mix of uses. Directly to the north are residential dwellings, with the application site adjoining the house at no. 113 Caldmore Road and a residential parking court behind. To the east are a row of terraced houses fronting Hope Street. These houses have no off-street parking. Across Hope Street to the south are terraced houses with two resident permit holders' car parks. Parking restrictions are in force on the northern side of Hope Street.

There are two public car parks at St. Michael Street (80m walking distance) and Mount Street (103m walking distance) which serve this local centre. The nearest bus stop is on Caldmore Road 80m walking distance away. Caldmore Road is one way and includes time limited on street parking.

Relevant Planning History

None relevant.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- NPPF 2 – Achieving sustainable development
- NPPF 4 – Decision Making
- NPPF 5 – Delivering a sufficient supply of homes
- NPPF 6 – Building a strong, competitive economy
- NPPF 7 – Ensuring the vitality of town centres
- NPPF 8 – Promoting healthy and safe communities
- NPPF 9 – Promoting sustainable transport
- NPPF 11 – Making effective use of land

- NPPF 12 – Achieving well-designed places
- NPPF 16 – Conserving and enhancing the historic environment

On **planning conditions** the NPPF says:

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

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

National Planning Practice Guidance

Ensuring the vitality of town centres

- It is for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission).
- If there are no suitable sequentially preferable locations, the sequential test is passed.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development
- CEN8: Car Parking in Centres
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- 3.6 and 3.7: Environmental Improvement
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S5: The Local Centres
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- S10: Hot Food Take-Aways, Restaurants and Other A3 (Food and Drink) Outlets
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T1 - Helping People to Get Around
- T7 - Car Parking
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Shop Front SPD

- SF1: Historic shop fronts
- SF2: Shop front proportions
- SF3: Materials in shop fronts
- SF4: Colour finishes
- SF5: Access to shops
- SF6: Advertisements
- SF7: Illumination
- SF8: Shop front security

Site Allocations Document

Policy SLC1: Local Centres – boundaries are tightly drawn to concentrate investment. Development on edge of centre will only be permitted if they cannot be accommodated within the centre boundary, are of an appropriate scale and is well integrated into the centre. This policy can be afforded substantial weight

Consultation Replies

Highways – Following the submission of comprehensive additional information specifically around parking and the availability of sufficient parking capacity locally (within 200m of the site) to accommodate any additional parking demand as a result of the development, the Highway Authority is now satisfied that the development will not put undue pressure on existing parking in the area and there is spare parking capacity available.

The Highway Authority has withdrawn its previous concerns and now has no objections subject to conditions to secure details of a cycle shelter, measures to prevent unauthorised parking on the forecourt at Caldmore Road, no gates to open across the public highway or steps on the public highway. Also a note to keep the highway free from mud.

Planning Policy – No objection to the residential element of the proposals but object to the restaurant element.

The site is edge of centre to Caldmore Local Centre. As set out in emerging SAD Policy SLC1 which now has substantial weight Local Centre boundaries are “drawn tightly to concentrate investment”. To enable further consideration the applicant would need to demonstrate the following:

- i. that the development cannot be accommodated within the centre boundary
- ii. that it is of an appropriate scale for a local centre
- iii. that it is well integrated within the centre

Having undertaken a survey of the centre recently it would appear there are some vacant units within the centre boundary that could accommodate this investment. The applicant has provided no evidence as to why the investment cannot be accommodated within the centre.

Also given the relationship with Walsall Town Centre it may be more appropriate for any investment of this scale to be directed towards the strategic centre. The applicant has provided no justification of the scheme being in-keeping with the scale of the local centre. Many of Walsall’s town centres are in poor health and it is likely that they will continue to suffer from increased vacancies. The expansion of centre uses should therefore, only be supported where there is clear justification.

The proposal should be refused as it fails to meet the policy requirements of UDP Policy S2-S3 and BCCS Policy CEN5. It also fails to meet the policy requirements of emerging SAD Policy SLC1: Local Centres.

Any decision must balance the built heritage issue against the need to safeguard investment in our centres. On the heritage issue, the building is locally listed as a former leather works and retaining the frontage alone would involve the loss of the works part of the site so effectively the historic interest would be lost.

The purpose of the planning system is to act in the public interest rather than the interest of an individual owner. In this case, the public interest is to direct investment to a location in a centre (which could be Caldmore itself: it doesn’t have to be Walsall Town Centre) to help prevent their further decline.

The reference to the Local Centres Study supports the need to direct investment to Caldmore Centre rather than to an out of centre or edge of centre location such as the application site. There are many vacant buildings in centres nearby both Caldmore Local Centre and Walsall Town Centre that could accommodate a restaurant and shop units of the size proposed including some which are listed buildings. The application needs to demonstrate why no properties in centres are suitable for the proposed use. Permitting the use in this location would divert investment from a centre.

Pollution Control: Following discussions with the Case Officer and the Agent, it has been agreed that certain items that were causing concern can be addressed by planning conditions, with some as pre-commencement conditions.

As advised before, it should be noted that Public Protection (Environmental Health) regulates noise and odour emissions from commercial businesses and their comments may need to take precedent over the content herein.

The application site is located within a residential area therefore the Applicant needs to agree a Construction Management Plan in writing with the Local Planning Authority to control noise, dust, debris affecting local residents from the demolition and construction. The Construction Management Plan should consider construction and demolition working hours (*secured via a pre-commencement condition*).

In regards to the commercial activity with residential above, Pollution Control recommend that a good level of acoustic attenuation needs to be obtained, which is above that required by Building Regulations Part E. For the Restaurant and Shop elements, the sound reduction between them and the residential above and next door, needs to be designed and installed to achieve a minimum apparent sound reduction, R_w, of 70 dB.

For the sound reduction between apartments, the Applicant needs to consider designing rooms, walls, corridors to meet the requirements of Building Regulations Part E... (*secured via a pre-commencement condition, with the Applicant/Agent providing further information on acoustic performance and design/installation prior to construction commencing*).

The restaurant activity will require the Owner/Operator to install very efficient odour control and noise controls. 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems', (2018) by EMAQ has relevance. This guidance includes undertaking a risk assessment, which will assist in determining the type of odour abatement equipment that will be required.

Other than the proposed location of the flue, the Plans do not give any indication of the odour abatement equipment that will serve the restaurant. The Odour guidance generally recommends that the flues should be at least 1 metre above the highest building within 20 metres.

Regarding noise from the odour extraction equipment and any other machinery, the Applicant will be required to ensure that noise levels will not cause a significant problem to any residential premises, including the proposed residential element above the restaurant and shops. The DEFRA guidance includes some mitigation measures such as enclosing the noisy equipment, use of anti-vibratory mounts, de-coupling the pipework etc. This should be secured by planning condition.

The Applicant will also be required to install measures within the commercial kitchen to ensure fat/oil/grease cannot enter the drainage system. A planning condition requiring the details of the proposed grease trap and installation to be submitted and approved prior to activities commencing in the restaurant will be required.

The Applicant needs to contact their Building Control Advisors to determine whether there is a need for upgraded fire protection between the commercial and residential activity. It is usually a requirement that A3 activities have fire insulation measures that ensure a 1-hour capability before the fire spreads beyond the insulated rooms. Such fire insulation measures should also assist in meeting the required improved acoustic measures. *(Not a material planning consideration)*

Environmental Health – EH officers agree with pollution control. The applicant has submitted a report which does not include a noise assessment of the proposed extraction plant nor provide findings and any recommendations for mitigation measures. It merely states that the system design should allow for sufficient space around the fans and ducting for sufficient attenuation measure to achieve sound levels required by Local Authority. On this basis the suitability of the proposals cannot be assessed fully. For new premises or premises covered by planning, conditions restricting the impact of the odour systems shall be designed to prevent harm to the amenity. In this case it is considered appropriate that the odour arrestment plant should be provided to give a very high level odour control. Relevant planning conditions have been recommended.

Housing Standards – no response

Police Crime Reduction Officer – recommend the applicant seeks Secured by Design Accreditation. *(This can be secured via planning conditions)*

Fire Services – no objection.

Severn Trent Water – no objection subject to use of recommended drainage condition.

Representations

Previously Site notice displayed and surrounding occupiers notified by letter.

One letter has been received objecting to the application on the following grounds:

- Enough food shops in Caldmore, don't need any more.
- When all the restaurants are open and mosque in use there is no parking in Hope Street.

Following the submission of the revised proposal re-consultation letters were sent and no letters of representation were received.

Determining Issues

- Principle of use
- Impact upon the character and appearance of the area and Heritage Asset
- Relationship with surrounding occupiers
- Impact on amenity of future occupiers
- Impact upon highway safety
- Local Finance Considerations

Principle of use

The application site is, strictly speaking, outside the Caldmore Local Centre, the boundary of which runs along Caldmore Road, and is therefore in an edge of centre location as defined by the National Planning Policy Framework.

Caldmore is a mixed commercial and residential area defined by high density two storey properties. The existing building is derelict causing harm to the character and appearance of the area. Whilst the opportunity to develop the site is welcomed, its redevelopment should take the opportunity to improve the character of the area.

The proposed areas for development are as follows:

Restaurant: 106m²

Kitchen 38m²

Bin and Drying: 67m²

Retail 1 39m²

Retail 2 44m²

Para 89 of the NPPF states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). In this case the floor area is below threshold of the 2,500m². Therefore this proposal does not require the submission of an impact assessment.

Black Country Core Strategy Policy CEN6 states that new small-scale local facilities outside defined centres of up to 200 square metres gross, or extensions to existing facilities which would create a unit of up to 200 square metres gross will be permitted if it can be shown that all of the following requirements are met:

- The proposal is of an appropriate scale and nature to meet a specific day-to-day need of a population within convenient, safe walking distance for new or improved facilities;
- Local provision could not be better met by investment in a nearby centre;
- Existing facilities that meet day-to-day needs will not be undermined.
- Access to facilities by means other than by car would be improved and, in particular,
 - will be within convenient, safe walking distance of the community it is intended to serve;
- Where new local facilities are to meet the specific needs of new housing development, particularly food provision, then proposals need to meet the requirements of Core Strategy Policy HOU2.

The proposed retail units would be located in a convenient and safe location and would help to meet the day to day needs of the local population. The retail units are appropriate in scale and could be used for a number of uses within newly defined use classes E(a), E(b) or E(c). The introduction of additional uses in these categories which are of a limited scale are not considered to undermine or have significantly adverse impacts on the locality and would increase the choice and variety of amenities available to the local population. The site is in a sustainable location with bus stops and public car parks nearby, in addition to being accessible on foot for the immediate local community. Planning Policy were consulted and did not object to the retail or residential element of the proposal but did object to the restaurant element of the proposal.

In assessing the impact of the proposal on the local centre and its alignment with Core Strategy Policy CEN6, the proximity of the site to the local centre boundary is a material consideration. The site is immediately outside the boundary and there are commercial uses all along the opposite side of Caldmore Road.

Whilst the comments of the Council's Planning Policy officers are pertinent and well argued, the role of development management is to weigh up all the material considerations and come to a balanced view and recommendation based on the planning merits of the case. Whilst the local centre boundary has been tightly drawn to concentrate investment where it is most needed, the fact that the site actually adjoins the local centre boundary indicates that the proposal would not divert investment away from the centre to an unacceptable degree. The proximity of the application site to the local centre is such that the proposal is more than likely to contribute to and enhance the prosperity of the local economy given the business and employment opportunities it will offer. Whilst there may be vacant units in the nearby centre that could accommodate the proposed uses the site is sustainably located close to existing businesses and on balance the proposal is considered to be acceptable in principle.

On the basis of the above balanced view the proposals have overcome the original recommended reason for refusal 1.

Impact upon the character and appearance of the area and heritage asset

The existing site essentially comprises two distinct parts, with an attractive double fronted dwelling facing onto Caldmore Road, and various dilapidated outbuildings relating to the sites subsequent industrial use to the rear with a surviving red brick wall running along the Hope Street frontage. The proposal has been amended following discussions with the applicant, with the scale of the development reduced significantly and the design approach altered to better reflect the existing building and its surroundings.

The main building is to be retained and converted to a restaurant whilst the rear of the site is to be cleared in order to facilitate the rest of the development. The Caldmore Road elevation features a central door with windows to either side at ground floor level and three windows to the first floor. The revised proposal aims to retain much of this elevation, with the original door remaining as an external feature but blocked up internally. The left hand ground floor window will be altered to form a door to provide a dedicated access to the proposed apartments on the first floor.

The preservation of the Caldmore Road frontage is welcomed, however the applicant's intention to use insulating render on this elevation is considered not to be appropriate. The submission of a detailed scheme for the restoration of the Caldmore Road elevation will be a condition of approval. This will ensure that the original brickwork is cleaned, repointed and restored, windows and doors are appropriate to the period in which the building originates and rainwater goods are of an acceptable type and standard. Any additional insulation will be restricted to the interior of the building.

The applicant has submitted a Heritage Statement which describes how the building's significance is derived from its former use as a building for leather goods manufacture, which was the largest traditional industry in Walsall. It is for this reason, and the character of the Caldmore Road elevation, that the site has been listed as a building of local significance. The revised scheme has also amended the Hope Street elevation to be more in keeping with both the historic use of the site and surrounding buildings. The restaurant element of the proposal is shown on the proposed drawings as having three large windows which have the potential to harm the character of the building if the window materials are not of sufficient quality in terms of design and appearance. In tandem with the additional information required for the Caldmore Road elevation this detail will be secured by planning condition. Done correctly the modern windows can enhance the character of the building whilst allowing more natural light into the dining area of the restaurant. This is preferable to the earlier scheme that proposed complete demolition of the locally listed building and overcomes the original recommended reason for refusal 2. The amendments and scaling back of the design of the proposals also overcomes original recommended reason for refusal 3.

The restaurant kitchen is located to the east of the dining area and occupies a single storey structure with extraction equipment and flue on the roof. The submitted details of the extraction equipment are minimal therefore this will also be secured by planning condition to ensure it does not detract from the appearance of the development.

The remainder of the Hope Street elevation is two storey, with apartments on the first floor and an enclosed bin storage and residents drying area adjoining the two proposed retail units on the ground floor. The bin storage area is accessed via two sets of double doors which replicate the original features evident in the surviving boundary wall. The shopfronts to the two retail units are shown as simple single door and window arrangements on the proposed drawings, however additional detail is required to ensure the proposal maintains the historic character of 1 Hope Street and complies with the requirements of the adopted Shopfront Supplementary Planning Document.

Whilst the site was listed in part due to its former use as a leather goods manufacturing place, which is of local historical significance having once been the major industry in the Walsall area, the industrial parts of the site have been lost to a great extent, due to disrepair and past demolition. The retention and restoration of the main facade on Caldmore Road therefore carries greater weight given that is all that remains of historical significance. It is considered that subject to the submission of a suitable scheme for the restoration of the Caldmore Street elevation and window details of the restaurant's Hope Street elevation, window, door and shop front details to the rest of the Hope Street elevations, and full details of the proposed flue and extraction equipment, the proposal is acceptable in terms of its impact on the historic

character of this locally listed building and the surrounding street scene. The proposal is therefore in accordance with Policies ENV2 and ENV3 of the Black Country Core Strategy, saved Policies GP2, ENV28 and ENV32 of the Walsall Unitary Development Plan and Section 16 of the National Planning Policy Framework.

Relationship with surrounding occupiers

The effect of the proposed development on the occupants of nearby and adjoining dwellings can be measured in terms of the impact of noise and odours generated by the proposed restaurant and two retail units and the physical impact of the new buildings

No 1 Hope Street adjoins 113 Caldmore Road, a residential dwelling which has two storey and single storey extensions to its rear with a garden area beyond. Pollution Control recommend that acoustic attenuation measures are incorporated into all elements of the proposal which will be controlled by a pre-commencement planning condition. Similarly, the likely impact of odours from the restaurant, and noise from any odour abatement equipment, will need to be carefully controlled. A planning condition will be imposed requiring the applicant to carry out a risk assessment and provide a comprehensive scheme detailing odour control measures, including full details of any extraction equipment and external flue prior to commencement of any works. The hours of operation of the restaurant itself and any extraction equipment likely to produce noise will be controlled by a suitable planning condition in order to minimise the impact of the proposal on neighbours and in particular the occupants of 113 Caldmore Road and the first floor apartment above the restaurant.

The built form of the development will be predominantly two storey with a single storey element approximately located in the middle of the Hope Street elevation. The rear garden of 113 Caldmore Road and a separate residential parking court to its rear adjoin the site to the north. The development is stepped as it rises up the hill on Hope Street, and the highest elements of the proposal are located to the south of the existing parking court. The proposal is therefore considered to have no significantly adverse impact on habitable room windows at No 113, nor is the development considered likely to result in any significant overshadowing of, or loss of outlook from, the rear garden of that dwelling. The rear windows of the apartments at first floor level located above the two retail units are high level windows which will prevent any overlooking of the rear garden of 113 Caldmore Road whilst there are no windows in the north elevation of the apartment located above the proposed restaurant. The remaining residential windows all face onto either Caldmore Road or Hope Street. The proposal is therefore considered not to result in an unacceptable increase in overlooking.

Taking account the details described above, and subject to the use of suitable planning conditions to ensure that effective and appropriate noise and odour controls are incorporated into the development, the proposal is considered acceptable in terms of its impact on neighbours and is in accordance with saved Policy GP2 of the Walsall Unitary Development Plan and paragraph 127(f) of the National Planning Policy Framework. It also overcomes original recommended reason for refusal 4.

Impact on Amenity of Future Occupants

The original scheme was considered unacceptable due to a lack of amenity for the future occupants of the proposed flats. The impacts of the other elements of the proposal in terms of noise and odour will be controlled by planning conditions, and the flats will benefit from a communal external drying area. The lack of a dedicated private amenity space is considered to be balanced out by the proximity of the site to local facilities both in the local centre and Walsall town centre whilst Parkers Green Park is a short walk away to the north. Taking into account all of the above the proposal is considered to provide acceptable living conditions for the future occupants of the proposed flats and also overcomes original recommendation for refusal 5.

Impact upon Highway safety

Following the previous recommendation for refusal and committee decision to defer the application, the applicant submitted a transport statement to demonstrate the development could be carried out without adverse impact on highway safety.

The submission of this comprehensive additional information specifically around parking and the availability of sufficient parking capacity locally (within 200m of the site) to accommodate any additional parking demand as a result of the development, the Highway Authority withdrew its objection and is now satisfied that the development will not put undue pressure on existing parking in the area and that there is spare parking capacity available. The Highway Authority have provided suitable conditions to mitigate against the impact of the proposal and subject to these, the proposal is considered to be acceptable in terms of highway safety and in accordance with Policy TRAN2 of the Black Country Core Strategy, saved policies T7 and T13 of the Walsall Unitary Development Plan and the National Planning Policy Framework.

Local Finance Considerations

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

This application proposes 5 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

Conclusions and Reasons for Decision

In weighing the key material considerations and consultee responses against the national and local planning policies and guidance, it is considered that the proposed used would on balance be in compliance with the policies of the development plan in that this edge-of-centre proposal would not detract investment away from Caldmore Local Centre to the detriment of the vitality and viability of the centre due the scale of the development.

The applicant has worked proactively to overcome the concerns of the statutory consultees and made the proposal viable which would enhance the visual appearance and create new economic opportunities for the local area.

The amended proposals have overcome the original recommended reasons for refusal.

Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to be compliant to the aims and objectives of the National Planning Policy Framework, policies CEN6, TRAN1 and TRAN2 of the Black Country Core Strategy, saved policies GP2, 3.6, 3.7, ENV10, ENV28, S3, S5, S6, S10, T7, T10 and T13 of the Walsall Unitary Development Plan, policy SLC1 of the Walsall Site Allocations Document and supplementary planning document Designing Walsall.

Positive and Proactive Working with the Applicant

Officers have been liaising with the applicant's agent since the application since June 2019, sharing the above concerns and detailed consultee responses. In this instance the scheme has been amended to address these concerns. The planning agent has been working proactively to overcome all the concerns since July 2020 and provide all mandatory information which has helped the Officer to support the proposal.

Recommendation

Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and subject to ...

- i. No new material considerations being received within the consultation period;
- ii. The amendment and finalising of conditions;
- iii. No further comments from a statutory consultee raising material planning considerations not previously addressed;

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

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

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

Location Plan received on 5th July 2017

Proposed Elevation Dwg No HS300119-HD002C Received on 3rd November 2020

Proposed Floor Plans Dwg No HS300119-HD001C Received on 3rd November 2020

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

3. a) Prior to the first occupation of any flat on the development hereby permitted, full details of a covered and illuminated cycle shelter for the use of residents shall be submitted in writing to and approved in writing by the Local Planning Authority. The details shall include the location of the cycle shelter within the development site.

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

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

4. a) Prior to the occupation any part of the development hereby permitted, full details of physical measures to prevent unauthorised parking on the forecourt area fronting Caldmore Road, shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

Reason: To prevent unauthorised parking on the forecourt area to prevent vehicles obstructing the proposed stepped access to the flats above in the interests of highway safety and in accordance with Policy TRAN2 of the Black Country Core Strategy and saved policies T7 and T13 of the Walsall Unitary Development Plan.

5. Notwithstanding the submitted details no external doors or gates shall be designed or installed to open outwards across the public highway, and at no time shall any steps or ramps to building entrances be permitted on the public highway.

Reason: In the interests of highway safety in accordance with saved Policy T1 of the Walsall Unitary Development Plan.

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

1. Construction working hours
2. Parking and turning facilities for vehicles of site operatives and visitors
3. Loading and unloading of materials
4. Storage of plant and materials used in constructing the development
5. A scheme for recycling/disposing of waste resulting from construction works
6. Temporary portacabins and welfare facilities for site operatives
7. Site security arrangements including hoardings
8. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
9. Measures to prevent flying debris
10. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
11. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
12. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

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

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

7. a) Prior to commencement of development a noise insulation scheme between the hereby permitted commercial development and the proposed residential units on the upper floor shall be submitted in writing to and approved in writing by the Local Planning Authority. The noise insulation scheme shall show, as a minimum, the apparent weighted sound reduction index, $R'w$, shall not be less than 70dB.

b) Prior to occupation, the approved noise insulation scheme shall be installed and a written Validation Statement shall be submitted in writing to and approved in writing by the Local Planning Authority.

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved policy GP2 of the Walsall Unitary Development Plan.

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

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

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

9. a) Notwithstanding the details as submitted and prior to commencement of the development hereby permitted a noise assessment of the external extraction flue equipment shall be submitted in writing to and approved in writing by the Local Planning Authority. The assessment shall include details of recommendations for mitigation measures to ensure the mountings and installation does not give rise to noise nuisance for existing occupiers of the residential users of the building.

b) The development hereby permitted shall not be carried out otherwise than in accordance with the agreed mitigation measures and such measures shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the occupiers of the adjoining premises and the wider area to ensure the satisfactory functioning and appearance of the development in accordance with saved Policy GP2 of the Walsall Unitary Development Plan.

10. a) Notwithstanding the details as submitted and prior to commencement of the development hereby permitted until details of a mechanical extraction system of all fumes from the food preparation area shall be submitted to and be agreed in writing by the Local Planning Authority. The assessment shall include details of a de-odorising filter, details of the extraction equipment including the chimney and the manufacturer's guidelines, and shall demonstrate that the flue shall terminate at least one metre above the highest part of the roof. The assessment shall also include confirmation that the external finish of the extraction flue shall be powder coated in a colour to be agreed.

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

Reason: To safeguard the amenities of the occupiers of the adjoining premises and the wider area to ensure the satisfactory functioning and appearance of the development in accordance with saved policy GP2 of the Walsall Unitary Development Plan.

11. a) Notwithstanding the details as submitted and prior to commencement of the development hereby permitted details of a location within the application site for the storage/disposal/containment of waste shall be submitted to and be agreed in writing by the Local Planning Authority.

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

Reason: To safeguard the amenities of the occupiers of the adjoining premises and the wider area to ensure the satisfactory functioning and appearance of the development in accordance with Policy TRAN2 of the Black Country Core Strategy and saved policies GP2, T7 and T13 of the Walsall Unitary Development Plan.

12. a) Notwithstanding the details as submitted and prior to commencement of the development hereby permitted details of a grease trap that demonstrates the prevention of waste matter entering the sewerage system shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

Reason: To safeguard the amenities of the occupiers of the adjoining premises and the wider area and to ensure the satisfactory functioning of the public sewer in accordance with saved policies GP2 and ENV10 of the Walsall Unitary Development Plan and Policy ENV5 of the Black Country Core Strategy.

13. No deliveries shall be taken at or despatched from the site otherwise than between the hours of 0800 hours to 23.00 hours Mondays to Saturdays and 1000 hours to 2200 hours Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

14. The development hereby permitted shall not be open to customers otherwise than between the hours of 0800 hours to 23.00 hours Mondays to Saturdays and 1000 hours to 2200 hours Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

15. a) Notwithstanding the details submitted and prior to commencement of the development hereby permitted details of the proposed shop fronts to the two retail units shall be submitted in writing to and approved in writing by the Local Planning Authority.

b) the development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

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

16. a) Notwithstanding the details submitted and prior to commencement of the development hereby permitted a full scheme for the restoration of the Caldmore Road façade including fenestration, pointing and rainwater goods shall be submitted in writing to and approved in writing by the Local Planning Authority.

b) the development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies ENV28 and ENV32 of the Walsall Unitary Development Plan.

17. Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

-All external doors to individual dwellings to be PAS24; 2016

-All shared external doors shall have a door entry phone system and electronic lock release linked to each flat

-All ground floor windows and over accessible roofs to be PAS24; 2016

-All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.

-Dusk until dawn lights (white light source) to be installed adjacent to each external door

-Recycling and refuse areas to be secured at the rear of the properties in a lockable storage facility

-1.8m high closed board fencing with 0.3m trellis topper to be erected around the perimeter (inside of the boundary hedging) of each dwelling.

-All access gates shall be of the same construction of the perimeter fencing, self-closing, facing the street, lockable with a key front and rear, designed to not create any climbing aids

-No Lead or metal shall be used on the ground floor.

-All the dwellings shall be suitably with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)

-Mail boxes shall be constructed of a minimum 1.5 metre steel construction, being lockable individual letter boxes, secure anti-theft proof and wall mounted located at the primary entrance/exit lobby point of the building, covered by CCTV

-lighting within internal communal areas shall be PIR activated

-All energy meters shall be placed at the front of the dwellings

Reason: To ensure the safety and security of the development and its occupiers in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

18. No boilers shall be installed in any of the residential units hereby permitted, save for

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

Note for the Applicant:

1. 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.

2. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08:00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

The Applicant needs to contact their Building Control Advisors to determine whether there is a need for **upgraded fire protection** between the commercial and residential activity. It is usually a requirement that A3 activities have fire insulation measures that ensure a 1-hour capability before the fire spreads beyond the insulated rooms. Such fire insulation measures should also assist in meeting the required improved acoustic measures.

Walsall Council Building Control can be contacted on 01922 652600 or buildingcontrol@walsall.gov.uk

'Control of Odour and Noise from Commercial Kitchen Exhaust Systems', (2018) by EMAQ has relevance



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 07 January 2021

Plans List Item Number: 6.

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 17, RUSHALL CLOSE, WALSALL, WS4 2HQ

Proposal: TWO STOREY REAR AND FIRST FLOOR SIDE EXTENSIONS, GARAGE CONVERSION AND FRONT BALCONY

Application Number: 20/1254

Case Officer: Rebecca Rowley

Applicant: Mr Mukesh Balu

Ward: St Matthews

Agent: Anthony Hope MCIAT

Expired Date: 10-Dec-2020

Application Type: Full Application:
Householder

Time Extension Expiry: 15-Jan-2021

Recommendation

Grant Planning Permission Subject to Conditions



Proposal

This application requests permission for the following extensions to a 3 bedroom house:

Two storey and single storey rear extension with gable roof extended from existing rear gable

Complete internal rearrangement would allow creation of an open plan kitchen/dining and sitting area at the ground floor and extended bedroom 2 and 3 and a new en-suite bathroom at the first floor

- Depth from existing rear elevation: 4m at ground floor, 3m at first floor
- The projecting 1m ground floor element would have a pitched roof with eaves height of 2.7m and max roof height of 3.6m
- Width: 11.3m
- Height to eaves: 5.2m (as existing)
- Ridge Height: 6.7m (as existing)

A kitchen window and bifolding doors are proposed in the ground floor rear elevation, and 2 bedroom windows and an en-suite bathroom window are proposed in the first floor of the rear elevation.

First Floor Side extension

To create a new 4th bedroom and gallery landing area

- Depth: 12m (incorporating 3m projection to rear drawing level with proposed rear extension)
- Width: 5.3m
- Step back from principal elevation: 1m
- Height to eaves: 5.2m (as existing)
- Ridge Height: 6.2m (0.5m lower than main roof ridge)

A new bedroom window and gallery landing window are proposed in the principal elevation at the first floor.

The garage would be converted into habitable space and the garage door would be replaced with a front lounge window

Internal rearrangements at the first floor would create a proposed south east side facing bathroom window and en-suite bathroom window at the first floor.

Site and Surroundings

The application dwelling is a 3 bedroom detached house of simple design with a front facing gable roof and attached side garage with flat roof. It is located towards the end of a cul-de-sac and is sited in the middle of 3 detached houses of the same original design.

There is a driveway in front of the dwelling with sufficient space to park 2 vehicles and a lawn. There is a separation distance of 13.5m from the principal elevation to the front boundary with the public footpath.

Houses at this end of the cul de sac are the same original design with the exception of 1 bungalow opposite. Most houses have extended at single storey level at the rear and notably, no. 24 opposite has extended above the garage at first floor level as proposed by this application. The street scene is open plan with no front boundary treatments and long lines of sight across the cul de sac.

The row of houses including the application dwelling sit at a slight angle away from the highway in a north westerly direction, so the rear elevation of each consecutive house is about 1m deeper than the previous. The adjacent dwelling to the north west side is no 19. There is a separation distance of 1m at the ground floor and 6.2m between the first floors with the flat roof garage of the application site spanning the ground floor between. No. 19 has a rear conservatory close to the shared boundary which sits around 3.4m deeper than the existing rear elevation of the ground floor of the application dwelling and 4m deeper than the first floor. The principal elevation is in alignment.

The adjacent dwelling to the south east side is no. 15. There is a separation distance of 1m at the ground floor and 6.2m between the first floors with the flat roof garage of no. 15 spanning the ground floor between. No. 15 has a single storey rear extension close to the shared boundary which sits around 2.5m deeper than the existing rear elevation of the application dwelling. The principal elevation is in alignment.

Opposite the dwelling is no. 28, a bungalow with a separation distance of 45m across the end of the cul-de-sac and no. 26, a detached house of the same original design as the application dwelling with a separation distance of 35m across the highway.

To the rear of the dwelling is a 22.5m long garden which borders the rear of the gardens of 24 and 26 Rushall Manor Close with a separation distance of more than 50m to the rear of the nearest dwelling. Bushes and a hedge obscure the view from and towards these houses.

Planning History

At Application Site

None

At 19 Rushall Close (adjacent neighbour to north west side)

- BC11336P – garage extension – granted permission – 05/06/1984
- BC40050P – Sitting room and laundrette at ground floor and 2 no. bedrooms at first floor – refused permission on grounds of it would result in an overbearing and unduly dominant feature constructed against the boundary of the application site in close proximity with rear facing windows and rear garden areas of no's 6 and 8 Rushall Manor Close to the detriment of amenities of neighbouring occupiers and the detriment of the character and appearance of the area – 14/12/1993

At 24 Rushall Close (opposite house of same original design)

- BC32049P – conservatory, porch, lobby and extensions to garage and kitchen and construction of pitched roof over existing first floor flat roof extension – granted permission – 21/03/1991
- *(No older permission could be found for the first-floor side extension but as further permissions were granted for the roof of this extension by application BC32049P, it must have either been permitted by a previous planning application or have at that point become lawful with time.)*

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

On **planning conditions** the NPPF says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

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

Saved Unitary Development Plan

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

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

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

Consultation Replies

Local Highways Authority – Support

Representations

8 representations were received from 8 separate neighbouring properties in response to the original proposal raising the following points (officer comments in italics):

- I hope all the developments are done in agreement with the neighbours who are directly affected by this change, redevelopment is welcome and will have positive impact in the area, however should not be at the expense of any existing dwellings. (*planning applications have to go through a formal consultation process and accord with planning policies. Neighbour representations are taken into account where they raise material planning considerations, other agreements e.g. Party Wall matters are civil matter outside the planning process*)
- Once again an application on this estate for a proposed development to a modest 3 bedroom property with a single story side hall and garage to make a very sizeable 4 bedroom property. (*This is not a planning concern subject to a*

proposal according with the requirements of any material planning considerations)

- Out of keeping with property in the immediate vicinity and neighbourhood characteristics.
- Over development of the plot with negative impact within the general surroundings.
- Incongruous feature of the street scene and incongruous with the rest of the close
- Terracing effect created which will significantly alter the look of the close.
- An extension of this magnitude would impose upon the remainder of the properties.
- Any extension should be ancillary to the existing building and should not be an attempt to completely redesign the character of the property
(The planning authority have secured amendments to the front and rear design)
- Two references were made to planning application 20/0054 - Rushall Manor Close. Both highlighting amendments that were made to the proposal so that the development was in keeping with the surrounding homes and area. *(Every application is assessed on its own merits and the impact on its own respective street scene. The impact of this proposal is considered in this assessment)*
- Concerns regarding the proposed front balcony being out of keeping with the neighbouring homes and causing a loss of privacy.
(The front balcony has been removed from the proposal)
- Concerns regarding impact on outlook for neighbouring residents, overlooking, loss of privacy and blocking of sunlight. *(Considered in this assessment)*
- There is a loss of light to our landing and stairway, owing to height of the extension over the garage. *(Landing and stairway windows are non-habitable room windows and not protected through planning policies)*
- Concerns with regards to car parking provision due to the loss of garage space and potential increase of the number of vehicles parked at the property.
(Parking requirements and availability are considered in this assessment)

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design of Extension and Character of Area

The amended proposal removes an originally proposed front and rear gable, reduces the height of the proposed roof ridge above the first floor side extension, steps back the first floor of the side extension from the principal elevation by 1m and removes the front balcony.

The ground floor element of the rear extension at a depth of 4m could have been lawfully constructed across the entire original rear elevation of this detached house using permitted development rights. A number of single storey rear extensions including ones at both adjacent neighbouring dwellings can be observed on aerial images of Rushall Close and are considered to be consistent with the character of the area. The first floor rear extension would be mostly obscured from view from the public vantage point and is considered would not cause significant harm to the appearance of the application dwelling or the street scene in this location.

Whilst the first floor side extension above the garage is visible in the street scene there is a similar first floor side extension at a nearby house of the same original design in Rushall Manor Close to the north of the application street and could be considered to be an emerging characteristic of the locality.

The amended first floor side extension has been designed with a 1m step back from the principal elevation of the original house and the extended roof ridge would be 0.5m lower than the existing roof ridge to emphasise the subservience of the side extension to the original dwelling. A separation distance of 1m would be retained between the application house and the adjacent dwelling at no. 19 which meets the requirements of the SPD Designing Walsall Appendix D of a minimum separation distance of 0.9m to limit terracing effect between detached dwellings. The use of a hipped roof over the proposed side extension would retain a separation between the roof of the application dwelling and the roof of the adjacent neighbouring dwelling no. 19 to limit this impact as much as possible. Proposed facing materials would match the existing dwelling. The design is simple, reflecting the original front elevation of the building, which would not be altered. Attention has been given to retain a glazed panel above the front door which is characteristic of this style of house and brick coursing detail above the door which reflects the coursing above existing front windows. The proposed front gallery landing window, whilst not an existing feature of the street scene, is considered acceptable and the proportions and alignment of the glazing are in keeping with the remaining fenestration.

It is considered that this proposal would not cause significant harm to the character of the application dwelling or the locality sufficient to warrant refusal in accordance with the requirements of BCCS policies CSP4 and ENV2, saved UDP policies GP2 and ENV32 and the SPD Designing Walsall policy DW3 and Appendix D.

Amenity of Nearby Residents

There would be no extension to the front of the dwelling and proposed new front windows would exceed the required separation distance of 24m between habitable room windows as outlined in the SPD Designing Walsall Appendix D, there being a separation distance of 45m and 34.5m to opposite habitable room windows at no.s 28 and 26 respectively.

The ground floor element of the rear extension up to a depth of 4m could have been lawfully constructed across the entire original rear elevation of this detached house using permitted development rights without the requirement for planning permission. This ground floor of the extended rear elevation would be in alignment with the rear elevation of the conservatory at no. 19 to the north west side of the application site and 1.5m deeper than the single storey extension to the rear of the garage at no. 15.

The ground floor rear element of the proposal would not breach the Council's 45 degree code for assessing the impact on neighbouring amenity for either adjacent neighbour.

The rear elevation of the first floor of the proposed two storey rear extension would be 1m shallower than the ground floor. It would sit around 2m deeper than the first floor rear elevation of no. 19 and around 3.8m deeper than the rear elevation at no. 15. It would not breach the 45 degree code for any rear neighbouring habitable room windows. It is considered that the proposed rear extensions to the dwelling would not have any significant harmful impact on visual amenity for either adjacent neighbouring occupant.

Concerns regarding the impact of the proposed extensions on light and sunlight availability to neighbouring occupants. The rear gardens of the application site and neighbouring houses face in a south westerly direction. During the morning and afternoon, sunlight would not be facing the rear of these houses. In the late afternoon and evening the sun would move round to this side of the houses. For no. 15 to the south west of the application site, the rear extensions should not impact on sunlight availability as the proposed rear extensions are to the north west of this site. There could be an impact on light availability to the rear elevation at no. 19 for a period of the afternoon when the sunlight is coming towards the house from the south and passing across the extended element of the rear of the application dwelling. Once the sunlight has passed the extension no. 19 would be afforded the same amount of light as it would previously have experienced. It is considered that this would not cause significant harm to the amenity of the occupants of no. 19 sufficient to warrant refusal of this proposal, particularly as the proposals comply with the 45 degree code in respect of this property. A concern regarding the impact of the first-floor side extension above the garage on light availability to the landing window and stairway at no. 19 has been raised. It is acknowledged that light to this window would be impacted by the extension but as it is a non-habitable room the window is not afforded the same weight when considering light availability compared to a habitable room window.

Proposed rear windows would exceed the required 24m separation distance to any opposite rear habitable windows. Concerns regarding the impact of the proposed extensions on the privacy of neighbouring occupants. New ground floor windows would have a similar outlook to the existing ground floor rear windows and are considered would cause no greater harm from overlooking than the existing situation. There would be a new first floor rear windows closer to the boundary with no. 19 than the existing situation. This window would be situated 1m behind the rear of the conservatory at no. 19 and the outlook would be onto a similar section of the garden at no. 19 as the existing first floor rear bedroom window. This part of the garden would be beyond the conservatory and the patio area at no. 19 would be shielded from view from this new window by the conservatory and by the fact that it is sited behind the new window. The same argument would apply for the patio area at no. 15 which is shielded by the existing rear extension at no. 15 and the fact that it is set back behind the proposed new rear bedroom window nearest to the boundary with no. 15. In summary there is already mutual overlooking between windows at the rear and the proposals does not create any significant further harm.

It is considered that this proposal meets the amenity requirements of saved UDP policy GP2.

Parking

Two concerns were raised regarding the impact of increased occupancy and loss of the existing garage space on parking requirements. In accordance with the requirements of saved UDP policy T13, a 4 bedroom dwelling requires a minimum of 3 off road vehicular parking spaces. There is sufficient space for the provision of 3 off-road parking spaces on the front driveway if some of the existing lawn area is consolidated. A condition will be included to secure this provision.

Conclusions and Reasons for Decision

When assessing the material planning considerations and taking into account the local and national planning guidance and representations received, it is considered that the proposal, according to the plans submitted, would not cause harm to the character of the house or the local area and would not harm the amenity of neighbouring occupants nor cause harm to highway safety in accordance with the requirements of the NPPF, policies CSP4 and ENV2 of the Black Country Core Strategy and saved policies GP2, ENV32 and T13 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall policy DW3 and Appendix D.

The use of safeguarding conditions in respect of the materials and plans to maintain its appearance, obscured glazing to maintain privacy and creation of 3 off-road parking spaces to maintain highway safety will further ensure that the neighbours amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

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

Positive and Proactive Working with the Applicant

The applicant's agent has addressed concerns raised by the case officer regarding the original proposal being an overbearing addition to the street scene with amended plans submitted which enable support to be given to the scheme.

Recommendation

Grant Permission Subject to Conditions

Conditions OR Reasons for Refusal

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

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

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

- Existing and Proposed Plans and Elevations including Block Plan, drawing no. 21.20.100, Rev A, submitted 26/11/2020

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

3a. Notwithstanding the details as submitted, the development hereby permitted shall not be carried out otherwise than in accordance with providing a minimum of three off road parking spaces measuring 4.8m by 2.4m with the parking area being consolidated, hard surfaced and drained so that surface water run-off from the parking area does not discharge onto the highway or into any highway drain.

3b. This area shall thereafter be retained for the purposes of parking motor vehicles for the lifetime of the development hereby approved and shall thereafter be retained used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and the loss of the garage space with the increase from 3 to 4 bedrooms, in accordance with UDP policy GP2, T7 and T13

4: The walls and roof of the development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in the existing building, including brick coursing detail above the door and windows on the principal elevation and the facing materials shall thereafter be retained for the lifetime of the development.

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

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

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

6: Notwithstanding the details as submitted, the development shall not be carried out otherwise than in accordance with the rear facing first floor en-suite bathroom window and the south east side facing bathroom and ensuite bathroom windows hereby permitted, shall be non-opening below 1.7m and obscurely glazed to meet Pilkington level 4 or equivalent and shall thereafter be retained for the lifetime of the development.

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

Notes for Applicant

None



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 07 January 2021

Plans List Item Number: 7.

Reason for bringing to committee

Applicant is related to an Elected Member

Application Details

Location: 26, MELLISH ROAD, WALSALL, WS4 2ED

Proposal: FIRST FLOOR SIDE EXTENSIONS, SINGLE STOREY FRONT EXTENSION, TWO STOREY SIDE AND REAR EXTENSIONS TO PROVIDE TWO KITCHENS, TWO DINING ROOMS, PLAY ROOM, 8 ADDITIONAL BEDROOMS WITH EN-SUITES AND A GYM AREA WITH ENSUITE ON THE FIRST FLOOR.

Application Number: 19/0822

Case Officer: Rebecca Rowley

Applicant: Mr H Singh Samra

Ward: St Matthews

Agent: Michael Manraj Singh

Expired Date: 02-Sep-2019

Application Type: Full Application:
Householder

Time Extension Expiry: 22-Jan-2021

Recommendation

Refuse Permission



Proposal

This application requests permission for extensions following a proposal for a similar scheme which was refused for the reasons outlined in the planning history. Please note that the only amendments in this current application to the previously refused proposal are:

- The removal of one ground floor, and one first floor west side facing windows;
- Reduced the number of hipped roof sections from three to two on the west side elevation;
- Set the front gable back by 1.5m at first floor nearest to No.24 (this change is only reflected on the side elevation plans);
- Set the front gable back by 1.7m at first floor nearest to No.32 (this change is only reflected on the side elevation plans);
- Increase depth of gable by 1.9m at ground floor nearest No 32 (this change is only reflected on the side elevation plans);
- Removal of single front door and re-positioning of window to front single storey gable elevation; and
- The introduction of a canopy to front elevation.

The proposed extensions are:

First Floor Side Extension adjacent to 24 Mellish Road

- To be added above the existing single storey side sections of the existing dwelling near to no's 24 to create 4 no. first floor bedrooms.
- 13.5 metres wide
- Includes two front gable feature extensions
- Ridge line of roof 7.5 metres high
- Includes a feature gable window at eaves height adjacent to the existing two storey feature gables
- 1.5 to 2.1 metres wide gap between the extension and the side boundary with 24 Mellish Road
- The existing garage would become a dining room. A second dining room would have a side facing window installed opposite no. 24
- Pedestrian access to the rear garden would be retained next to 24 Mellish Road

Single Storey Front Extension near to 24 Mellish Road

- Provide a second entrance into a dining room area
- 1.1 metres deep
- Have a gable roof, 2.6 metres high to the eaves and 4.1 metres high to the ridge

First Floor Side Extension adjacent to 32 Mellish Road

- To create 4 no. new bedrooms
- 10.1 metres wide
- 15.8 metres deep
- Includes two front first floor gable features, the one closest to no. 32 would be 0.4 metres higher than the proposed ridgeline of 7.5 metres high

- Retains a 3.5 metres wide gap between the proposed extension and the side boundary with 32 Mellish Road

Two Storey Side and Rear Extensions adjacent to 24 Mellish Road

- To create a playroom at ground floor level and gym at first floor level
- Would extend 5.7 metres further rearwards than the proposed first floor side extension nearest to 24 Mellish Road
- L-shaped
- Includes an additional rear wing extension, running along the side boundary with 24 Mellish Road for a further depth of 10.5 metres
- 22.7 metres total depth of two storey extensions along the boundary with 24 Mellish Road
- Includes ground and first floor side facing habitable room windows positioned 24.5 metres from the shared rear garden boundary with 32 Mellish Road
- Have a gable roof 0.4 metres higher than the proposed first floor side extension nearest to 24 Mellish Road

The plans indicate that linkages between the existing dwelling and the proposed extensions at first and ground floor would be retained. The total number of bedrooms would increase from 4 to 11. The frontage of the application property is hard-surfaced and provides parking for at least 3 vehicles.

Site and Surroundings

The application dwelling is a large 4 bedroom detached part dormer bungalow and part two storey residential dwelling of overall simple design which occupies a large plot. A previous planning application for a first floor extension to the front and side was granted permission subject to conditions in 2000 but was not implemented and has now lapsed.

The application plot is 33 metres wide across the street frontage, widens to 48 metres to the rear of the existing property and is 98 metres in length. There is a 1.8 metres high front boundary wall with tall conifers to the rear defining the front boundary of the application plot. The rear garden of this property, beyond an existing rear patio area, is approximately 1.5 metres lower than the patio and floor level of the existing house.

There are protected trees on the front boundary of the application house and within the lower rear garden area. The application site adjoins the boundary of the Arboretum Conservation Area to the north and west, but is not included within the Conservation Area.

The street consists of large detached houses of varying design and age, including Victorian Villas, along with flats which are a more recent addition to the street scene.

The existing dwelling is set back 16.3 metres from Mellish Road, which is a District Distributor and part of the Strategic Highway Network. The existing property is 28.5 metres wide and has a central two storey section with front and rear facing feature gables.

Neighbouring properties include:

24 Mellish Road

No. 24 Mellish Road is within the Arboretum Conservation Area and sits to the west of the application house. This neighbouring property has one front facing and two sole side facing bedroom windows 2.7 metres from the proposed first floor side extension at the application property.

This property has an existing part two and part single storey extension with a blank side elevation along almost the full length of its rear garden boundary with no. 26 Mellish Road. There is a rear window in the two storey extension to no. 24 which serves a landing. The rear elevation of no. 24 faces south.

32 Mellish Road

No. 32 sits to the east of the application house and there is a 3.5 metres wide gap between the proposed first floor side extension and the shared boundary with no. 32. This neighbouring house has an 8 metres deep single storey rear extension with bedroom windows at first floor. There are two bathroom windows in the side elevation of no. 32 facing the application house and front facing habitable room windows. The rear elevation of no. 24 faces south and there is an approximately 2.2 metres high rear garden boundary wall between the application house and no. 32

39 Mellish Road

This house faces the application property across Mellish Road with a separation distance of 46 metres.

24 Rushwood Close

This house is located to the south of the application property across a separation distance of 48 metres.

33 Rushwood Close

This house is located to the south of the application property across a separation distance of 70 metres.

17 Glen Close

This house is located to the south of the application property across a separation distance of 55 metres.

Relevant Planning History

BC63213P – Part demolition and two storey side extension – refused permission 31/5/01

BC60265P - First floor extension to front and side – granted subject to conditions 11/2/00. This permission was not implemented and has now expired.

BC60291P – Retrospective: Front wall – refused permission 12/1/00

14632 – Take down defective building and the erection of a kitchen – granted 11/2/49

16/0962 - First floor side extensions, single storey front extension, two storey side and rear extensions to provide two kitchens, two dining rooms, play room, 7 additional bedrooms with en-suites and a gym area with en-suite on the first floor – refused permission on the following grounds:

1. *The overuse of front elevation pitched gable features is considered would result in an over complicated and disproportionate design in an area of properties with simpler and more cohesive designs. The overlapping eaves details of the front gable features are design elements which appear clumsy, contributing to the detrimental appearance of the dwelling and character of the adjacent Conservation Area and street scene. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and Designing Walsall SPD.*

2. *The proposed scheme as a result of its scale, position, visual bulk and design, fails to preserve and enhance the setting of the character and appearance of the Arboretum Conservation Area. Without any public benefits that outweigh this harm. The proposal would therefore be contrary to the NPPF, Policies ENV29 and ENV32 of the Walsall Unitary Development Plan and Policy ENV 2 of the Black Country Core Strategy*

3. *The limited separation distance between the side facing bedroom windows in 24 Mellish Road and the proposed two storey side extension elevation is considered would result in an unacceptable loss of light, outlook and amenity because of the close proximity of this proposal to the neighbouring house. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 plus Appendix D of Designing Walsall SPD.*

4. *The proposed addition of primary room windows facing the existing blank two storey side elevation of the extension at 24 Mellish Road across a limited separation distance is considered would provide poor amenity for the occupiers of the dwelling and represents poor design. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and Designing Walsall SPD.*

5. *The application has failed to include evidence to determine the possible presence of bats. The application is therefore contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document Conserving Walsall's Natural Environment.*

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 - Conserving and enhancing the historic environment**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document

- EN5: Development in Conservation Areas

Supplementary Planning Document

Conserving Walsall’s Natural Environment

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

- NE1 – Impact Assessment

- NE2 – Protected and Important Species
 - NE3 – Long Term Management of Mitigation and Compensatory Measures
- Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW3 Character
- Appendix D

Consultation Replies

Conservation Officer:

The minor impact of the proposed scheme on the setting of the conservation area could be further reduced by some alterations to the proposed designs, including a reduction in the scale and massing and further consideration to reduce the heavy and solid appearance of the existing proposal with the introduction of materials to break up the brickwork elevations, but from a building conservation/ historic environment point of view there are no grounds to object to the principle of the proposed scheme.

Pollution Control:

The property is located in an area previously identified as been disturbed ground either used for the mining of coal and lignite or limestone, with subsequent infilling. An advisory note is recommended regarding the Health and Safety implications that may result from potentially contaminated soil.

Local Highway Authority - No objection subject to note to applicant regarding no soil or debris on the public highway

Ecology Officer – no comments received.

Tree Preservation Officer – no comments received

Representations

None received

Determining Issues

Whether this application has overcome the previous reasons for refusal of 16/0962:

- Design of Extension and Character and Setting of the Arboretum Conservation Area
- Amenity of Nearby Residents
- Protected Species
- Protected Trees
- Parking

Assessment of the Proposal

Whether this application has overcome the previous reasons for refusal of 16/0962:

Design of Extension and Character of the Arboretum Conservation Area

The proposed plans submitted for assessment with this application are of similar dimensions and design as the previously refused scheme assessed by application 16/0962. Amendments to the west side elevation include the removal of one first floor bedroom and one ground floor dining room window in the west side elevation facing no. 24 Mellish Road. The implication of this amendment to amenity of the occupants is considered below. The number of hipped roof sections on the west side elevation has been reduced from three to two. This design feature would be of limited visibility from the public vantage point and was not a reason for refusal of the previous scheme. It is considered that this amendment would have limited further impact on the overall design. The removal of a single front door and re-positioning of window to the centre of the front single storey gable elevation nearest to no. 24 creates a balanced appearance to this elevation and but would not outweigh the overall harm arising. The canopy over this gable elevation has been increased in depth by a further 0.5m with the addition of a ground floor pitched canopy spanning the principal elevation from this roof to the pitched canopy above the main entrance door. It is considered that this addition would have negligible impact on the overall appearance when taking as a whole, but this would not outweigh the overall harm arising from the extent of proposed development.

The side elevation plans demonstrate that the ground floor of the front gable elevation nearest no. 32 has been increased in depth by 1.9m but stepped back at first floor level to the depth of the adjacent front gable. This amendment does not appear to be reflected in the floor plans at ground or first floor level. Notwithstanding any discrepancy between the elevation plans and the floor plans, the overall appearance of the gable elevations on the principal elevation plan would still reflect the appearance of the previously refused design and therefore the relevant considerations of the previous assessment of this scheme still apply.

Specifically, the overuse of pitched gable features on the front elevation is considered would result in an over complicated and disproportionate design, with elements which appear clumsy in an area of simpler and more cohesively designed properties. Overall, the front elevation design elements are considered detrimental to the appearance of the existing simply designed dwelling and character of the area, adjacent to the Conservation Area, including the overlapping eaves details of the front gable features.

The application site directly adjoins the boundary of the Arboretum Conservation Area. The proposed extensions at the application site are considered excessive and have the ability to impact and cause harm to the conservation area, and as such the site is considered to be within the setting of the conservation area

The Conservation Officer advises that from a building conservation/ historic environment point of view there are no grounds to object to the principle of the proposed scheme, however suggestions were provided for amendments to the design that could reduce the impact of the proposed scheme on the setting of the conservation area including reducing the overall massing and scale of the proposed extensions and consideration to the choice of materials and exterior finishes which could reduce the very heavy and solid appearance of the existing proposals.

This particular location and significance of the street scene follows rows of Victorian detached Gentleman's Villas which maintain much of their historic detailing with gaps in between dwellings. The main harm caused is to the aesthetic value, historic and evidential value with the loss of the visual gap in between dwellings, as well as the bulky appearance of the extensions which are overbearing and causes harm to the setting of character and appearance of the conservation area.

Consequently, it is considered that the proposed development as a result of its scale, position, visual bulk and design, fails to preserve and enhance the setting of the character and appearance of the Arboretum Conservation Area without any public benefits which outweigh this harm.

On balance and notwithstanding the amendments to the windows on the west side elevation, the proposal is considered fails to provide a high quality of design for the built environment, particularly adjacent to the Arboretum Conservation Area, and would harm the design of the existing house to the detriment of the local area and is recommended for refusal as it would not accord with the requirements of BCCS policies CSP4, ENV2 and ENV and saved UDP policies GP2 and ENV32, the SPD Designing Walsall Appendix D and the NPPF. Previous reasons 1 and 2 for refusal of this scheme have not been overcome.

Amenity of Nearby Residents

The rear elevations of 24, 26 and 32 Mellish Road face south. It is considered, this orientation would limit the impacts of this proposal on neighbours' existing light and amenity.

The proposed rear wing would be built alongside a similar extension to the rear of 24 Mellish Road. It is considered, this would not significantly worsen the existing amenity experienced by the occupiers of no. 24. The case officer called at both 24 and 32 Mellish Road and spoke to the occupiers' to clarify what rooms their nearest windows to the proposed development served.

24 Mellish Road first floor rear facing landing window near to the boundary with the application house, is considered to be a non-habitable room window. Current planning guidance protects the light and outlook for neighbours' habitable room windows only.

The 2.7 metres separation distance between the sole side facing bedroom windows (serving two separate rooms) in no. 24 and the two storey side elevation of the proposed extension, is considered would result in an unacceptable loss of light, outlook and amenity for occupiers of the bedrooms, due to the close proximity of this extension to the 24 Mellish Road. This was specifically one of the previous reasons for refusal of this scheme and no amendments have been made to the proposal to address this concern.

The amended design includes the addition of one dining room window which would face the existing blank two storey side elevation of the extension at 24 Mellish Road across a separation distance of 2.1 metres. The previously refused scheme included 3 habitable room windows in this elevation. The original garage window which would become a dining room window would now be bricked up and the previously proposed first floor bedroom window would now be replaced with a roof light. This would reduce the harm caused to amenity for the occupiers of the dwelling. The agent has indicated planting of some foliage in front of the retained dining room window to limit the impact caused to the amenity of occupants from this habitable room window facing a two storey brick elevation at a distance of 2.1m. Whilst this separation distance would not meet the requirements of the SPD Designing Walsall Appendix D for a separation distance of 13m between habitable room windows and two storey blank side elevations, when considered in conjunction with the fact that this room would also have a main window on the front elevation of the house and therefore the side window would not be the only outlook from this room, it is considered that the retention of this side window could be acceptable in this case. These amendments are considered would overcome previous reason no. 4 for refusal of the scheme. This proposed secondary side facing dining room window opposite the boundary with 24 Mellish Road could be conditioned to be obscurely glazed to protect residents' amenity.

The two side facing bathroom windows in 32 Mellish Road serve non-habitable rooms. The proposed two new first floor side facing, non-habitable en-suite windows opposite no. 32 could be conditioned to be obscurely glazed with opening lights 1.7 metres higher than the floor of the rooms they serve to protect residents' privacy.

The proposal would meet the aims of the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD in respect of front and rear facing habitable room windows in 24 and 32 Mellish Road. This advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook. The Council does not use a 15 degree angle when assessing planning applications.

The habitable room window to window separation distances between the proposed extensions and 39 Mellish Road, 24 Rushwood Close, 33 Rushwood Close and 17 Glen Close would exceed the Council's minimum recommended separation distance between facing habitable room windows of 24 metres, as referred to in Appendix D of Designing Walsall.

This proposal is considered would not be in full accordance with the amenity requirements of saved UDP policy GP2 and the SPD Designing Walsall Appendix D.

Protected Species

The site falls within an area likely to have presence of bats, particularly due to neighbouring lines of mature gardens. In this case, as the application proposes alterations to the roof, if bats are present in the house disturbance and destruction to their roost would occur.

Consequently, in accordance with NPPF 15 and Conserving Walsall's Natural Environment SPD, a bat survey report in support of this proposal was requested and was provided, with no birds or bats or evidence of bats being found in the building at the time of the survey. No further surveys were recommended. However, advice was provided to protect potential birds and bats that could be present in the future and conditions would be included to secure their protection in any approval.

The submission of this preliminary bat survey report overcomes previous reason no. 5 for refusal of this scheme.

Protected Trees

The nearest protected tree to any part of this proposal would have a separation distance of approximately 13.5m to the widest part of the crown. The Council's Tree Officers' have provided no adverse comments with regard to this proposal in relation to protected trees. It is considered that there would be insufficient arboricultural implications to warrant refusal of this proposal on these grounds.

Parking

In accordance with the requirements of saved UDP policy T13, an 11 bedroom house would require a minimum of 3 off-road parking spaces. This dwelling house has sufficient space to park in excess of 3 vehicles on the hard surfaced driveway which meets this requirement. The Local Highway Authority have expressed no concerns in relation to this proposal.

Conclusions and Reasons for Decision

Whilst the proposal is considered would benefit the applicant and their family by providing additional living accommodation, this would be a wholly private benefit, that would not be sufficient to outweigh the harm to the street scene, harm to the setting of the adjacent conservation area and neighbours' light and amenity to their sole bedroom windows that has been identified or the resultant development plan conflict. It is acknowledged that the revisions the applicant has made to windows in the west side elevation of the proposal and the submission of a preliminary bat survey overcome two of the five previous reasons for refusal of the scheme but do not overcome all of the concerns to be able to recommend an approval. Consequently, in this instance, the proposal is recommended to be refused

Positive and Proactive Working with the Applicant

Officers have reminded the applicant's agent on a number of occasions the previous reasons for refusal and advised that amendments would be required to overcome these reasons. In this instance, insufficient amendments have been provided to overcome all of the previous reasons for refusal and the local planning authority are unable to support the proposal.

Recommendation

Refuse Permission

Reasons for Refusal

1. The overuse of front elevation pitched gable features is considered would result in an over complicated and disproportionate design in an area of properties with simpler and more cohesive designs. The overlapping eaves details of the front gable features are design elements which appear clumsy, contributing to the detrimental appearance of the dwelling and character of the adjacent Conservation Area and street scene. The proposal would be contrary to the National Planning Policy Framework including paragraph no's 127 and 130, The Black Country Core Strategy policies CPS4, ENV2 and ENV3, Walsall's Unitary Development Plan, saved policies GP2 and ENV32 and the SPD Designing Walsall policy DW3.
2. The proposed scheme as a result of its scale, position, visual bulk and design fails to preserve and enhance the setting of the character and appearance of the Arboretum Conservation Area without any public benefits that outweigh this harm. The proposal would therefore be contrary to the NPPF, policy ENV2 of the Black Country Core Strategy, Walsall's Site Allocation Document policy EN5 and policy ENV32 of Walsall's saved Unitary Development Plan.
3. The limited separation distance between the side facing bedroom windows in no. 24 Mellish Road and the proposed two storey side extension elevation is considered would result in an unacceptable loss of light, outlook and amenity because of the close proximity of this proposal to the neighbouring house. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 127 and 130, The Black Country Core Strategy policies CSP4, ENV2 and ENV3, saved Unitary Development Plan policies GP2 and ENV32 and Appendix D of the SPD Designing Walsall.

Notes for Applicant

None