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6	61	08/1641/FL	77-81 COLLINGWOOD DRIVE, WALSALL, B43 7JW	Single storey rear extension and internal alterations to shop at 79-81, provision of 6 parking spaces to the rear, new pedestrian access to flat above 81 and new enclosed amenity space for flats above 77, 79 and 81.	Significant Community Interest
7	68	08/1526/AD	THE SUBSTATION, PARK LANE, WEDNESBURY, WEST MIDLANDS, WS10 9SE	Display of illuminated neon sign and non-illuminated fascia and projecting sign.	Part approve/refuse
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			B74 3ER	house.	
9	81	08/1410/FL	BREWERS FARM,BREWERS DRIVE, HEATH END, PELSALL, WALSALL,WS13 6LH	Retrospective: Change of use of part of Land off Brewers Drive, to park one Heavy Goods Vehicle (for personal use) for 45 hours per week, on Friday PM, Saturdays and Sundays.	Refuse, Enforce & Prosecute



ITEM NO: 1.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration and
Performance Directorate On 09 Dec
2008

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

Application Number: 08/1470/FL

Application Type: Full application

Applicant: Mr. Mike Brice

Proposal: Replacement Stan Ball Centre
and new office building to meet specialist
local service provision together with
demolition of 15 Abbots Street to create
widened access to the site.

Ward: Bloxwich East

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

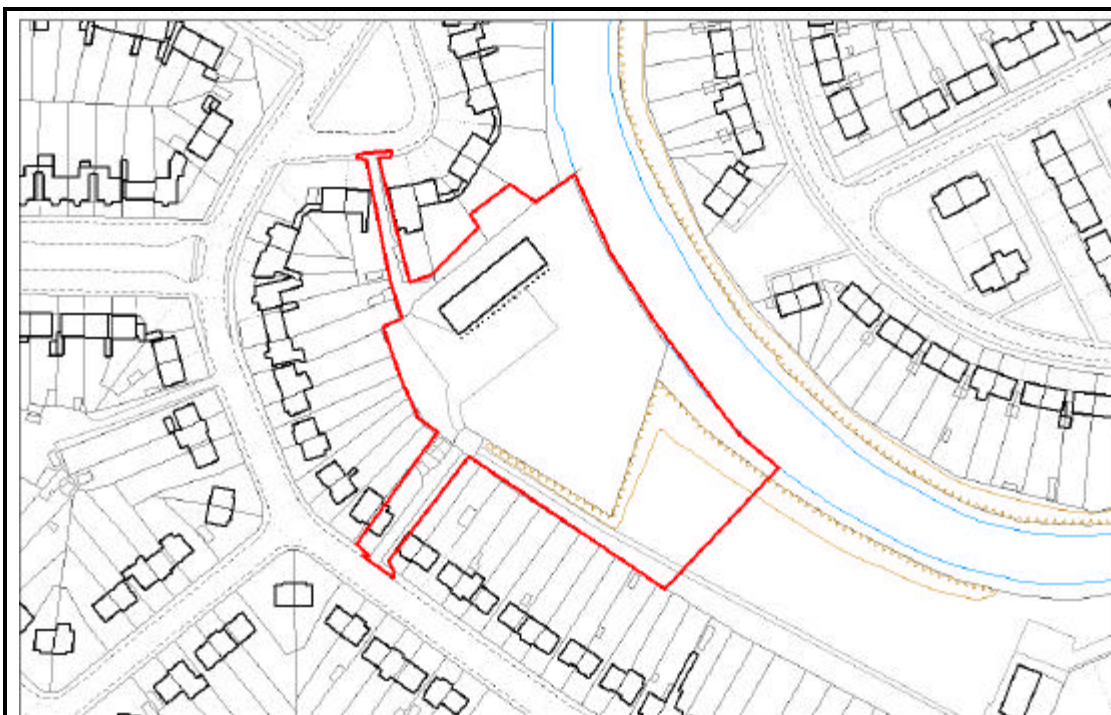
Case Officer: Alison Deakin

Telephone Number: 01922 652487

Agent: Mr. David Wilson Partnership

Location: THE STAN BALL
CENTRE, ABBOTTS
STREET, WALSALL, WS3 3BW

Expired: 10/12/2008



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Application and Site Details

The proposal is for the demolition of the existing single storey building and erection of a new single storey Stan Ball Elderly Persons Centre and a two storey building to provide office accommodation for Walsall Primary Care Trust (PCT). The existing building is 315m². The proposed Stan Ball Centre is 916m² and the PCT building is 1066m² creating a total proposed floor space of 1982m². The site area is 0.68 hectares.

The site has boundaries with the gardens of houses on Abbots Street, the Wyrley and Essington Canal and Green Rivers Community Centre. Apart from the existing building and car park area the site is largely grass or shrubs and mainly flat. Several sewers cross the site joining together where they go beneath the canal to pumping stations opposite.

The proposed Stan Ball Centre will provide a larger facility predominantly for the over 50's with some specialist day centre provision for people with health conditions and a Learning Disabilities project. The proposed PCT office building will provide community based health staff and administrative support (with no patients visiting or treatment taking place on the premises). The proposed buildings are located at the northern and southern ends of the site with a lawn between, a predominantly soft landscaped frontage to the canal and parking and service areas located to the west of the buildings. There are 68 parking spaces proposed including disabled spaces and mini-bus drop off point and cycle parking.

The proposed Stan Ball building is an irregular shape comprising two arms that project beyond the central section creating a sheltered outside seating area to the canal. The northern arm includes meeting/activity rooms, IT training room, office and reception areas, the southern arm comprises the multi purpose hall which has a taller roof. The central link section comprises a lounge, dining area and kitchen that opens onto an outside seating area adjacent the canal. The building is 38m in width, 43m in length and a maximum of 6.5m in height with a combination of mono-pitch and flat roof.

The proposed PCT building is also an irregular shape with maximum dimensions of 32 m long, 24m wide and 11m in height. It is designed around a central atrium with office and meeting room accommodation provided over two floors.

Both buildings are of modern design using a mix of materials including facing brick, cedar cladding, metal standing seam roofs and powder coated aluminium windows. Sustainability measures will also be considered, including insulation, natural ventilation, high efficiency boilers, under floor heating, rainwater recycling etc. Soakaways are proposed hence permeable surfacing is incorporated. The vehicle access and parking areas comprise a combination of tarmac and bound gravel.

At present vehicular access is via a driveway that runs between 78 and 80 Abbots Street with pedestrian access via a path that runs between 15 and 17 Abbots Street. The proposals include demolition of the semi-detached house 15 Abbots Street to create an improved vehicular and pedestrian access. This includes widening the access to 4.1m, incorporation of a 1.8m wide footway on one side and grass verges on both sides adjacent to the residential properties. This will also create an enlarged garden for 13 Abbots Street. Replacement boundary fencing is proposed for

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dwelling on either side of this widened access and a new boundary wall to the front garden of 13 Abbotts Street.

A one-way vehicular traffic system is proposed with the widened access point for entry and the existing driveway between 78 and 80 Abbotts Street as exit. Emergency vehicles are proposed to enter and exit the site via the widened access between 13 and 17 Abbotts Street. Works are proposed to amend the existing road alignment opposite the exit point to ease vehicular movements. Effectively the widened access between 13 and 17 Abbotts Street will be two way for emergency vehicles only and a system of signage will indicate this.

It is stated that there will be a total of 90 full-time and 20 part-time staff employed at the site compared to 2 full-time and 4 part-time at present. The proposed office hours are 08.30 – 18.00 Mondays to Fridays only and for the Stan Ball Centre proposed hours are 08.30-24.00 (midnight) Mondays to Saturdays and 08.30-18.00 Sundays.

Various letters and a petition with 39 signatories in support of the proposals have been submitted as part of the application from parties including Bloxwich Community Partnership (supported by Walsall Community College), New Deal 50 Plus Forum and Green Rivers Community Association.

Relevant Planning History

03/0374/FL/E5 – Extension of existing elderly citizen's centre and replacement of existing youth development centre – Granted Subject to conditions – 26/09/03. A joint project for replacement facilities for Stan Ball and Green Rivers sites.

06/0522/FL/E4 – Demolition of existing centre and construction of new, part two storey older peoples centre, including ancillary landscaping, car parking and crown bowling green – Granted subject to conditions – 21/07/06. A replacement two storey building for Stan Ball Centre only.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

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

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

GP4: Seeks to promote and encourage comprehensive local area regeneration.

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

ENV23 & ENV24: Development needs to demonstrate no adverse impact on species protected by European law and generally conserves natural elements, particularly on sites such as this next to a canal corridor.

3.16, GP7, ENV32 and 3.116: seeks to promote good design which takes into account the context of its surroundings and designing out crime' through design, layout, landscaping and boundary treatments.

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

ENV34: Encourages provision of public art.

ENV39: The Council will encourage proposals for the development of renewable energy resources and for efficient use of energy.

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

S1: Defines Class B1(a) offices as a town centre use.

S6: Out of centre development may be appropriate to meet specific local needs where certain criteria are met.

S7: Out of centre development of town centre uses must meet the following specific tests:

- demonstrate the need for the facility
- accord with the sequential approach, and demonstrate that there are no more centrally located sites, buildings or opportunities which could be used as an alternative
- demonstrate that it is unlikely to cause adverse economic impact upon the vitality and viability of existing Centres
- demonstrate that there will be no adverse economic impact on existing or planned provision to meet local needs
- offer genuine and realistic safe and easy access by public transport
- be designed or located so as to avoid being reliant primarily on access by car
- demonstrate that there will be no adverse traffic impacts on the local highway network
- be shown to not be in conflict with policies for the protection of employment land

7.1: Seeks to promote an efficient highway network;

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

T10, T11, T12: Promote access by means other than the car, including by public transport to serve the development's catchment area and to enable facilities to be convenient for all sections of the community.

8.1: Seeks to safeguard, improve and expand facilities for entertainment and culture, canals and waterways, sport and recreation and education, health and community activities.

8.5: Seeks to protect, enhance and expand facilities for sport and recreation, both formal and informal.

8.6: Seeks to enhance navigation, recreation, nature conservation, heritage and environmental value of the waterway network.

8.7: Enhancement of existing and provision of new facilities for education, health and other community needs will be encouraged.

8.8 Seeks to encourage community facilities which are accessible to all sections of the community.

LC1: Seeks to retain and enhance existing urban open spaces.

LC8: Loss of local community facilities will only be permitted where a replacement facility could be provided in an equally convenient location.

LC9: Encourage provision of environmental improvements to enhance the attractiveness and recreational potential of the canal network.

Supplementary Planning Document (SPD)

Designing Walsall SPD

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

Natural Environment SPD

NE1 and NE4: all relevant applications to be supported by an adequate impact assessment.
N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.
Protection is proposed for protected animals, plants etc.

Local Development Framework (LDF)

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not yet formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration, although one that can be afforded only limited weight at present. The timescale for submission to the Secretary of State is presently under review following recent changes to the regulations and in the context of the current Phase 2 Revision to the Regional Spatial Strategy. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

Regional Spatial Strategy for the West Midlands (RSS)

Promotes sustainable regeneration of previously developed land, a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

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

Policy CC1 on 'Climate Change' requires new developments to take a variety of measures, including to make efficient use of resources, encourage sustainable construction to respond to climate change, promote sustainable drainage, promote walking, cycling and public transport, facilitate effective waste management and protect and enhance the environment.

National Policy

PPS1: Promotes sustainable and inclusive patterns of urban and rural development. A supplementary emphasis is on the importance the Government places on responding to climate change.

PPS6: Promotes the redevelopment of town centre uses, including offices, in existing centres, with proposals outside of centres to be subject to requirements to satisfy a number of tests, including in terms of need, the sequential approach, impact and accessibility.

PPS9: Seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology and contribute to rural renewal and urban renaissance.

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

PPG17: Open spaces, sports and recreation all underpin people's quality of life and local authorities should seek opportunities to improve the value of existing facilities.

Consultations

Transportation – No objections subject to conditions relating to car parking layout, access, cycle facilities and travel planning. An Autotrack drawing that demonstrates a swept path and turning circle for a 3-axle, 9.3m refuse vehicle at both refuse collection points within site and at the entrance to the site is required. Revisions to the disabled parking provision are also required and details of secure covered and illuminated cycle storage provision. The applicant has been advised of these requirements and amended plans are expected. Revisions will be reported in Supplementary Papers.

The access works shown on drawing 713-017D should be completed prior to commencement of the building works on site and all car parking areas implemented prior to first occupation of the buildings and necessary signage displayed.

The Green Travel Plan should be reviewed within six months of occupation of the buildings and refined measures implemented and monitored throughout the life of the development. The proposed development would require a total of 78 spaces. The applicant looks to provide 68 spaces which is below standard, however the deficiency in the car parking level can be addressed by the Travel Plan whereby measures to reduce trips by car will be implemented therefore the car parking level acceptable.

Pollution Control (Scientific Team) – No objections to this proposal subject to conditions to address issues arising during demolition/construction.

Pollution Control (Contaminated Land) – No objections. Recommend conditions to ensure implementation of works to investigate and remediate any localised ground contamination and ground gas issues associated with the site.

Environmental Health – No objections.

Landscape and Ecology – Recommend any decision be deferred until the following matters are resolved: -

This site is within a wildlife corridor and also partially within the Wyrley and Essington Canal Site of Local Importance for Nature Conservation. The development

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proposes buildings and car parking on a presently open part of the site but a revised layout has been negotiated that secures some landscape and ecological benefits.

The application requires an ecological impact assessment before the application is determined. A joint ecological survey has been carried out for this site and the adjacent Green Rivers Community Centre site. However, this would need to be enhanced by further water vole and bat survey work. The partial ecological report also recommends retention and management of the existing grasslands. Practical treatments to enhance the site should also be incorporated into the landscape scheme to include an assessment of soils and realistic proposals for habitat creation and management. This information has been requested and further comments will be reported in Supplementary Papers.

There is currently scrub and tree cover on parts of the site not mentioned in the tree report. This vegetation is important for wildlife and needs to be retained in the site layout and design.

A revised and improved landscape scheme has been submitted. However, no detail has been provided on the management of existing vegetation for wildlife and many of the ornamental shrubs proposed have little or no value for wildlife. Given the large reduction in the amount of green space within the development if this application is approved, it is imperative that the landscape scheme has a strong ecological dimension.

Arboricultural Officer – No objections in principle subject to a condition requiring implementation of the recommendations and guidelines detailed in the arboricultural report and tree protection plan.

Strategic Policy – The principle of the community use has been established by the recent planning permission. The proposed offices appear to fall within Class B1(a) and as such are directed towards existing centres by national, regional and local policy. Proposals for an out of centre location are required to satisfy several tests, and in this case:

- It can be accepted there is a need for office accommodation to support the provision of improved local health care.
- Whilst the submission seeks to justify the offices as serving a local need, the scale of provision is such it appears intended to serve a large area of Bloxwich and to draw staff from a wide area.
- The applicant has stated it is not necessary to look at accommodating the offices within a centre on the basis the development would serve a local need and would therefore be justified in terms of UDP Policy S6. However, the scale of the proposal indicates the service could be provided by locating the offices in the centres that serve the area, particularly Bloxwich and Blakenall. On the other hand, if it is intended the offices would be used by staff who would visit local residents, there would be a need to provide for cars and this might not be so appropriate within a centre.
- On the basis the development would be to serve the particular needs of the Bloxwich area there should not be an adverse impact on office investment in existing centres.

- One bus service (314) runs along Abbot Street at approximately 15 minute intervals throughout the day. This provides reasonable accessibility within the Walsall-Bloxwich area, but is unlikely to serve the whole area from which staff would be drawn. Other buses along Ingram Road are just beyond the 400m walking distance set in UDP Policy T12. Whilst planning policy seeks to avoid reliance on access by car it should be recognised staff that make visits would require the ability to use a car.

On balance, it is considered the proposed offices do not entirely satisfy the tests set out in planning policy and support for the application would be a departure from the development plan. However, this conclusion will have to be weighed against the contribution the development would make to the provision of the approved community facilities.

Consideration should be given to the need to secure sustainable construction measures (beyond those required through Building Regulations) referred to in the submission.

Urban Design – No objections in principle subject to requirement for provision of public art in compliance with policy DW9 of the SPD: Designing Walsall.

Building Control – No objections. Recommend a note for applicant regarding demolition work.

Access & Disability Officer – No objections in principle. Comments are made regarding requirements for the provision of facilities to ensure compliance with the Disability Discrimination Act which have been forwarded to the applicant for consideration.

Drainage – No objections in principle, however there are several Severn Trent Water sewers crossing the site and their views should be sought.

Public Lighting – No objections. The locations of the lighting are shown on the site map but there are no calculations or details to support. A condition is recommended to require details of the same.

Fire Service – No objections. Proposals are satisfactory provided a fire hydrant is provided within 90m of any entry point into the buildings. The applicant has been advised of this requirements and additional matters will be reported in Supplementary Papers.

Sport England – There are no existing facilities for sport at the site. It is disappointing that the opportunity to provide a bowling facility, for which there appears to be a demand, has been overlooked in this application. It may be the intention to consider introducing bowling to the grass area in the future. However, the current 'grass area' may not be appropriately sized or formed to accommodate bowling, which is dictated by the type of bowling undertaken. Sport England is generally supportive of proposals for the development of new sports facilities recognising the benefits these may have to the health and wellbeing of the community. It is noted that the new community centre would include provision for short mat bowls and this is welcomed.

Environment Agency – No objections subject to condition to deal with contamination.

British Waterways – No objections subject to of conditions. The design and layout creates points of interaction with and surveillance of the waterway and relates positively to it. Proposals for disabled canal fishing are welcomed. The installation of lighting bollards rather than lighting columns is less likely to result in glare and light pollution affecting the canal corridor and is welcomed. Native species should be incorporated into new planting to enhance biodiversity and no trees should be within 5m of the canal due to potential impact upon the integrity of the canal infrastructure. Full details of boundary treatments adjacent the canal is required including bank protection measures. The developer should liaise with British Waterways to ensure any works affecting the canal are carried out in accordance with relevant legislation.

Inland Waterways Association – No objections. The new proposals are to a more traditional brick design of attractive appearance and with appropriate landscaping to the canal frontage.

Natural England – No objections in respect of legally protected species as they will not be adversely affected by the proposals.

Public Participation Responses

Three objections received relating to the following: -

- Worthwhile objective on the whole
- No consideration given to neighbours at 1, 3, 5 Abbots Street relating to the height of proposed boundary fencing which is only 6 feet (1.8m)
- Loss of privacy from overlooking from the car park given ground level changes
- A fence 10 feet (3m) high is required
- Highway safety at the entrance/exit to the site due to the bend in the road
- Increased traffic and parking congestion in Abbots Street

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

Determining Issues

- Principle of Development
- Design and Layout of the Site
- Appearance of the Buildings
- Impact on Neighbouring Amenities
- Access & Parking
- Landscaping & Ecological Matters
- Public Art

Observations

Principle of Development

The principle of developing a new elderly persons' centre was established in granting permission 06/0522/FL/E4. The earlier permission was solely for a new build Stan

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Ball Centre and did not include the PCT offices. However, the applicant states the projected revenues from the new centre at that time would not be sufficient to sustain it hence the current proposals now include PCT offices to provide revenue for the long term viability of the Stan Ball Centre.

The proposed PCT offices fall within class B1(a) defined as a town centre use in UDP policy S1 and should ideally be located in a town or district centre. However, policy S6 does allow consideration of such uses away from established centres where they are appropriate to meet specific local needs. The applicant states that the offices will provide community based health staff and administration offices for the PCT as a base for workers to be close to the community they serve. This will include additional GP services, Mental Health staff, community matrons, children's services and health trainers plus supporting staff.

The scale of the proposals, however, indicate the services would be for a wide area, which might be served from an existing centre such as Bloxwich. On this basis the proposal would have to be considered against the criteria in policy S7, for when town centres uses are proposed outside of any existing centre. In terms of the policy tests the applicant has established there is a need for the development in terms of providing improved health and related services to the local community and it is not considered office investment of the kind proposed would have an adverse impact on existing centres. However, locations in existing centres have not been considered and the offices are not likely to be accessible by a choice of means of transport for all of the staff involved (although the proposed travel plan should help in this respect). Whilst it is recognised some staff will be likely to use cars for visits and it might not be appropriate to make provision in an existing centre, this has not been demonstrated and, on balance the application is considered to be a departure from the locational policies of the development plan.

In this case, however, such conflict with policy needs to be weighed against the support the office development would give to providing the approved community facility. Taking this into account, the overall scheme can be justified.

Design and Layout of the Site

The proposed buildings are arranged around a central lawn area and positioned in such a manner as to create a frontage to the canal. The Stan Ball Centre entrance is clearly defined at the head of the access with parking and circulation space provided immediately in front of the buildings. Although the buildings occupy a greater part of the site than the existing buildings and earlier permission they are arranged in such a manner as to retain adequate separation to surrounding residential properties, maintain open areas and provide supplementary planting. Improvements have also been achieved to the access that will provide a more inviting entrance onto the site and the proposals are acceptable.

Appearance of the Buildings

The proposed buildings have a modern design with angled walls and individual design elements and roof shapes that will help reduce the massing of each. Although the PCT building is two storeys the different design elements and use of a mix of external facing materials help further reduce the scale and massing and assimilate the development within the surrounding canal side context. The modern design of the buildings also reflects the modern design of the new building recently

granted permission for the adjacent Green Rivers site and the scheme should be supported.

Impact on Neighbouring Amenities

The siting of the proposed Stan Ball building achieves at least 21m between facing elevations of the nearest surrounding properties. Given that this building is single storey only and the perimeter of the site will be enhanced with landscaping it will not be unduly prominent or cause loss of privacy or overshadowing.

The proposed PCT building has an acceptable relationship with adjacent development. It achieves in excess of 30m separation to the nearest dwellings which in some instances are on the opposite side of the canal.

The introduction of a vehicular access between 13 and 17 Abbots Street was established in granting the earlier permission as was the introduction of parking areas at the rear of neighbouring gardens. The current proposals seek to widen the access, establish a wider separation to surrounding gardens and introduce additional planting around the perimeter of the car park that will improve the relationship between these areas. A neighbour has objected that the height of the proposed new fencing at 1.8m is insufficient to provide adequate privacy given that the application site and adjacent gardens are on a similar ground level. Also the height of the fencing is an average height for garden boundary fencing and given that the site will be more secure as a result of the proposals and the separation between buildings referred to above, the proposed fence height is acceptable. Taller fencing suggested by the objector would also be more obtrusive to neighbouring gardens. In the circumstances the proposed fencing is considered acceptable.

Access & Parking

The one-way circulation system was established in granting the earlier permission. The current proposals seek to improve the entrance to the site by demolishing a dwelling to create a wider access and incorporating a segregated pedestrian path alongside with grass verges and secure fencing to the adjoining neighbours. This will improve access to the site. The proposals also include widening the highway at the exit from the site to improve vehicle manoeuvring and thereby improve highway safety. These works are recommended to be conditioned. The Transportation officer is satisfied these measures are acceptable and there is no reason to assume that the use of the access will create a danger to highway safety as suggested by third parties.

The applicant has been requested to provide an autotrack drawing to demonstrate access by the Council's larger Waste Management vehicles. This is to be provided and further comments will be reported in supplementary papers. It is likely that revisions to the layout would be able to achieve a satisfactory access.

The parking provision at the site would not meet the maximum standards set out in policy T13. However, the deficiency in the car parking level can be addressed by the Green Travel Plan whereby measures to reduce trips by car will be implemented. Also there is the opportunity to provide cycle storage throughout the site which will encourage alternative means of travel. In addition, the Stan Ball Centre is essentially to provide facilities for the elderly and some visitors may be dropped off by community transport reducing reliance on the private car. As parking is unallocated throughout the site at times when the Stan Ball Centre is open during the evening

this is at a time when the offices will be closed. The reduced parking level is therefore acceptable and should not lead to overspill parking and congestion on Abbots Street.

Landscaping & Ecological Matters

Revised plans have been submitted providing a greater amount of soft landscaping along the canal edge and throughout the site and introducing more native plant species. The revised layout secures some landscape and ecological benefits.

However, it is recommended that further work to clarify the results of the water vole and bat survey is carried out prior to any decision being made on the proposals as this should inform the design. The partial ecological report submitted so far recommends retention and management of the existing grasslands and proposals incorporated into the landscape scheme to ensure habitat creation and management.

A revised and improved landscape scheme has been submitted but further details are required to ensure that the landscape scheme has a strong ecological dimension. It is recommended that these details are submitted prior to any decision being made to provide for improved wildlife habitats and help mitigate against potential adverse impact the buildings have upon the wildlife corridor and conditions imposed accordingly to ensure implementation, management and maintenance.

Public Art

Policy DW9 of Designing Walsall SPD builds on policy ENV34 of the UDP and requires provision of public art for qualifying development, including where non-residential floor space 1,000m² and above is proposed. There is scope throughout the site to introduce public art in accordance with the policy therefore a condition is recommended to preclude commencement of any development on site until such a scheme for public art has been submitted and approved. This will address policy DW9 without the need for any S106 Planning Obligation.

Summary of Reasons for Granting Planning Permission

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

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

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

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

- Site Location (drwg. no. 713-019E) received 10/09/08
- Site Layout (drwg. no. 713-05N) received 17/10/08
- Site Access & Temporary Works (drwg. no. 713-115) received 17/10/08
- Proposed Site Access (drwg. no. 713-017D) received 10/09/08
- Proposed Floor Plan – Stan Ball Centre (drwg. no. 713-006D) received 10/09/08

- Proposed Elevations- Stan Ball Centre (drwg. no. 713-007D) received 10/09/08
- Proposed Floor Plans – PCT Building (drwg. no. 713-008D) received 10/09/08
- Proposed Elevations – PCT Building (drwg. no. 713-010D) received 10/09/08
- Levels (drwg. no. 713-022) received 10/09/08
- Existing Layout 15 Abbotts Street (drwg. no. 713/100) received 10/09/08
- Proposed Layout 15 Abbotts Street (drwg. no. 713/101) received 10/09/08
- Planting (drwg. no. 713-014G) received 17/10/08
- Canal Edge Detail (drwg. no. 713-018A) received 10/09/08
- Fencing & Cycle Stand Details (drwg. no. 713-015) received 10/09/08
- Proposed Landscape Sections (drwg. no. 713-13A) received 10/09/08
- Landscape Details (drwg. no. 713-16) received 10/09/08
- Site Survey/Existing Service Runs (drwg. no. 713-012A) received 10/09/08
- Report on Ground Conditions prepared by A Brian Hawkins dated August 2008 received 10/09/08
- Report on Ground Conditions prepared by A Brian Hawkins dated February 2006 received 21/10/08
- Arboricultural Report prepared by Midland Forestry Ltd dated 18 April 2007 received 10/09/08
- Design & Access Statement prepared by David Wilson Partnership dated August 2008 received 10/09/08
- Ecological Scoping Survey and Survey of Buildings for Bats prepared by Apex Ecology dated August 2008 received 10/09/08

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

3. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: In the interests of the amenity of the surrounding residents of the proposed development.

4. No ground fires shall be permitted on the development site for the purposes of waste disposal.

Reason: In the interests of the amenity of the surrounding residents of the proposed development.

5. Prior to development commencing a site investigation and ground contamination survey, having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken. A copy of the findings of the site investigation, ground contamination survey, together with an assessment of the

hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority as soon as they become available.

Reason: In order to ensure the satisfactory development of the site.

6. Prior to development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: In order to ensure the satisfactory development of the site.

7. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

Reason: In order to ensure the satisfactory development of the site.

8. The approved tree protection measures detailed in the Arboricultural Impact Assessment by Midland Forestry Ltd dated 18 April 2007 shall be fully implemented prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2005.

Reason: To safeguard the retained trees on the site.

9. During site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.

Reason: To safeguard the retained trees on the site.

10. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

Reason: To safeguard the retained trees on the site.

11. Prior to the commencement of the development details of the excavations and foundations of the proposed buildings shall be submitted to and agreed in writing by the Local Planning Authority. The proposed development shall then be implemented in accordance with the agreed details unless the Local Planning Authority agrees in writing to any variation.

Reason: To ensure the satisfactory development of the site and protect the integrity of the waterway infrastructure.

12. Notwithstanding the submitted plans details of the proposed detail to the canal edge and foundations shall be submitted to and agreed in writing by the Local Planning Authority. The proposed development shall then be implemented and retained in accordance with the agreed details unless the Local Planning Authority agrees in writing to any variation.

Reason: To ensure the satisfactory development of the site and protect the integrity of the waterway infrastructure and protect users of the towpath.

13. Notwithstanding the submitted plans details of the proposed bank protection measures including edging and foundations shall be submitted to and agreed in writing by the Local Planning Authority. The proposed development shall then be implemented in accordance with the agreed details unless the Local Planning Authority agrees in writing to any variation.

Reason: To ensure the satisfactory development of the site and protect the integrity of the waterway infrastructure.

14. Prior to the commencement of the development details of means of surface water run-off and ground water shall be submitted to and agreed in writing by the Local Planning Authority. The development shall then be implemented and maintained in accordance with the agreed details throughout the life of the development unless the Local Planning Authority agrees in writing to any variation.

Reason: To prevent potential for contamination of the waterway and ground water.

15. A revised plan shall be submitted for approval by the Local Planning Authority showing a revised Autotrack demonstrating the swept path and turning analysis for a 3-axle, 9.3m refuse vehicle at both refuse collection points within site and at the entrance to the site, unless the alternative type of refuse vehicle shown on the submitted plan 713-05N is acceptable to Walsall Waste Management.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety.

16. A revised plan shall be submitted for approval by the Local Planning Authority showing the deletion of disabled car parking bay no. 12D (which impacts on the reversing aisle to car parking bays 10 and 11) and the conversion of a standard bay to a disabled bay to compensate for the loss of the deleted bay.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety.

17. A revised plan shall be submitted for approval by the Local Planning Authority showing all cycle stands covered, secure and illuminated.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety.

The development shall then be implemented and maintained in accordance with the agreed details unless the Local Planning Authority agrees in writing to any variation.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety.

18. Prior to the commencement of any building works, the construction of the access roads including the minor improvements to the highway shown on drawing number 713-017D shall be substantially completed in to order to allow satisfactory access/egress by site operative traffic.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety.

19. Prior to the proposed development coming into use the car parking areas shown on the approved plan shall be fully consolidated surfaced and drained and all car parking bays shall be clearly demarcated on the ground and thereafter retained for that purpose.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety.

20. All works within the public highway shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety.

21. The draft Green Travel Plan submitted as part of the Design and Access Statement shall be reviewed within six months of the date of this approval and the potential travel initiatives shall thereafter be implemented in accordance with the Plan. At six months of occupation of the development the staff shall be surveyed and a review of the Plan shall be submitted to, and agreed in writing by the Local Planning Authority, in accordance the approved plan. This will identify any refinements and clarifications deemed necessary to the plan. The approved revised plan shall thereafter be implemented and monitored on an annual basis, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory development of the site and ensure provision of sustainable travel alternatives.

22. Suitable signs to indicate the one way access arrangement for staff and visitors and the two way access for service vehicles shall be clearly displayed to the satisfaction of the Local Planning Authority.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety.

23. No materials, goods or refuse shall be stored or deposited in the open on any

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part of the site other than refuse in a refuse container which shall be positioned to avoid interference with car parking spaces and vehicle manoeuvring on the site.

Reason: To ensure the satisfactory appearance of the development

24. No amplification equipment shall be installed at the premises unless sound proofing has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority, such works shall be implemented before the premises are brought into use.

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

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

Reason: To safeguard the amenity of the area.

26. The Stan Ball Centre premises shall not be open outside the hours of 09.00 and 24.00 hours Mondays to Saturdays and between 09.00 and 18.00 hours on Sundays. The office premises shall not be open outside the hours of 08.30 and 18.00 on Mondays to Fridays only.

Reason: To safeguard the amenity of the area.

27. No built development shall commence on site until details of a landscaping scheme to include the species and size of replacement tree planting are submitted to and approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the area and mitigate for the loss of trees on the site.

28. No external lighting shall be installed on the site without the prior approval in writing of the Local Planning Authority.

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

29. No development shall be carried out unless and until arrangements have been made for the satisfactory drainage of the site, such arrangements to have been previously approved in writing by the local planning authority.

Reason: To ensure that the site can be satisfactorily drained.

30. Notwithstanding the notation on the deposited plans no development shall be carried out until samples of the facing materials to be used have been approved in

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writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

31. No development shall commence until details of a scheme for the provision of public art, to meet the needs of the development in accordance with Unitary Development Plan policies GP3 and ENV34 and Policy DW9 of the Designing Walsall Supplementary Planning Document, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for the provision to be made and shall then be carried out in accordance with the approved details.

Reason: To ensure the appropriate level of infrastructure is secured to meet policy in Supplementary Planning Document Designing Walsall.

32. The offices hereby approved shall be used only for the purposes of providing offices to meet specialist local service provision in the vicinity of the application site and for no other purpose.

Reason: To retain effective control over the occupation of Class B1(a) offices in this out of centre location to ensure compliance with policies S6 and S7 of the Unitary Development Plan.

Note to applicant in respect of condition 3

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

Note for applicant in respect of condition 5

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

Note for applicant in respect of condition 6

When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model 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.*

Note to applicant in respect of condition 8

Guidance on this matter can be found within our report CLR11 '*Model Procedures for the Management of Land Contamination*' and our R&D publication '*Remedial Targets Methodology- Hydrogeological Risk Assessment for Land Contamination, 2006*'.

The Applicant should be advised that the Planning and Policy Statement 23 (Planning and Pollution Control, 2004), states that it remains the responsibility of landowner and developer to identify land affected by contamination, and to ensure that remediation is undertaken to secure a safe development.

Additionally, PPS23 requires that land, after development, is not capable of being determined as contaminated land under Part IIA of the EPA 1990 and that all unacceptable risks have been addressed. With respect to these requirements it is the developer/landowner's obligation and liability to undertake further site investigation/risk assessment/remedial activity to address any shortfalls that are required to provide a confident site assessment.

Finally, in order for the Agency to monitor its effectiveness in influencing the determination of planning applications, a copy of the decision notice (including conditions) for this application would be appreciated.

Note for Applicant

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

Note for applicant

The applicant/developer is advised to contact British Waterways, Mr Des Harris, Senior Third Party Works Engineer on 01827 252038 in order to ensure that any necessary consents are obtained and that the works comply with British Waterways' "Code of Practice for Works affecting British Waterways".

British Waterways offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal wall at this location and that future maintenance responsibilities have been agreed.

The applicant is advised that an agreement with British Waterways would be required for the discharge of water into the canal.

The applicant is advised that an agreement with British Waterways would be required for the use of the canal for heat exchange.

The applicant is advised that an agreement with British Waterways may be required for the use of the canal for fishing.

Note for Applicant

Granting of Planning Permission does not absolve the developer from complying with the relevant law, including obtaining and complying with the terms and conditions of any licenses required as described in Article IV B of the Circular 06/2005.



ITEM NO: 2.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration and
Performance Directorate On 09 Dec
2008

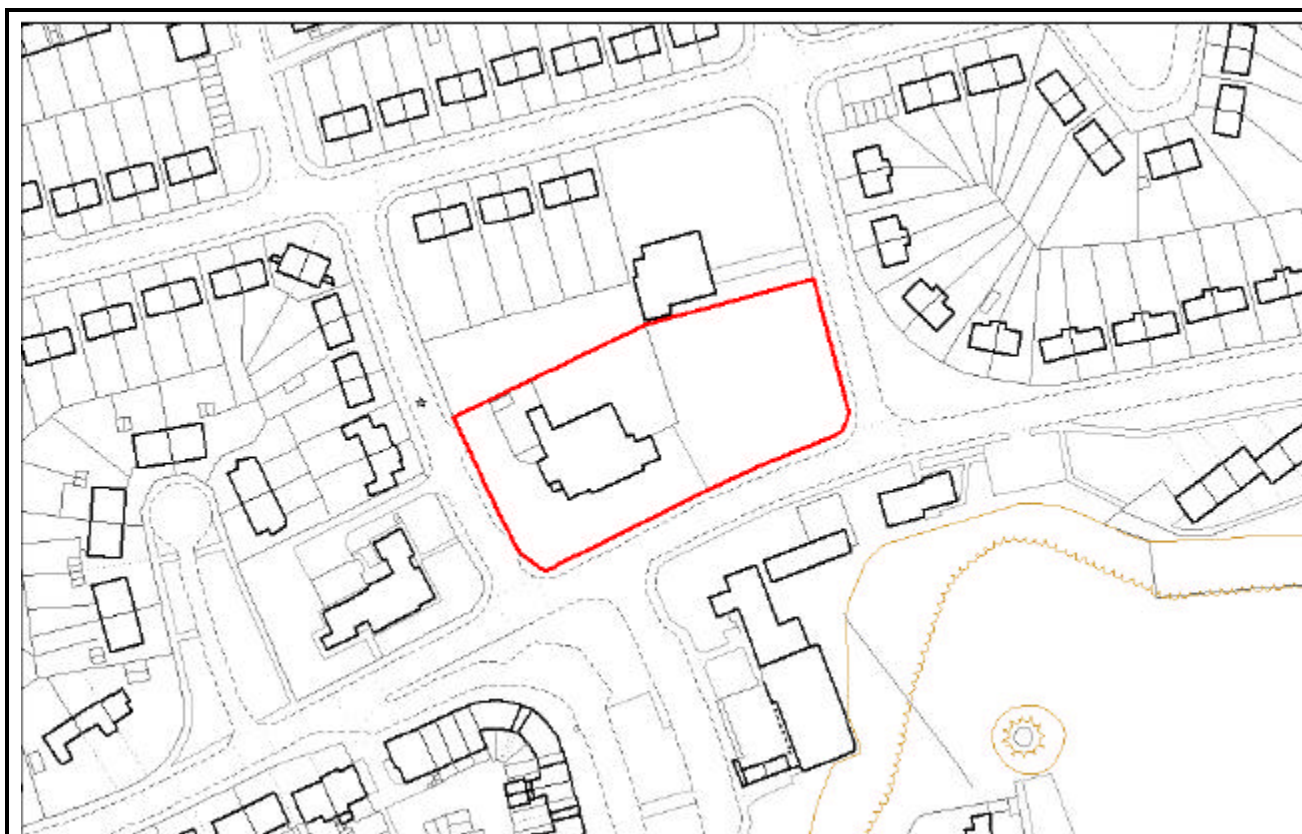
REASON FOR BRINGING TO COMMITTEE: Major development

Application Number: 08/1654/FL
Application Type: Full application
Applicant: Concept Development
Solutions Ltd
Proposal: Erection of 60 flats for elderly
persons and 5 family houses

Ward: Bentley & Darlaston North
Recommendation Summary: Refuse

Case Officer: Val Osborn
Telephone Number: 01922 652436
Agent: Mr John Jones

Location: LAND ADJ. THE OLD
HALL PH, CHURCHILL
ROAD, WALSALL, WS2 0HR
Expired: 21/01/2009



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Application and Site Details

The application proposes 60 flats in an L shaped block facing Churchill Road and Princess Anne Road, and 5 houses facing Everest Road. Vehicular access to the parking courtyard at the rear for houses and flats would be off Everest Road.

The houses, (4 2-bed and 1 4-bed), would be 2m from back of footpath with front entrances on Everest Road and two storey contemporary designs with a pitch roof . One parking space would be provided within the 69 sq m rear garden space of 3 houses and within 87 sq m and 147 sq m rear gardens of the fourth and fifth houses.

The proposed 4 storey block of single aspect flats would be 1.6m from back of footpath on the corner of Churchill Road and Princess Anne Road. A 4m wide verge and pathway front Churchill Road. The main entrance to the block would be off-set from the street corner, recessed behind the 4 storey corner tower. There are 2 roof gardens on the fourth floor, one at the eastern end and a larger area overlooking Princess Anne Road.

Elevations to Princess Anne Road would be 4 storey, with a corner communal room linking to roof garden.

Secondary entrances at the ends of the L shape would be off Princess Anne Road and Churchill Road. The scheme would provide 6 parking spaces for the 5 houses (120%) and 36 spaces for 60 flats (60%). The scheme would be at 162.5 dwellings per hectare.

3 houses would be provided with garden of 69 sq.m which also provide a parking space (approx. 10 sq m). Garden spaces would therefore be 59 sq m.

The site was occupied by the Old Hall public house. There are mature trees, along the boundary.

Opposite on Churchill Road is the site of the former Bentley library and the two and three storey buildings of Bentley local centre shops, (flats above). Queen Elizabeth Avenue, with its wide tree lined landscape, and the ancient monument site of Bentley Hall, are also opposite the site.

Two storey semi-detached houses with substantial front gardens, are characteristic of Everest Road and Princess Anne Road. To the north of the site is vacant land owned by the Church authorities and a church building with car park beyond.

The proposal would provide for 60 Category 1 active elderly scheme and 5 houses, delivered in partnership with Walsall Housing Group. The applicant's Design and Access statement describes aspects to the proposal. It is intended that the units would be to a lifetime homes standard, managed by Walsall Housing Group in perpetuity and not for sale. With a range of passive adaptations the units would make living conditions better for older people. The scheme is intended to be complementary to extra care provision being provided by Walsall Council/Housing 21. The applicant envisages that residents will be 55+ age and, because of design, will be able to live in them longer, releasing under occupied housing that no longer suits personal circumstances.

Relevant Planning History

Adjacent site - 07/1494/FL.W6 - former Bentley clinic, two and three storey flats and houses, approved 1 November 2007 . (construction underway).

Relevant Planning Policy Summary

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

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

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

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

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

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

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

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

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

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

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

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

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

7.1: Seeks to promote an efficient highway network;

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

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

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

Flats with communal parking - 1.5 spaces per unit.

LC1: seeks to retain and enhance existing urban open spaces and readdress any deficiencies in the provision or accessibility of these. Residential developments will

be required to make financial or other contributions, which will enable the provision of new, or the improvement of existing urban open spaces.

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

Local Development Framework (LDF)

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in October/November 2008 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

Supplementary Planning Documents (SPD)

Designing Walsall SPD

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

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

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

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

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Natural Environment SPD

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

Protection is proposed for protected animals, plants etc.

Urban Open Space SPD

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

Healthcare SPD

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

Education SPD

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

Affordable Housing SPD

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

Regional Spatial Strategy for the West Midlands (RSS 11)

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

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

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

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

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include: Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

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

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

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

National Policy

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

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

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

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

Consultations

Transportation – Objections to the current proposal relating to parking, disabled parking and waste management access:

-There is insufficient parking to serve the proposed development. The UDP parking standard for 60 apartments $60 \times 1.5 = 90$ spaces. The applicant looks to provide 28 spaces, to serve the residents, with 9 visitor spaces, having a total parking provision of 37 spaces. The applicant states the development will serve affordable housing and the elderly, although it has not been demonstrated how the under provision is justified or will be controlled in the future. There do not appear to be any measures incorporated within the scheme to suggest the development has been designed with elderly in mind.

-There are highway concerns for pedestrian safety in creating a continuous 24m drop crossing close to a district centre, where pedestrian visibility may be restricted by parked vehicles.

-The auto track overlay does not show how a refuse vehicle can enter or leave the site. The auto track drawing demonstrating movements within the site, but does not conform to that of a Walsall Council Refuse vehicle,

-The UDP parking standard for disabled parking is 10% of the total parking provision. The applicant is providing two spaces which is an under provision of 50% on the development.

Highways have concerns over the under provision of parking and the possible displacement of vehicles, around the site. This could lead to indiscriminate parking within the site, and compromise safe movement of residents, and obstruct the waste vehicle from refuse collection manoeuvres.

Natural Environment, Arboricultural Officer – Objection. There appears to be an unsympathetic balance of tree removal, retention and replacement. The proposal would remove the vast majority of the amenity value that the existing trees provide with little scope for replanting to account for future amenity.

1. The tree information supplied with the application has been difficult to interpret due to various factors including discrepancies between my interpretation of retention categories and the surveyors.

2. The application will result in the loss of 18 trees, out of 22 trees on site, which equates to the removal of approx. 80% of the tree cover on site. There are also 5 trees outside the site which contribute to the amenity of Line 1 and the proposal has not assessed this aspect in landscape terms

3. T12 Poplar is marked for retention on plan D100 Rev G, with the proposed parking spaces being constructed around it. However the construction of hard standing this close to a substantial tree would be considered unacceptable and will undoubtedly be severely detrimental to the health, condition and long-term stability of the tree and result in its removal.

4. T11 Sycamore is indicated for retention with car parking proposed around its base at a distance of 1.2m from the base of the tree. There is no realistic chance that this tree can be retained as indicated on drawing D100 Rev G unless the car parking spaces are constructed at a greater distance (min. 4m).

5. There are 7 semi mature Lime trees around the east and south sides of the site, all of which are proposed for removal. All of these trees provide a good level of amenity to the area and their retention would be desirable. However, the removal of the 4 trees with structural issues would be considered acceptable subject to replacement planting in suitable high amenity areas.

6. Although replacement planting is shown on the south and north boundaries, they are planted in 2 small groups with no individual merit. The group on the south boundary would be under pressure for removal due to shading issues.

7. The proposal does not indicate sufficient space for replacement planting of any kind.

Natural Environment , Landscape –

Pollution Control (Scientific Team) – no objections to this proposal in principle. However issues arise owing to the proximity of the development to Churchill Road and conditions to secure suitable noise mitigation measures are recommended.

Pollution Control (Contaminated Land) - The Geo-Environmental Site Assessment (300176-1(00) contains a number of recommendations to the applicant regarding

remediation measures. Conditions to address the land contamination issues are recommended to address ground contamination.

West Midlands Police Architectural Liaison Officer – The area is one of moderate crime related to burglary and vehicle crime. The rear access to the site is a main concern, and an automated gate system will be required. Bearing in mind the age of a majority of residents they will be vulnerable at the rear of the development. Controls will be needed at the entrances and there should be video entrance systems for residents to use. Building recesses provide cover for offenders. There is no defensible space around the building and the pathways provide access to frontages and direct view into properties. Side and rear fencing will need to be increased in height to deter offenders gaining access into private garden spaces. The 0.9m brick wall to frontages would provide a nice seating area for local youth.

Centro - the development site is within the minimum standards for accessibility by public transport, with local bus services close to the site. . However the nearest bus stop is located on Churchill Road just outside the development and this should be retained in its existing location and format. If this shelter is affected whilst works take place, or if any relocation is necessary, then the full costs of this should be borne by the applicant. Planning approval should not be granted until a new location for the bus stop has been agreed to by Centro, the highway authority and the bus operators, and the appropriate consultation has taken place.

Given the nature of the development, it is likely that some residents would also like to take advantage of the Ring and Ride service provided by West Midlands Special Needs Transport Ltd. It should be ensured therefore that the final design for the site access and road geometry allows for easy accessibility by Ring and Ride vehicles and includes the provision of an appropriate turning facility. Also, the car parking for the development should be sufficient to ensure that any Ring and Ride service is not hindered by illegal parking whilst being in compliance with PPG 13 parking standards.

Finally, although national planning guidance suggests 100 units as the threshold for a Residential Travel Plan, Centro considers that this development could benefit from elements of such a plan, for example:

- Promotion of public transport links to the development;
- Provision of secure cycle parking facilities to promote sustainable forms of travel;
- Information should be provided to new residents, which include public transport timetables, local cycling and walking route maps and journey planning information such as how to get to local amenities by public transport; and
- Incentives should be provided such as vouchers for walking and cycling equipment or public transport season tickets to encourage residents to make use of local facilities and make the site more sustainable.

West Midlands Fire Service – no objections, as a dry riser will be installed in the centre staircase.

Education – A contribution will not be required.

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Greenspace – Seek £91,476.00 in accordance with the Adopted Supplementary Planning Document.

Housing Strategy – Fully supported from a Housing Strategy perspective.

Healthcare - Seek £50,727.60 in accordance with the Adopted Supplementary Planning Document.

Public Art – seek a contribution of £22,750.00

Public Participation Responses

3 letters have been received, objecting on the following grounds;

- the building is too large and will dominate and tower over the area;
 - the building is set close to back of footpath and will be very obtrusive; Bentley is characterised by green frontages;
 - building close to the frontages will generate health problems for occupiers as they will be living close to a busy road.
 - the building design does not complement the local houses, the south facing façade is hideous and will not fit with existing properties or the new library; it is out of keeping;
 - having such a high number of older people will lower the house prices locally;
- All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

Principle

Design - character

- public realm,
- ease of movement
- legibility
- adaptability.

Parking

Observations

Principle

The public house building has only recently been demolished although the premises have been vacant for some time. The public consultation process of the Bentley Regeneration area plan identified this site as a key for redevelopment, with a use that would enhance the economic activity of the local centre. Providing more homes close to the local centre will support the local retail centre. As social housing, the scheme will also satisfy housing need in this locality. The scheme is therefore supported.

Design - Character

The local area is characterised by wide verge frontages with feature tree planting. Queen Elizabeth Avenue, the main route into the Bentley estate and the principal approach to the site, has wide verges either side with significant tree planting to form a distinctive avenue of high amenity value. The scheme would be a key feature to the local identity at the head of this approach. The siting of the proposal close to back

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of pavement and without frontage landscaping, would be in marked contrast to this landscaped context, failing to continue the established pattern of a significant landscape frontage on the main route to the local centre. It does provide a feature, closing the vista in the street.

The proposal is sited close to back of pavement on all frontages and thereby lacks any key tree planting or other landscape feature. A sewer easement on Princess Anne Road precludes tree planting on this frontage. The built form of the scheme will therefore be a dominant feature locally.

The locality is characterised by semi-detached houses and maisonettes with rear gardens that are enclosed and secure from the public realm.

The garden spaces for 3 of the proposed houses would have garden space at 59 sq m which is below adopted guidance.

Flats on first, second and third floors and front facing would have a balcony extending across the front of each unit, at approximately 8m length and 1.2m width (9.6 sq m). Rear facing units would have a smaller balcony, at 2.8m width and 1.2m depth (3.36 sq m). The overall level of useable private open space including roof gardens is approximately 604 sq m.

Overall, 60 flats should be provided with 1200 sq. m of useable private open space. The level of provision is significantly below adopted standards.

Ground and first floor flats on the Churchill Road elevation would be single aspect, set between 3m and 4m from back of pavement. This would mean that front garden terraces or balconies above would be close to the public realm with little intervening defensible space and no alternative ground floor siting-out areas. The lack of frontage tree planting as landscaping would be in marked contrast to the character of the area and fail to provide future occupiers with an acceptable level of amenity.

The views of the Councils Landscape officer are accepted, in that the scheme fails to provide an acceptable level of landscaping for the street scene, failing to replicate the significant amenity value that existing trees provide at the site.

The massing of the building, at four storeys, would extend along a significant proportion of street frontages, with roof garden areas appearing as part of the four storey identity because of the glazed balcony edges and the fourth floor flats on the rear facing elevations with glazed corridors overlooking the roof gardens.

As the building is set close to back of footpath on this corner, at 1.6m back from back of footpath, no opportunity for landscape planting at the ground floor, or feature tree planting is provided. The massing of the proposal would therefore form a dominant and intrusive feature in the street scene.

The two and three storey shopping parade with flats over, on the diagonally opposite side of Churchill Road to this site, is set back from the highway with a wide pavement frontage. The Council is in the process of commencing a designed scheme for the refurbishment of this currently blank paved area and associated parking, so as to introduce a high quality landscaped environment that follows from the landscape context of Queen Elizabeth Avenue. The associated tree planting will create a softened built form to existing buildings. The proposal will be in marked contrast to this and to the local character established by Queen Elizabeth Avenue.

Design - Public realm

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Nearby houses, with 5m front gardens, boundary walls and hedgerow frontages, establish a distinct pattern of defensible spaces to the street and public realm. Although the scheme could be bounded by a small wall at back of pavement, the lack of frontage landscaping would be in marked contrast to the distinctive character of this part of the locality.

The flats part of the scheme would be near to the re-aligned roundabout and street improvement works of Bentley local centre. The scheme's absence of landscaping with tree planting on the main street frontage, would be in marked contrast to the local centre across the road and fail to make a positive contribution to the public realm of its immediate street frontage.

Design - Ease of movement

Pedestrian access for all of the houses would be at the front, off Everest Road with vehicle parking off the service courtyard at the rear of each dwelling. This rear access sets private gardens close to the access and turning are shared with the flats scheme. No tree planting or screening other than garden fencing, is proposed to the rear service courtyard so as to mitigate the impact of general access close to gardens and rear elevations. The rear access to the flats scheme would be the only vehicular access to the site, being used by dial-a-ride, servicing vehicles and residents. The level of noise and disturbance likely to arise, in the absence of screening landscape or other mitigation measures, would therefore have a significant impact on the amenity of the adjacent gardens (the nearest of which are below adopted standards).

Design - Legibility

The proposed flats building would have the main pedestrian entrance on Churchill Road, off-set from the corner tower and recessed behind a blank wall, 4 storeys in height. The submitted plans illustrate screening panels for balconies with no detailed features to signify the main entrance. The main entrance would therefore lack of dominance in the street scene, be indistinct to visitors and fail to give an interesting and distinct street presence. The entrance also lacks passive surveillance by site management staff or those waiting to use lift because of internal fire screens to lift wells.

Parking

The comments of Transportation are supported. The applicant has not demonstrated how the deficiency in parking would be managed for adults who may be economically active and for whom a car might be essential mobility requirement because of disability , either by reference to a car pool system, tenant management agreement or allocation system. Churchill Road is particularly busy and the refurbished local centre and road alignment are important local traffic measures to reduce impacts of traffic.

106 Contributions

The applicant disputes the requirement to make contributions in respect of Urban Open Space - £91,476.00, Healthcare - £50,727.60, and Public Art - £22,750 and would refer the matter to the District Valuer.

Conclusion

The proposed scheme is sited close to back of pavement and provided with landscaping, amenity space, access and parking that are considered to be inadequate in the context of the site.

Summary of Reasons for Granting Planning Permission

Recommendation: Refuse

1. The proposal would appear incongruous in the street scene, out of keeping with the character of the locality and the established pattern of development, forming an obtrusive and dominant feature in the street scene and overdevelopment of the site, by reason of;
 - i. The low level of amenity space provided for the proposed dwellings;
 - ii. Close proximity of built form to back of pavement which fails to provide for a satisfactory level of landscaping;
 - iii. Poor relationship of private spaces to public realms such as parking and access areas close to rear gardens spaces so as to be vulnerable to noise and disturbance by passing pedestrians and parking vehicles, where future occupiers would have a reasonable expectation of peace and quiet;
 - iv. Proximity of habitable rooms to the public realm with no satisfactory defensible spaces intervening;
 - v. The entrance for the four storey block of flats would have little natural surveillance from adjacent dwellings, with a large, dominant blank gable wall adjacent to the primary entrance and blank walls adjacent to secondary entrances, which is not a feature of good design and which would not be a secure design feature;
 - vi. Inadequate landscape scheme, which fails to provide a sympathetic balance of tree removal, retention and replacement, removing the vast majority of the amenity value that the existing trees provide with little scope for replanting to account for future amenity;
 - vii. There are highway concerns for bin stores or other refuse collection systems, the locations of which would impact on the character and amenity of the locally listed building, or the trees at site, protected by tree preservation order.
 - viii. The proposed scheme proposes a landscape scheme that is considered inadequate in terms of the level of provision for protected trees, by implicitly proposing significant changes in level close to protected trees or failing to provide sufficient information to enable the local planning authority that trees will be satisfactorily protected and have a secure future, the extent of the provision for the long term growth of the protected trees.

As such the proposed development is contrary to policies 2.1, 2.2, GP2, 3.6, 3.16, GP7, 3.114, 3.115, ENV32, H10 and Supplementary Planning

Document Designing Walsall, of Walsall Unitary Development Plan, March 2005, and Planning Policy Statements 1 and 3.

2. Bats ? As such the proposed development is contrary to policies 2.1, 2.2, GP2 and ENV23, Natural Environment SPD of Walsall Unitary Development Plan, March 2005, and Planning Policy Statements 1,3 and 9.
3. The proposed development fails to provide;
 - i. The proposed layout fails to provide sufficient parking to serve the proposal and fails to justify the under-provision or how it will be managed or controlled in the future. There does not appear to be measures incorporated within the scheme to suggest the development has been designed with elderly in mind;
 - ii. The proposal fails to satisfactorily provide for disabled parking. The UDP standard for disabled parking is 10% of the total provision and the application provides 2 spaces which is an under provision of 50%, which is not justified by the applicant;
 - iii. The under provision of parking and the possible displacement of vehicles around the site. This could lead to indiscriminate parking within the site and compromise safe movement of residents and obstruct the waste vehicle from refuse collection manoeuvres.
 - iv. Would fail to satisfactorily provide for pedestrian safety, particularly in respect of the continuous 24m drop crossing close to a district centre, where pedestrian visibility may be restricted by parked vehicles;
 - v. The auto-track overlay does not show how a refuse vehicle can enter or leave the site and which does not conform to the standard Walsall Council refuse vehicle;

As such, the proposed development is contrary to policies GP1, GP2, GP6, 7.1, 7.4, 7.8, T4, T6, T7, T8, T10 and T13 of Walsall Unitary Development Plan, March 2005.

4. The development would result in unacceptable demand on limited health care facilities and public open space provision in the locality, as well as failing to provide a satisfactory provision for the enhancement of the local public realm by 'art', in the absence of any financial contributions to address the shortfalls. As such the proposal is contrary to policies GP3, 8.8, ENV34 and LC1 of the Walsall Unitary Development Plan, Designing Walsall, Healthcare and Urban Open Space Supplementary Planning Documents.



ITEM NO: 3.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration and
Performance Directorate On 09 Dec
2008

REASON FOR BRINGING TO COMMITTEE: Major development

Application Number: 08/1043/FL

Application Type: Full application

Applicant: Mr D. Cox

Proposal: Erection of 22 x 2 bedroom
apartments with associated parking spaces.
access and landscaping.

Case Officer: Alison Deakin

Telephone Number: 01922 652487

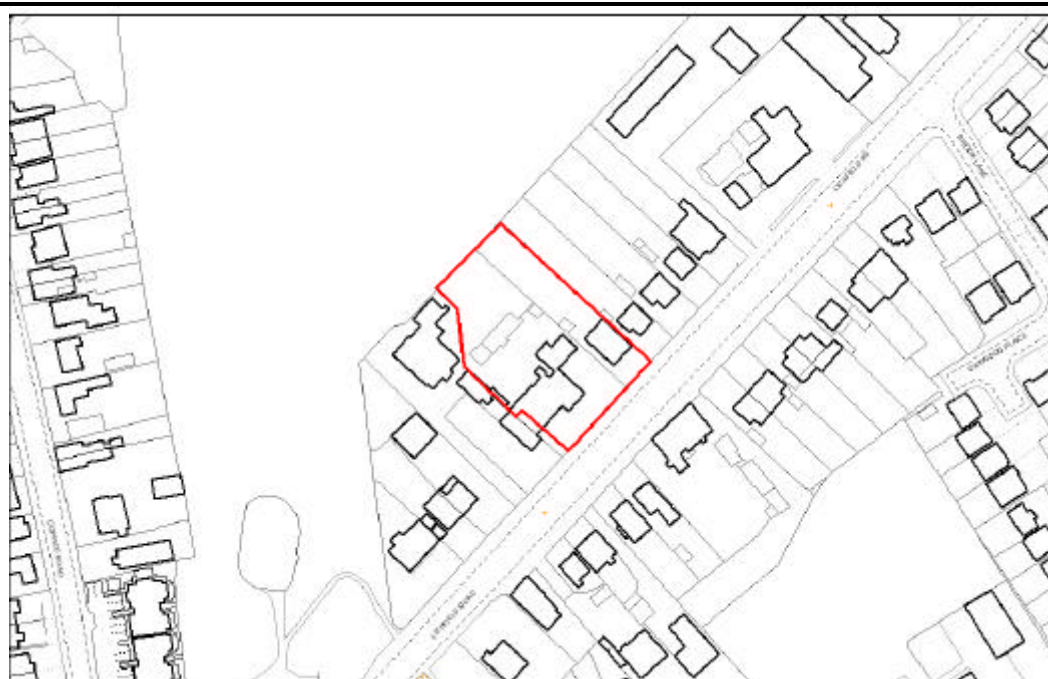
Agent: Mr Eburah

Location: FORMER ST JOHN'S
SCHOOL AND NO. 11 LICHFIELD
ROAD, WALSALL WOOD, WALSALL,
WS9 9NP

Ward: Aldridge North and Walsall Wood

Expired: 09/10/2008

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



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Application and Site Details

The site is situated on the north western side of Lichfield Road (A461) which forms part of the Strategic Highway Network (SHN) and currently comprises the former St Johns School building and a Council owned bungalow at 11 Lichfield Road, which are both vacant and suffering from disrepair. The Early Birds Nursery lies to the south west of the application site and beyond this lies Oak Park Urban Open Space. The adjacent properties fronting Lichfield Road are predominantly detached and semi-detached houses and there are further houses on the opposite side of the Lichfield Road interspersed with commercial premises.

This is a revised scheme following refusal of a previous planning application for twenty two, 2 and 3 bed apartments. The proposals include the demolition of the school and bungalow and erection of a block of twenty two, 2 bed apartments. The building would be situated across the frontage of the site with a projecting wing to the rear and a vehicle access towards the right of the frontage beneath the building leading to a rear parking area, providing 27 parking spaces. The proposed units are accommodated over four floors including utilisation of the loft space in the rear wing and central part of the building. The proposed building is positioned in line with adjacent dwellings between 7.6 and 10 metres from the back of footway with dwarf walls along the frontage. The proposed building is 35m wide. Private shared amenity space is included at the rear of the site between the building and parking areas. The overall design of the building has been amended since the previous refusal and now takes design cues from the original school building.

The existing school building is attached to the former caretaker's house and both are of a Victorian architectural style. The proposal involves demolishing the school building from the house and reinstating the gable wall of the house. The proposed new apartment building would be constructed within 0.8m of the gable wall.

Parking provision equates to 122% overall.

The site area is 0.23 hectares giving a residential density of 96 dwellings per hectare.

Relevant Planning History

07/1984/FL/E11 - Erection of 22 x 2 and 3 bed apartments with associated parking, refused, 21-12-07 on following grounds:

1. The proposed development represents mediocre design which would have a detrimental impact on the quality of the environment because it fails to properly take account of the surrounding context of this prominent site. The siting and mass of the building, its poor appearance and potential impact on the street scene and amenities of adjacent residents is unacceptable.

2. The proposed development would result in unacceptable demand on limited educational capacity and public open space provision in the locality in the absence of any financial contributions to address the shortfalls.

Relevant Planning Policy Summary

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

Walsall UDP March 2005

GP1: Supports the sustainable location of development.

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

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

GP7: Community Safety - Proposals are expected to have regard for the objectives to designing out crime.

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

ENV18: The Council will ensure the protection, positive management and enhancement of trees and hedgerows. Development will not be permitted if it would damage or destroy trees... protected by Tree Preservation Order... unless: - the desirability of the proposed significantly outweighs the ecological or amenity value of the trees or hedgerows.

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

ENV39: The Council will encourage proposals for the development of renewable energy resources and for efficient use of energy.

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

H5: The Council will promote and encourage provision of housing for people with special needs, including single people, the elderly, ethnic minorities, people with disabilities and other groups requiring specialist accommodation.

H9: Indicates that housing densities in the range of 30-50 dwellings per hectare are likely to be suitable on most sites.

H10: The design of residential developments to create a high quality living T4: Classifies the highway network and explains district distributor roads are important routes connecting residential and employment areas of the borough and where possible measures should be taken to mitigate the impact of development on the highway network.

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

T13: Parking Provision

Flats with communal parking 1.5 spaces per unit

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

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

Urban Open Space (SPD) (April 2006)

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

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Affordable Housing (SPD) (April 2008)

Requires the provision of 25% of the total dwellings to be affordable homes on residential developments of 1 hectare or 15 dwellings or more 100% affordable rent.

Education (SPD) (February 2007)

Requires a contribution towards local primary and secondary education facilities where required according to capacity with a threshold of 10 residential units and above.

Designing Walsall (SPD) (Feb 2008)

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

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

DW2 – all new development must contribute to creating places that feel safe.

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

DW4- Well defined streets with a continuity of built form are important.

DW5 – ease of movement, connections to existing routes.

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

DW7 – contribute to creating living places that offer a mix of activities to the widest range of possible users.

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

DW9(a)- (d) – qualifying development for Public Art S106 Contributions, the scale of contributions and use of contributions.

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

Annexe D: Public Art Guidelines provides more detail on the provision of public art.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment (SPD) (April 2008)

Expands on the policies contained within the environment chapter of the UDP.

Regional Policy

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance.

National Policy

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

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

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

Consultations

Transportation – No objections subject to conditions regarding visibility, car parking layout, cycle facilities, waste management and access. The proposals include 27 parking spaces, which would comply with policy.

Pollution Control Scientific Team – Raise concerns regarding air quality. Some air quality monitoring has been carried out and further assessment is required. It is recommended that these results are examined before a final decision is made in respect of the impact of poor air quality at the proposed development. The limited air quality monitoring conducted to date does not conclusively demonstrate future occupants will not be subjected to levels of pollutants that exceed those within the UK Air Quality Strategy therefore a condition is recommended to ensure necessary mitigation.

Pollution Control Contaminated Land Team – No objections in principle subject to a desk study and site reconnaissance being carried out to identify the potential for contaminants and/or ground gases likely to be present on the site. Should the potential presence of contamination and/or ground gases be identified on site a ground contamination survey and site investigation should be carried out and remediation measures required identified. Conditions required.

Conservation – The existing building whilst dating from the mid-Victorian period has a Gothic Revival style and interesting features and has no statutory conservation protection, but is in very poor condition and beyond saving. The retention of the caretakers house is welcomed. The new building should not copy the former building, but take design cues from the school building, such as the pronounced gables and re use of the existing materials should be encouraged.

Natural Environment – No objections

Landscape – Objects. The survey plan fails to fully take account of trees and hedges on site and the large expanse of tarmac is unrelieved by planting. The proposal includes narrow planting strips which would be ineffectual in providing any screening, and be vulnerable to pedestrian and vehicle damage. A re-think on the car parking layout is required that both takes account of the existing trees and boundary hedge and provides an attractive amenity for both neighbours and residents.

Trees – No objections. Details of tree protection during construction are required.

Strategic Policy – No objections in principle. The site is located between two local centres as designated in the UDP hence a density over 50 dwellings per hectare is acceptable in principle in accordance with policy H9.

Education Walsall – No objections. A contribution of £55,260.27 is required towards both primary and secondary school provision.

Police Architectural Liaison Officer – Concerns. The site is vulnerable due to the lack of surveillance to the rear of the property and direct access offenders have to the fencing at the rear. A letter has also been received from a Planning Consultant on behalf of West Midlands Police, requesting a S106 contribution towards policing in the area based on the increase in the number of dwellings, no further justification for the contribution put forward.

Centro – No objections.

National Grid – No objections.

Waste Management – Prefer refuse vehicles to collect bins from buildings rather than collect from the highway. This is achievable.

Fire Services – Raise concerns. There is insufficient access to flats 11-22, however sprinklers or a dry riser in the central staircase would be satisfactory.

Public Participation Responses

Two objections received summarised as follows: -

- Loss of an important building and history attached to it.
- Flats not in keeping with the area and not required, Walsall Wood is a family area
- An alternative use should be found for the existing building and bring it back to the heart of the community
- Neglect of the existing buildings has led to them becoming an eyesore
- Increase in residential in the area will add strain to local services
- Risk of crime if gates left open

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

Determining Issues

- Whether the proposals overcome the previous reasons for refusal in terms of:
 - Design, siting and massing of the building and impact on the street scene
 - Impact on affordable housing, urban open space, public art and educational provision
- Impact upon adjacent residents
- Access and parking
- Impact upon air quality
- Landscape and community safety
- Neighbour responses

Observations

Design, siting and massing of the building and impact on the street scene

The proposal has been influenced by the existing building. The proposal looks to retain the existing building and position along Lichfield Road. The design of the building closely reflects the Victorian Gothic style of the existing school, with two storey height windows to retain the scale of the school house and steeply pitched gabled roofs, pitched dormers and gothic arched heads and details contribute to retention of the existing character. The application proposes to use bricks and tiles that match the existing building, with timber window frames, fascias and soffits.

The front elevation of the building is in line with the adjacent houses 9 and 13 Lichfield Road, with the rear projecting a further 2m, 2m from the boundary with number 9, and having the same depth to the boundary with number 13 as existing. A 10m rear wing projects from the middle of the building which is 15.2m from the boundary with 9 Lichfield Road and 12.4m from the boundary with 13 Lichfield Road. There would be a rear amenity area by the boundary with 9 Lichfield Road and Early Birds Nursery, 27 parking spaces next to the boundary with 13 Lichfield Road would extend towards the middle of the site. The principle of this layout is acceptable.

The proposal is larger than the existing building (8m above ground level), 15.7m at its highest point, with the main ridgeline at 11.2m in height. The massing of the building has been designed to provide a design that reflects the building it seeks to replace. To ensure that the building fits within the street scene and responds to the adjacent two storey houses, it steps from two storeys at each end to four stories centrally. The building would be larger than those in the immediate surroundings which ensure that it provides a focal feature of a stature. The building would have street frontage access with good surveillance of the public realm.

It is considered that the design, scale and massing of the building is appropriate, having similarities with the existing former school building and having an acceptable appearance within the street scene. The proposal is a positive step to bring this site back into use and an important regeneration opportunity for the area.

UDP policy H3 encourages the provision of additional housing through re-use of previously developed windfall sites where a satisfactory residential environment can be achieved. PPS3: Housing further encourages the development of brownfield sites for residential purposes.

The site is in a sustainable location within 77m of Streets Corner Local Centre and also within 220m of High Street, Walsall Wood Local Centre.

In response to the Police comments it is considered that there is presently a vulnerability of the site from the rear yet the proposals offer the opportunity to introduce new dwellings that will improve surveillance of this area to which controlled access only will be available. Appropriate boundary treatment will also improve security.

UDP policy H9 encourages residential densities exceeding 50 dwellings per hectare on sites with good public transport accessibility and close to district and local centres. The proposed density of 96 dwellings per hectares is considered acceptable in this location which is highly sustainable within walking distance of Streets Corner and High Street, Walsall Wood Local Centres and where there is good access to public transport. There is a regular bus service along Lichfield Road, with the nearest bus stop within the Local Centre. Also, the smaller units provide a mix of dwelling types in

the area to cater for smaller households and there is adequate amenity space so as not to disadvantage potential occupiers.

Impact on affordable housing, urban open space, public art and educational provision

Affordable Housing

25% affordable social rented properties, which equates to 5 houses are required to comply with policies GP3 and H4 of the UDP and Affordable Housing SPD.

Urban Open Space

An Urban Open Space contribution of £36,872.00 is required to comply with the Urban Open Space SPD policy and Policy LC1(d) of the UDP.

Public Art

UDP Policy ENV34 requires provision of public art and policy DW9 of Designing Walsall SPD identifies qualifying development and the scale of contributions required. A financial contribution of £7,700 would be required in accordance with DW9

Education

The level of surplus places in local primary and secondary schools is below 10% therefore a contribution of £55,260.27 is required towards primary and secondary school provision within the local area, in line with Policies GP3 and 8.8 of the UDP and Education SPD.

West Midlands Police requests a S106 contribution towards policing in the area based on the increase in the number of dwellings. They consider that this would equate to £195.68 per household, at total of £4304.94 for this scheme. There is no planning policy basis for requiring any such contribution. (These figures have not been considered as part of the assessment by the District Valuer).

The Section 106 contribution offered by the applicant is £83,472 with no affordable housing. In accordance with the councils UDP and Supplementary Planning Documents a total contribution of £99,832.27 would be required towards education, urban open space and public art, with 5 units required to be affordable social rented properties. There is therefore a shortfall of £16,360.27 and the affordable social rented properties.

The District Valuer has assessed the financial viability of the scheme based on the amount the applicant is prepared to offer with no affordable housing and the Council's full requirement under the current UDP and SPD's. With the level of contributions offered (i.e. £83,472 and no affordable units) this would result in a profit of 6.4% on sales receipts and 6.84% on build costs but with the full level of required contributions (i.e. £99,832.27 plus five affordable units) this would result in a loss of 2.97% on sales receipts and 2.89% on build costs. These figures do not include finance costs but in the event that finance costs were not incurred this would result in a profit on sales receipts of 10.5% and 11.22% on build costs for the reduced contributions and profit of 1.54% on sales receipts and 1.49% on build costs for the full contributions level. His conclusion is that the scheme would not be viable if the full level of contributions had to be met as funders for the scheme would probably require a profit of 20% on development costs.

The reduced contributions, he concludes, may be of marginal viability. It is therefore the decision of this committee whether reduced S106 contributions (and to what amount for each criteria) and the omission of affordable housing within this scheme are acceptable.

Impact upon adjacent residents

To the boundary with 9 Lichfield Road, the proposal would project 2m further than number 9, 2m from the boundary at two stories. This would achieve a satisfactory relationship. At the boundary with number 13 the rear of the proposal would be in same location as number 11 which it seeks to replace. There are no properties to the rear of the application site and no windows are proposed to the side elevations on the application boundary. It is considered that the positioning and depth of the building would have no adverse impact on the amenities of the surrounding occupiers.

The proposed car parking is 0.9m from the boundary to the garden of 13 Lichfield Road which has little landscaping. It is considered that the car parking layout in such proximity could give rise to noise and disturbance by general people and vehicle movements. It is therefore considered that the parking layout needs to be revised to provide a greater level of defensible space to minimise disruption to neighbouring amenity. This can be achieved by condition.

The proposed rear amenity space amounts to 523m², which is equivalent to 23.8m² per unit, which is in accordance with Designing Walsall SPD. The site is also adjacent to the public open space of Oak Park. It is therefore considered that the proposal would provide a satisfactory living environment for potential occupiers.

Access and parking

A single means of vehicular access beneath the building towards the right of the site frontage is proposed with 27 parking spaces to the rear of the site to serve 22 apartments. Policy T13 requires at least 1.5 spaces per flat where there is communal parking provision which would ordinarily require 33 spaces. Given that the site is located on a main road within walking distance of two local centres, this reduced parking level is considered appropriate.

Transportation does not object to the application subject to the submission of further information. These may be achieved by condition.

The Fire Officer confirms that the use of sprinklers or a dry riser in the central staircase would provide satisfactory fire control. It is considered that this can be achieved by condition.

Impact upon air quality

The use of a condition requiring the submission of an air quality appraisal would prevent any development commencing until full information and any necessary mitigation measures have been agreed to resolve concerns raised by Pollution Control officers.

Landscape and community safety

The Landscape Officer objects to the application as the survey plan fails to fully take account of trees and hedges on site and the large expanse of tarmac is unrelieved by planting. The proposal includes narrow planting strips which would be ineffectual in

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providing any screening, and be vulnerable to pedestrian and vehicle damage. The Officer considers a re-think on the car parking layout is required that both takes account of the existing trees and boundary hedge and provides an attractive amenity for both neighbours and residents.

These comments are noted, and a detailed landscape plan is recommended to be required and implemented by an appropriate condition. It is, however considered that a revised car parking layout to achieve more detailed planting, and greater level of defensible space to retain residential amenity to 13 Lichfield Road would be likely to reduce the amount of private amenity space. While this might be a reduction below the requirements of the supplementary planning document, given that the public open space of Oak Park is adjacent to the application site, this would be acceptable, subject to appropriate detailing. Revised plans have been requested but a condition is also recommended to address these matters.

The Police Architectural Liaison Officer comments that the rear of the site needs to be protected by more than close boarded or palisade type fencing, and suggests Expanet fencing with close board inner fence would increase security while maintaining privacy. The canopy entrance should also be gated, self closing with access control measures in place. These matters can be achieved by conditions. He further comments that a video monitored access control system should be incorporated on all the main entry and exit points to the apartments, which should be well lit. This is a detailed matter for consideration by the developer but nevertheless unauthorised access to the building will be limited by appropriate boundary treatment and surveillance by occupiers.

Finally he states there appears to be a lack of defensible space around the building and the layout of the car park is not conducive to good natural surveillance as only one side of the vehicles can be seen. Given that the private amenity space and parking is located at the rear of the building behind a secure gated entrance this should prevent unauthorised access and prevent problems of surveillance of vehicles.

Neighbour responses

Objection letters refer to the loss of an important building with history attached to it and that an alternative use should be found to bring it back to the heart of the community. The building is of a local historical interest, but has no statutory protection. Its condition is too dilapidated to allow retention despite containing some desirable Victorian features. A condition is recommended to ensure a full survey of the building is undertaken prior to its demolition so that a historical record is kept. The building has been vacant for a number of years and no community uses have been put forward. The proposal represents a regeneration opportunity that would be a positive replacement to this deteriorating building.

Objection is also raised that flats are not in keeping with the area and not required. It is not for the planning system to determine the requirement for flats and there are flats some 200m away on Lichfield Road and on the corner of Lichfield Road and Brownhills Road, therefore they would not be wholly out of character.

Concern has been raised about local services. The proposal is in close proximity to the local centre and would therefore bring further investment. Financial contributions are required as referred to above which would help support local services.

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Objection letters also refer to the risk of crime if gates are left open. The Police also raise this concern and recommend that the access gates are self closing. This can be achieved by condition.

Summary of Reasons for Granting Planning Permission

Summary of reasons for granting planning permission

The proposal overcomes the previous reasons for refusal by the use of a high quality design, taking references from the existing building and appropriately integrating into the street scene. The proposal makes good use of previously developed land within a sustainable location. Neighbour concerns have been considered and the existing building is too dilapidated to warrant retention. Other concerns can be addressed by safeguarding conditions. Concerns on landscape, parking, air quality and security can be addressed by conditions. The proposal accords with the aims and objectives of the Unitary Development Plan policies GP2, GP3, 3.16, ENV18, ENV32, ENV33, ENV39, H3, H9, H10, T13, 8.8, LC1 and Supplementary Planning Documents, Designing Walsall, Education and Urban Open Space.

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

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

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

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

- Proposed Location & Site Plan (drwg. 2826-PA-04A) received 21/11/08
- Proposed Ground & First Floor Plans (drwg. 2826-PA-05) received 26/06/08
- Proposed Second & Third Floor Plans (drwg. 2826-PA-06) received 26/06/08
- Proposed Elevations Sheet 1 (drwg. 2826-PA-07) received 10/07/08
- Proposed Elevations Sheet 2 (drwg. 2826-PA-08) received 10/07/08
- Proposed Main Elevation from Lichfield Road (drwg. 2826-PA-09) received 26/06/08
- Site Location Plan & Existing Site Photos (drwg. 2826-PA-01A) received 10/07/08
- St.John's School Existing Layout (drwg. 2826-PA-03) received 26/06/08
- No 11 Bungalow Existing (drwg. 2826-PA-02) received 26/06/08
- Design & Access Statement prepared by Rush Davies received 26/06/08
- Bat Survey prepared by Dr Penny Angold received 26/06/08

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

3. No demolition of the former St Johns school building shall take place until the developer has secured the implementation of a programme of building assessment and structural recording in accordance with a written scheme of investigation, which shall have been submitted by the applicant and approved in writing by the Local Planning Authority prior to the commencement of the development. The scheme for building recording shall include details of the contractor, an internal and external photographic survey highlighting any individual features of note to be accompanied by a brief textual description of the buildings and features.

Reason: To ensure the building is recorded ahead of and/or during development.

4. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

5. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels for the proposed building, have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

Reason: In the interests of the amenity of the area and to ensure satisfactory development of the site.

6. No development shall be carried out until a detailed hard and soft landscaping scheme has been submitted to and approved by the Local Planning Authority. The details will take account of the existing trees and boundary hedge and will include a buffer appropriate for sustaining hedge planting with the boundary of 13 Lichfield Road and to provide further space for planting adjacent to parking spaces 21 to 25. The scheme shall be completed in accordance with the approved details within the first planting season following completion and before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual and neighboring amenity and natural environment of the area.

7. No development shall commence until details of gates to the canopy entrance with access control measures and to be self closing have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented in accordance with the agreed details and retained thereafter.

Reason: In the interests of community safety.

8. No development shall commence until details for lighting to the car park in accordance with BS5489 has been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented in accordance with the agreed details and retained thereafter.

Reason: In the interests of the safety of occupiers of the site.

9. No development shall commence until details for a video monitored access control system on all the main entry and exit points has been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented and retained thereafter.

Reason: In the interests of community safety.

10. No development shall take place until any necessary mitigation measures or amendments to the building and/or layout of the site identified by further air quality modelling exercises to be undertaken have been submitted to and approved in writing by the Local Planning Authority. No occupation of the dwellings shall take place until the approved measures have been fully implemented.

Reason: To safeguard the amenity of future occupiers.

11. No development shall be carried out until full details of the proposed boundary treatment of the site, including a scheme detailing the retention of the existing front boundary wall, as far as is reasonably possible and the use of both secure metal fencing and close board inner fence to the rear boundary have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason: To ensure the satisfactory appearance of the development.

12. No development shall commence until details confirming measures used to ensure that the development shall be constructed in accordance with the Code of Sustainable Homes (Level 3) or equivalent relating to energy efficiency / CO2, water efficiency, surface water management, site waste management, household waste management and use of materials, has been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to provide high performance sustainable homes/buildings and to protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policies GP2 and ENV39 of the Walsall Unitary Development Plan and policies DW1 and DW10 of Designing Walsall Supplementary Planning Document.

13. No demolition, engineering or construction works (including land reclamation,

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stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 0800 to 1800 weekdays and 0900 to 1400 hours Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To safeguard the amenity of occupiers of premises within the vicinity.

14. No development shall commence until details of a sprinkler system or a dry riser to provide fire fighting facilities to apartments 11-22 inclusive have been submitted to and approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be occupied until the sprinkler system or dry riser has been constructed in accordance with the approved details. The sprinkler system or dry riser shall be retained as such thereafter.

Reason: To ensure the satisfactory functioning of the development.

15. Approved Tree protection measures as detailed in British Standard 5837:2005 'Trees in Relation to Construction', shall be fully implemented prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times.

Reason: To safeguard the mature Sycamore tree on the northwest boundary of the site.

16. No development shall commence until a revised plan demonstrating a Sight Stopping Distance (SSD) of 2.4m x 70m at the vehicular access to the site has been submitted to and approved in writing by the Local Planning Authority. Nothing shall be planted, erected or allowed to grow within the splayed area above 600mm in height that may obstruct visibility.

Reason: In the interests of highway safety.

17. No development shall commence until a revised plan showing a bin hardstanding area within 6 metres of the main carriageway, unless agreed otherwise in writing with Walsall Waste Management, has been submitted to and agreed in writing by the Local Planning Authority. The hardstanding shall be implemented as agreed and retained thereafter.

Reason: To define the permission and in the interests of highway safety.

18. No development shall commence until a revised plan showing the provision of a secure, covered and illuminated cycle storage facility to accommodate 10 cycles has been submitted to and approved in writing by the Local Planning Authority. The approved cycle store shall be implemented as agreed and retained thereafter.

Reason: To define the permission and in the interests of sustainable travel.

19. No development shall commence until a revised plan has been submitted to and approved in writing by the Local Planning Authority showing the provision of 3 disabled car parking spaces within the car parking layout. The spaces should measure 2.4 x 4.8m plus 1.2m access zone to side and rear and for these spaces to be as near as possible to the main entrance/s.

Reason: To define the permission and in the interests of highway safety.

20. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be hardsurfaced in materials to be agreed in writing by the Local Planning Authority, showing appropriate drainage. Prior to the first occupation of the building the parking spaces shall have been clearly marked out and shall be used for no other purpose.

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

21. A desk study and site reconnaissance, approved in writing by the Local Planning Authority, shall be conducted to identify the potential for contaminants and/or ground gases likely to present a risk to proposed structures or future occupants of the development to be present on site. Results of the desk study and site reconnaissance shall be submitted to and agreed in writing prior to built development commencing.

Note for applicant.

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

Reason: To safeguard the amenities of the users and neighbours to the application site.

22. In the event that the desk study and site reconnaissance indicates the presence of contamination and/or ground gases on site a ground contamination survey and site investigation approved in writing by the local Planning Authority shall be undertaken.

Note for applicant

This survey should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Waste Management Paper No. 27 "Landfill Gas"; or any relevant antecedents 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.

Reason: To safeguard the amenities of the users and neighbours to the application site.

23. A copy of any ground survey and site investigations, together with a report setting out proposed remedial measures to deal with any identified and potential hazards arising from any gas and/or land contamination shall be submitted to the Local Planning Authority and agreed in writing before construction of the development commences.

Note for applicant

When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model 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.

Reason: To safeguard the amenities of the users and neighbours to the application site.

24. Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

Note for applicant

When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model 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.

Reason: To safeguard the amenities of the users and neighbours to the application site.

25. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

Reason: To safeguard the amenities of the users and neighbours to the application site.



ITEM NO: 4.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration and
Performance Directorate On 09 Dec
2008

REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement

Application Number: 05/2230/CE/E4

Application Type: Certificate: Lawful
Existing use / Development

Applicant: Mrs. Y. Evans

Proposal: Certificate of Lawful Existing
Use for Erection of dwellinghouse

Ward:

Recommendation Summary: Refuse Proposed Use

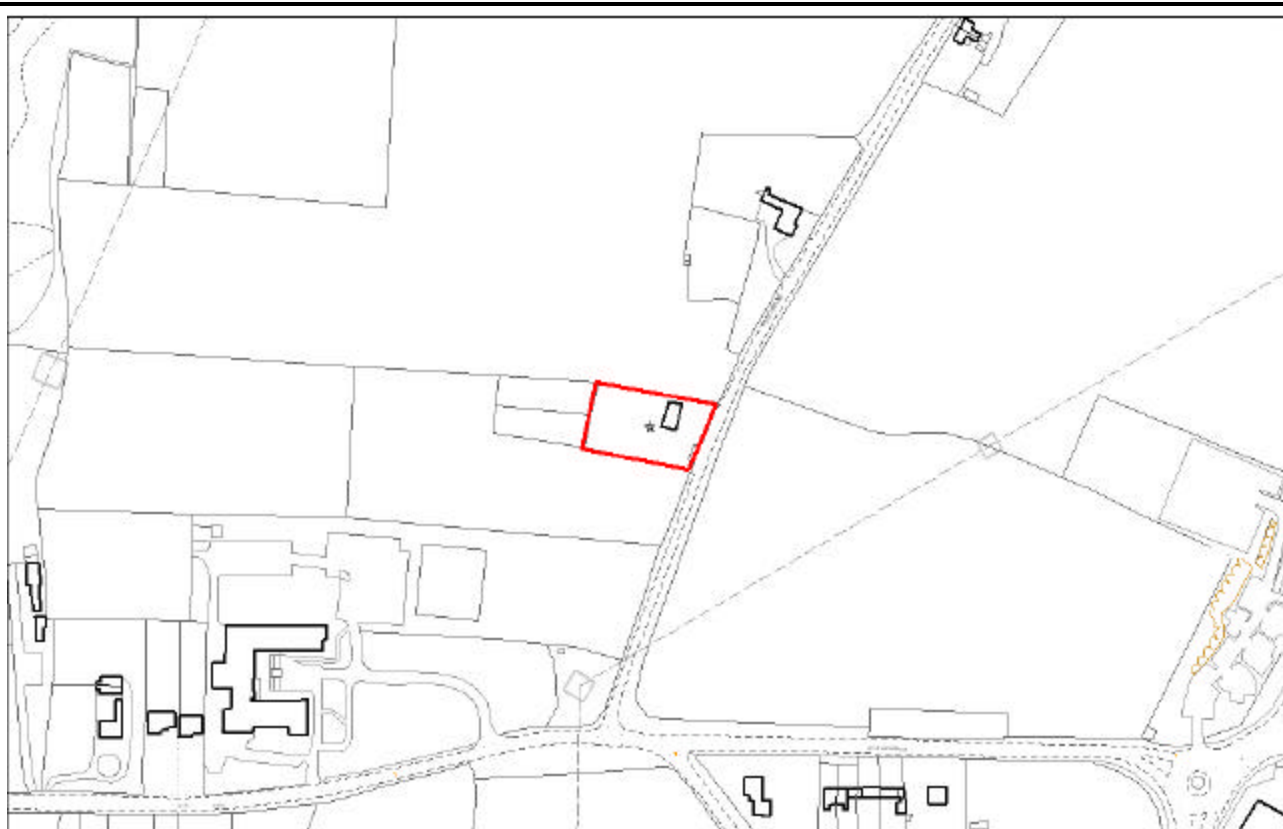
Case Officer: Andrew White (E10)

Telephone Number: 01922 652429

Agent: Philip Brown Associates

Location: 34, GOULD FIRM
LANE, WALSALL, WEST MIDLANDS

Expired: 08/03/2006



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REASON FOR BRINGING TO COMMITTEE: Status

An owner of land can apply to have it determined whether a use or development is lawful. The test that the Local Planning Authority applies is whether on the balance of probability a use or development was lawful at the date of the application.

Application and Site Details

The application before the Council is for a Certificate of Lawful Established Use or Development for the erection of a dwelling house situated at 34-38 Gould Firm Lane, Aldridge. The decision turns on whether the structure on the site is a caravan/mobile home, or a building/dwelling. The structure which is the subject of the application has the following characteristics;

It measures 6.02 metres wide and 13.73 metres long (when measured wall to wall) and

1. There is additional eaves and gutter projection on all sides.
2. There are seven courses of brick skirting on three sides.
3. On the western face, there is a loose fitting free standing conservatory (as stated by the applicants at the 1997 appeal) that measures 3.55 metres wide and 4.08 metres long (when measured wall to edge).
4. The conservatory is raised with a retaining wall.
5. A stepped patio consisting of individual bricks on a hardcore and cement base sits flush to this retaining wall, level with the floor of the conservatory.
6. On the east face of the structure there is a porch that measures 1.8 metres (when measured wall to porch front fastened to the structure by turn-clips and 3 pairs of wood screws as stated by the applicants at the 1997 appeal) and 4.21 metres wide.
7. There is a trap door on the north face of the skirting that allows inspection of the under carriage where there are supporting jacks, eight wheels (four for each half of the structure) and axles, allowing for transportation.

In support of the application the applicant's agent has put forward the following representations to argue that the structure is a building/dwelling because;

1. 'In June 1998 the council gave retrospective planning permission for extensions to the chalet which give it a distinctive appearance and prove it has been stationed on site for more than four years,'
2. 'The Council's tax records also show it has been occupied during the whole period from 1992 to date by the applicants as their main residence,'
3. 'The chalet is composed of two sections bolted together. Under Section 13(2) of the Caravan Sites Act 1968 it will not fall within the definition of a caravan if its dimensions when assembled exceed a length of 60 feet (18.28m) and a width of 20 feet (6.096m),'
4. 'The definitions of a caravan in 1960 & 1968 Acts have been refined by the Courts and by the Secretary of State at appeal. It has been established that the maximum width of a caravan of 20 feet is measured taking into account the overhang of the roof (eaves to eaves measurement not wall to wall).'

'The applicants have provided an appeal decision relating to a case that the 20 foot width was exceeded by a matter of inches and this was enough to take the structure beyond the definition of a caravan and the park homes in question were judged to be buildings.'

5. 'Even excluding the additions approved in 1998, the dwelling has an overall width of 24 feet (7.315m); in excess of the maximum width of a caravan.'

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6. 'If the structure is not a caravan, it must be a building and the building has been occupied as a dwelling in excess of 4 years and is immune from enforcement action and is lawful.'
7. 'As a consequence, the dwelling is not subject to any of the conditions imposed on the use of the site as a caravan site and can be used independently of the approved caravan site.'

Relevant Planning History

June 1992 (BC30730P)- planning permission granted by the Secretary of State for the change of use of the property to the siting of a maximum of four mobile caravans for an extended gypsy family and the permission subject to four conditions;

1. Maximum of 4 caravans (including the mobile home) shall be allowed to occupy the site;
2. A personal permission for the applicant, their children and grandchildren;
3. Details of layout, boundary treatment and landscaping to be submitted,
4. Details of drainage and sanitation to be submitted.

May 1996 (ENF/1045/94) Enforcement notice relating to land at 34-38 Gould Firm Lane, Aldridge was served stating;

1. It appears to the Council that the above breaches of planning control have occurred within the last four years;
2. In the opinion of the LPA, the structure currently erected in the position shown edged blue on the site does not accord with the definition of a 'caravan' as set out in the 1968 Caravan Sites Act. The structure is, therefore, not in accordance with the conditions imposed by the Secretary of State for the Environment in an appeal determination dated 4th June 1992, which granted permission for a restricted use to reflect the special considerations for gypsy occupation and to mitigate the degree of harm to the Green Belt;
3. In the opinion of the LPA, the building currently erected in the position shown edged green on the attached plan is a permanent structure contrary to UDP and PPG2 Green Belt Policy is visually intrusive and out of character with the open nature of this area of Green Belt;
4. The Council does not consider that planning permission should be given as to allow permanent structures or buildings on the site which could become lawful after four years would establish an inappropriate built development contrary to the character and function of the green belt and would set an undesirable precedent for the establishment of a dwelling house and other incidental residential buildings on site.

The notice required;

1. the removal from the site of the residential building erected on the site,
2. the removal from the site of the single storey permanent buildings erected on the site.

Compliance within 6 months.

June 1997- An appeal was lodged against enforcement notice ENF/1045/940 The inspector agreed that under ground B (whether the work had been done) the appeal failed as the alleged works were a matter of fact.

The inspector agreed that under ground C (whether the work needed planning permission) the appeal failed as there have been breaches of planning control. The notice therefore took effect.

April 1998 (BC52133P)- Planning application for retrospective permission for an open porch at the front of the mobile home, brick skirting on three sides, steps back and front, raised patio, sectional loose fitting conservatory and enclosed storage area was refused at Committee. These structures are the same as those in the previous enforcement matter. In June 1998- a Local Appeal into BC52133P for retrospective planning permission. This appeal was allowed. The officer's report states that 'when enforcement action was taken [June 1997] the Council were satisfied that the existing building is no longer a mobile home. This view has been endorsed by the appeal decision. The status of the residence remains unchanged, the Councils rights to take enforcement action should the need arise in the future be unfettered...'

July 1998 (BC55641P)- After Local Appeal: planning permission granted for the additions to the mobile home subject to conditions. Condition 3 states that 'the additions to the existing mobile home on the site at the date of this permission shall not be retained on the site in the event of the existing mobile home being replaced by any other succeeding caravan/mobile home at the same location within the site unless their retention with the replacement caravan/mobile home is authorised by the grant of planning permission from the local planning authority...' This was for the reason that 'the additions to the mobile home and the enclosed storage area are only permitted to be retained in association with a mobile home and use of the site for up to four caravans (including a mobile home) and as such, their permanent retention would be inappropriate development and detrimental to the appearance, character and planning policies, for this sensitive part of the green belt.'

Relevant Government Guidance

Circular 10/97 'enforcing planning control, legal provisions and procedural requirements, annex 8';

The onus of proof is firmly on the applicant. While the local planning authority should always co-operate with an applicant seeking information they may hold about planning status of land, by making records readily available, they need not go to great lengths to show that the use, operations, or failure to comply with a condition, specified in the application is, or is not, lawful.

Something is lawful if no enforcement action may be taken and it is not in contravention of any enforcement notice which is in force.

If the local planning authority are provided with information satisfying them of the lawfulness, at the time of the application, of the use, operation or other matter in the application they must issue a certificate to that effect; and, in any other case, they shall refuse the application.'

Relevant Legislation and Legal Background

Caravan Sites & Control of Development Act 1960, Section 29;

A 'caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.

Caravan Sites Act 1968, Section 13;

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Expands the definition of a caravan stating that it must be composed of not more than two sections separately constructed and... assembled on site by bolts, clamps or other devices; and when assembled, physically capable of being moved by road from one place to another, and not to exceed any of the following limits-

- (a) length (exclusive of any drawbar): [65.616] feet ([20] metres);
- (b) width: [22.309] feet ([6.8] metres);
- (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): [10.006] feet ([3.05] metres)."

The Town and Country Planning Act 1990 defines development as; Section 55 (1) 'development', means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

For these purposes 'building' is defined by section 336 to include *"any structure or erection, or any part of a building, as so defined, but does not include plant or machinery comprised in a building"*. A crucial case is 'Skerritts of Nottingham Ltd' which said that three primary factors were identified as being relevant to the question of whether something was a 'building': size, permanence, and degree of physical attachment to the land.

Consultations

Legal Services – have been consulted in the preparation of this report and endorse the recommendation

Public Participation Responses

There is no statutory requirement to consult and no consultation of an informal nature has taken place.

Determining Issue

Whether a dwelling house is lawful

Observations

The applicant's case is that the structure that exists on site, has never been a 'caravan' because its too big, on the basis of an appeal decision from South Staffordshire which held that the roof overhang must be taken into account when considering size.

There are a number of possible scenarios which could justify the argument that the structure is a building. These are explored and tested below. However, officers judge that none of them are convincing even if the structure is not a caravan it still has to go through the appropriate tests of size, permanence and physical attachment, to determine if it is a building or not. This is a matter of judgment. If the caravan cannot be described as a building under these tests then there has not been a building operation, therefore this application for a CLEUD could not be granted for the 'erection of a dwelling house'.

It is also appropriate to consider the situation that the applicant may be right in their argument, that the structure has always been outside the definition of a caravan (and therefore not benefiting from the 1992 permission or its personal occupancy condition) and, under the tests it is of sufficient size, permanence and degree of physical attachment to constitute a building. In that case, the enforcement notice served in 1996 still applies, *provided* the notice was served within four years of the installation of the mobile home on the site, which it was (the appellants confirmed in the appeal that the caravan was “erected” in July 1992, and the notice was issued in April 1996, within the four years).

The problem with the argument that it has never been a caravan is that it specifically contradicts the decision of the 1996 planning inspector, who decided, that without the additions, the mobile home meets the statutory definition of a caravan. The conclusions of the inspector in 1996 have not been challenged and therefore stand.

The structure was a caravan/mobile home when first positioned, and only became a dwelling house by virtue of the additions which caused the building to be enforced against and which were later given permission. This was the position adopted by the inspector. Nor did the grant of planning permission for the additions have the effect of over-riding the 1996 enforcement notice.

The 1998 permission, including its conditions has to be read as a whole, and the effect of the conditions is to make abundantly clear that the physical works are inextricably tied to the presence of the existing mobile home in its existing position and stand or fall together with it. The 1998 permission did not authorise use of the land for a permanent residential building, but for specific physical additions to a mobile home. The effect of granting planning permission for the additions was that there remains a caravan with lawful additions.

If it was claimed that there has been a change from a caravan to a dwelling-house, this was enforced against by the 1996 enforcement notice and that remains good; and a CLEUD cannot be granted where a valid enforcement notice exists.

If there has been no such change to the dwelling house then it remains a caravan and what is there presently cannot enjoy lawful use as a dwelling house so a CLEUD cannot be granted on that basis, either.

For the same reasons it is considered an argument can not be made that the conditions in the 1992 permission fall away: what is there, is either unlawful and subject to an enforcement notice, or lawful under the 1992 permission.

A CLEUD should not be granted for the use of this caravan as a dwelling house, because there are three potential ways of analysis in this case and none of them assist the applicant:

- a. In this scenario there is permission for what is on site subject to the limitations of the 1992 permission, but no CLEUD for use of it as a ‘dwelling house’ can be issued.
- b. The second scenario is that the structure should be measured eaves to eaves. If this is correct then it is considered that as the 1996 enforcement notice was issued within four years of the claimed erection date of the structure then the enforcement notice remains extant and no CLEUD can be issued.

- c. That the July 1998 permission simply had the effect of making the additions lawful while the existing mobile home remains in place, but had no effect on the unlawfulness of the erection of the entire structure as a dwelling house, against which the 1996 enforcement notice remains extant.

The only lawful use of the land remains the use for the siting of a maximum of four caravans (including the mobile home) occupying the site granted on appeal in 1992.

Recommendation

1. That this application be refused as:

- a) **Planning permission was granted in 1992 for the siting of a maximum of four caravans (including the mobile home)**
- b) **While there have been building works around the present caravan (granted planning permission in July 1998), the nature of the permission is such that it does not make the caravan a building**
- c) **there is a current Enforcement Notice on this land, requiring the removal of those building works, subject to the provisions of the July 1998 planning permission**

A Certificate of Lawfulness for the erection of a dwelling house can not be granted, as a result.

Summary of Reasons for Granting Planning Permission

Recommendation: Refuse Proposed Use

Recommendation

2. That this application be refused as:

- d) **Planning permission was granted in 1992 for the siting of a maximum of four caravans (including the mobile home)**
- e) **While there have been building works around the present caravan (granted planning permission in July 1998), the nature of the permission is such that it does not make the caravan a building**
- f) **there is a current Enforcement Notice on this land, requiring the removal of those building works, subject to the provisions of the July 1998 planning permission**

A Certificate of Lawfulness for the erection of a dwelling house can not be granted, as a result.



ITEM NO: 5.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration and
Performance Directorate On 09 Dec
2008

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 08/1712/FL

Application Type: Full application

Applicant: Members of the Bowls
Committee

Proposal: Erection of two wooden
shelters to the northern side of the bowling
green, for use by players in inclement
weather

Ward: Streetly

Recommendation Summary: Grant Subject to conditions

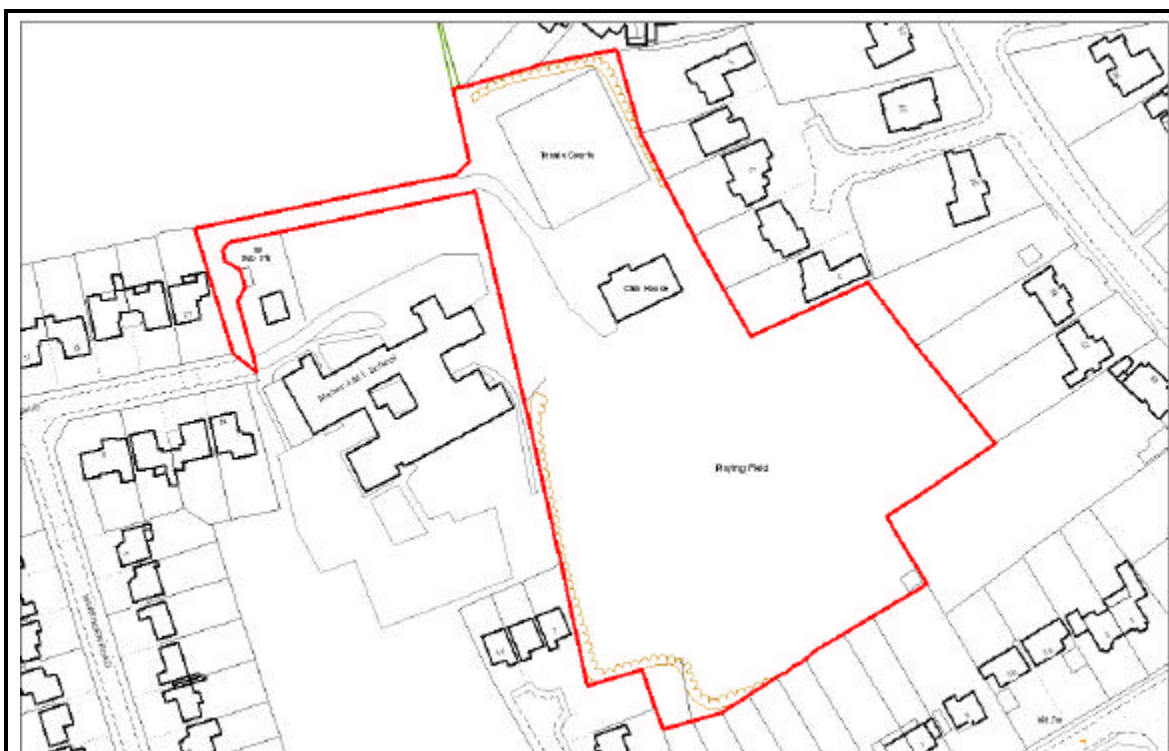
Case Officer: Barbara Toy

Telephone Number: 01922 652429

Agent: Mr David Craddock

Location: STREETLY SPORTS
CLUB, BRIAR
AVENUE, STREETLY, B74 3HX

Expired: 25/12/2008



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Application and Site Details

The site is located off Briar Avenue and is accessed via a driveway running along the edge of Manor School, which lies south west of the application site. The main clubhouse building is situated to the south east of the Bowling Green. To the north and east of the application site lie residential properties that back onto the site. There is screening to the north and east of the site from mature silver birch trees on the boundary. A wooden fence forms the boundary with the residential properties. To the north west of the site there is playing fields, part of the Streetly Community and Sports Centre.

The bowling green is enclosed by a fence on the western and southern boundaries. Eight floodlights are situated around the perimeter of the bowling green together with a brick built scoring hut to the eastern side of the green and a small wooden shelter to the western side.

This application proposes the erection of two wooden shelters on the northern side of the bowling green, for use by players in inclement weather (one for home players and one for away players). The shelters would measure 5.4m in length, 2.3m deep (including a 0.2m overhang to the front) and a very shallow mono pitched roof of a maximum height of 2.3m. The shelters would be open to the front with a low wooden panel and open entrance doorways on either end, and would be situated either side of an existing floodlighting column.

Relevant Planning History

05/1342/FL/E3, improvements to floodlights around bowling green, erection of 8 floodlights. Hours restriction 1800 – 2100 hrs, Tues, Wed and Thurs, April – Sept.

07/1395/FL/E10, variation of condition 5 attached to 05/1342/FL/E3 to allow floodlights to operate 1800 – 2200 hrs Tues, Wed Thurs and Fri between April and Sept, approved 31-08-07.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website).

Walsall UDP March 2005

GP2 expects all development to make a positive contribution to the quality of the environment.

ENV32 states that poorly designed development or proposals which fail to properly take into account of the context or surroundings will not be permitted, when assessing the quality of design the following will be taken into account, the appearance, height, scale, proportion, mass, materials and visual relationship of the proposed development.

3.116 states that good design should be a feature of all development.

8.5 states that the Council will seek to protect, enhance and expand facilities for sport and recreations, both formal and informal.

8.9 states that sport and recreation facilities make an important contribution to urban living by enabling people to enhance their health and fitness, have fun and socialise.

National Policy

PPG17: Sport and Recreation

Para 18 states that local authorities should seek opportunities to improve the value of existing facilities.

Consultations

Fire Officer - Satisfactory

Environmental Health and Consumer Services - No adverse comments. The proposal does not appear to be one which would give rise to anti social behaviour or noise nuisance, and there are no Environmental Health records of noise complaints relating to the bowls club.

West Midlands Police – no objections to the proposals, however the onus should be placed on the club to prevent unauthorised intrusion into their grounds. There is a history of anti social behaviour in Briar Avenue, Manor Rd and the Community Centre and playing fields , but none directly attributed to the bowling club. There are currently no ‘hot spot’ areas, although there are ongoing problems of youths in the area. The numbers of complaints and incidents has reduced significantly in the last 18-24 months. Improvements to the perimeter fencing to provide a more effective barrier to prevent unauthorised access should be considered.

Landscape Officer – No objections. The shelters would be situated on existing hard surfacing and would therefore have no adverse impact on the existing trees and established shrubs along the northern boundary. Views from existing gardens would be restricted. Due to the design and materials a temporary consent should be considered.

Public Participation Responses

Six letters of objection have been received.

Objections:

- Lack of security of the site allowing open access
- Likely to attract youth and anti social behaviour particularly at night
- Noise and disturbance and litter to nearby residents
- Police regularly called out to disturbances at the playing fields, streetly youth - club and sports club
- Children’s play area now removed on the adjoining playing fields due to vandalism
- Poor maintenance of trees along the boundary of the bowling green and surrounding residential properties, possible further overgrowing likely
- Shelters should be positioned on the opposite side of the bowling green away from the houses
- Property devaluation
- Poor location plan, which doesn’t show all the surrounding houses
- Too close to adjacent houses
- Intolerable noise from bowlers using the shelters
- Due to floodlights the bowling green is used into the evening causing late night noise
- Shelters will be open for use by other club members for smoking, drinking etc increasing noise levels.

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

Determining Issues

- Impact on surrounding residential occupiers.
- Design and Layout

Observations

Impact on surrounding residential occupiers.

The proposed shelters would be situated on the existing paved area on the northern side of the bowling green, which currently has at least one bench seat, but facility for several more.

The rear gardens of 5, 7 and 9 Astor Road form the boundary to the north, but are situated at a higher level (less than 1m) than the bowling green, with landscaping along the boundary within the club grounds, which includes a number of silver birch trees, which provide a natural screen on the boundary. Views of the club/bowling green are therefore obscured from full view from the adjacent residential properties. The proposed shelters would have no adverse impact on the surrounding residential occupiers in terms of visual amenity.

The shelters would be on a paved area, already available for bowlers to sit and view the bowling green. This is the widest/largest area of hardstanding around the green and therefore the most appropriate location for the shelters and an area already used by the bowlers.

Residents have raised concerns regarding noise and disturbance from the use by the bowlers. It is however considered that the design of the structures (with open front) would project any noise towards the green and away from the residential properties to the rear.

Anti social behaviour in the area has also been raised by residents and the possibility that the shelters could exacerbate this. West Midlands Police have raised no objections to the proposals. They are aware of the anti social behaviour in the area generally but confirm none is directly attributed to the bowls club and that complaints/incidents have significantly reduced in the last 18-24 months. The police would welcome improved security fencing and would encourage the club to prevent unauthorized intrusion into their grounds.

Neighbours have also raised concerns regarding the likely noise and disturbance from youths attracted to the shelters, out of club hours. The sports club as a whole have recognized that there is a security issue at the site, which allows for out of hours access and are proposing to install additional 1.8m high palisade fencing around the bowling green in the near future. The sports club site is private land and the club recognize that it is their responsibility to improve security to prevent unauthorized access. This should prevent noise and disturbance to residents outside club hours from the site generally and the proposed shelters.

Design and Layout

Whilst the design and materials of the proposed shelters are basic and utilitarian, it is recognized that this is commonplace for this sort of facility. The design is practical to provide shelter from inclement or particularly sunny weather whilst allowing full views of the bowling green itself. The height of the shelters has been kept to a minimum to ensure no adverse impact on the adjoining residential occupiers. A condition is attached to ensure that the shelters are stained a dark colour to reduce any visual impact. The proposals would improve the facilities of the bowling club.

Summary of Reasons for Granting Planning Permission

The design of the proposed shelters whilst utilitarian is appropriate for the use and location. The proposed shelters would be well screened from the adjoining residential properties by existing trees and shrubs along the northern boundary and it is considered that the surrounding residents would not be unduly disturbed by noise from use of the shelters. The site of the proposed shelters is currently used by bowlers to view the games, and the use of the shelters are unlikely to increase the noise levels currently experienced by neighbours.

Objections and issues raised by local residents have been considered, security of the site, proximity of proposals to residential properties, anti social behaviour and noise and disturbance have all been addressed above. West Midlands Police are aware of anti social behaviour and incidents in the wider area, but have confirmed that none have been directly attributed to the bowling club.

It is considered that the proximity of the shelters (on the opposite side of the bowling green) from the main sports clubhouse would discourage use by smokers and drinkers from the club. Maintenance of the landscaping and trees on the boundary of the site is considered satisfactory by officers following a site visit.

Property devaluation and loss of the play area on the adjacent playing fields are not material planning considerations in the determination of this planning application. The submitted location plan clearly identifies the location of the proposals within the site.

It is therefore considered that the proposals accord with the aims and objectives of the development plan, in particular policies GP2, 3.116 ENV32, 8.5 and 8.9 of Walsall's Unitary Development Plan (2005).

Recommendation: Grant Subject to conditions

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

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

2. Prior to first use of the shelters hereby approved they shall be stained with a dark colour finish. At all times, the shelters shall be retained in a dark colour finish.

Reason: In order safeguard the amenities of occupiers of premises in the vicinity.



ITEM NO: 6.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration and
Performance Directorate On 09 Dec
2008

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 08/1641/FL

Application Type: Full application

Applicant: Mr B Chohan

Proposal: Single storey rear extension
and internal alterations to shop at 79-81,
provision of 6 parking spaces to the rear,
new pedestrian access to flat above 81
and new enclosed amenity space for flats
above 77, 79 and 81.

Ward: Pheasey Park Farm

Case Officer: Barbara Toy

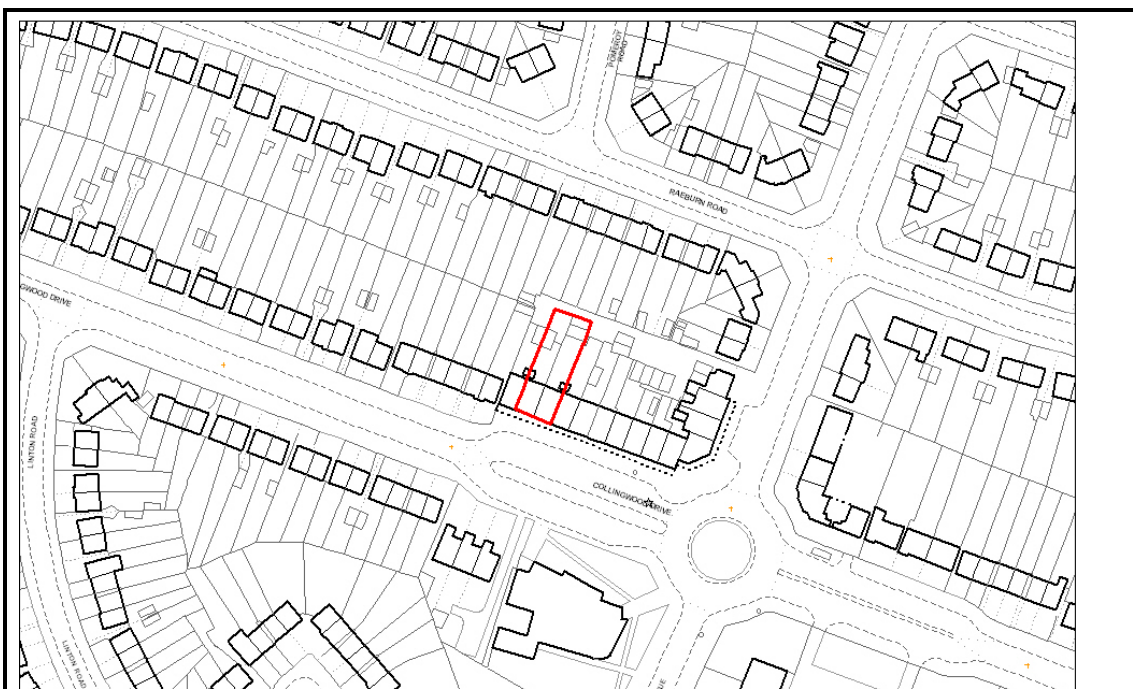
Telephone Number: 01922 652429

Agent: Gurmukhai Building Design Ltd

Location: 77-81 COLLINGWOOD
DRIVE, WALSALL, B43 7JW

Expired: 29/12/2008

Recommendation Summary: That Committee delegate the decision to officers
subject to the expiry of additional public participation and no new issues being raised,
and subject to conditions based on those set out below



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Application and Site Details

The site comprises three retail shops at ground floor with two storey residential accommodation above, within a block of 10 shops fronting Collingwood Drive and a further 4 retail units fronting Hillingford Avenue. The site is situated within the Collingwood Drive, Pheasey local centre.

Vehicle access to the rear of the shops and flats is provided off Hillingford Avenue. The service area to the rear of the shops currently includes a number of detached garages and storage buildings and informal parking within yard areas directly to the rear of each property.

Residential properties are situated to the north and west of the site in a predominantly residential area.

This is a revised application following refusal of a previous application for a single storey rear extension and garages to the rear. This application now proposes a reduced size of single storey rear extension to the shop at 79-81 Collingwood Drive (15m x 9.5m with maximum 4m high pitched roof), creation of 6 defined parking spaces to the rear, a new pedestrian access route to flat above 81 Collingwood Drive and new private amenity space for flats above 77, 79 and 81 Collingwood Drive.

Since the submission of the application the site address has been amended to include No 77 Collingwood Drive and the block plan has also been amended to include No 77.

Relevant Planning History

08/1217/FL, single storey rear extension and alterations to create enlarged shop and garages, refused 15-09-08.

Reasons for refusal:

1. The proposed extension would be over dominant in terms of its overall size and length and out of character with the surrounding pattern of development and would have an adverse impact on the residential environment of the existing flats above the shops in terms of unacceptable pedestrian access arrangements and loss of amenity space.
2. The proposed extension would provide an unsatisfactory level and size of parking provision, insufficient vehicle manoeuvring space/reversing aisle and no refuse storage facility for either the retail shop or the residential accommodation.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website).

Walsall UDP March 2005

2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement, with action to include creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design, and providing for the right number, type and distribution of new homes.

GP2: Environmental Protection

The Council will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

- I. Visual appearance
- VI. Overlooking, loss of privacy, and the effect on daylight and sunlight.
- VII Adequacy of access and parking facilities.

GP7: Community Safety

Proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Detailed criteria are listed for consideration when assessing the quality of design of any development proposal including:- the appearance, materials, height, proportion, scale and mass of the proposed buildings, the visual relationship of the proposal with adjacent areas, the street and the character of the surrounding neighbourhood, the effect on the local character of the area.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

- I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

T7 – Car Parking

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

T13: Parking Provision

Flats with communal parking 1.5 spaces per unit

Retail – Other 1 space per 20sqm of gross floor space

Supplementary Planning Document “Designing Walsall” (January 2008)

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

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

DW2 – Safe & Welcoming Places - all new development must contribute to creating places that feel safe.

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

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

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

DW 10 – Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Consultations

Transportation – no objections subject to a condition regarding the laying out of the parking spaces. Whilst the proposed extension would increase the retail floor space and increase the parking requirement for the premises the proposals now provide 6 formal parking spaces where none exist at the moment. Although there are a number of garages in the service area these tend to be used for storage and parking tends to be on an adhoc basis throughout the service area. It is therefore considered that the proposals would be a substantial improvement to the present car parking arrangements. The site is located within a local centre and there is dedicated public on street car parking facilities on the highway fronting the site. A number of frequent bus services operate in the area.

Fire Officer - Satisfactory

Environmental Health and Consumer Services – no adverse comments

West Midlands Police – no objections to the proposed extension, but would recommend that one customer entrance door on the frontage be provided to the enlarged shop and further security measures within the shop area should be considered.

Strategic Policy – no policy implications

Pollution Control – Contaminated Land Team - no specific contaminated land requirements.

Public Participation Responses

Six letters of objection have been received.

- Mass and scale of extension out of character
- Restriction of vehicle access and turning area for existing properties and garages
- Loss of parking area
- Unacceptable manoeuvring space for parking
- Roof design inappropriate
- Restricted emergency access
- Inappropriate increase in commercial activity which may impact on residents and other businesses in terms of noise, air pollution and pedestrian safety
- Restricted vehicle manoeuvring spaces particularly for commercial vehicles
- 2 Parking spaces shown in the vehicle turning area and not within the boundary of the property.

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- 2 parking spaces and communal amenity space shown outside the application boundary

Occupiers were re-consulted on the revised site address and block plan on 28th November 2008, any representations received as a result will be reported in the supplementary papers.

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

Determining Issues

Whether the proposals overcome the previous reasons for refusal in terms of:

- The size and length of the extension
- Residential environment for flats above
- Parking, manoeuvring and refuse storage

Observations

The size and length of the extension

The single storey extension has been reduced in length by 6.7m and width by 0.8m since the previous refusal and would now measure 15m long and 9.5m wide and have a maximum pitched roof height of 4m.

The proposals would require the removal of two existing single storey detached storage buildings to the rear of No 81 and a detached double garage to the rear of No 79, as well as existing small outbuildings to the rear of both properties.

The reduced length and width of the extension would now allow for a 1.8m wide pedestrian access route to the first floor flat above 81 and 6 parking spaces to the rear of the extension, as well as a 6m wide maneuvering space for the parking.

Whilst this extension would still be larger than any other within the rear service area for the shops, the extension would not extend beyond the line of the existing garage building and other detached storage buildings within the service area. The service area is currently littered with adhoc detached storage buildings of varying sizes and positions, with no uniformity or character. In this reduced form the proposed extension is considered appropriate and not out of character with the surrounding pattern of development.

Residential environment for the flats above

The proposed extension would result in the loss of the existing yard areas to the rear of No 79 and No 81 Collingwood Drive, which could be regarded as amenity space for the flats above the shops, but in reality these are concrete yards with no privacy of security and often used for adhoc parking.

The proposals now provide an enclosed and secure amenity space to the rear of No 77, to be used as a communal amenity space for the occupiers of the flats above 77, 79 and No 81, providing a more defined, private and useable space for the residents.

The proposed revised access route to the flat above No 81 now has a width of 1.8m and a reduced length of 12m, and lighting would be provided on the side wall of the

extension. It is recognized that whilst this is not an ideal situation, the increase in width of the access and provision of lighting improves the access route and West Midlands Police have raised no objections to this element of the scheme. The existing access to the flats above No 77 and No 79 would remain unchanged.

The pitched roof of the extension would fall below the line of the first floor windows of the flats above the shops and it is considered that the proposed outlook from the flats over the pitched roof would be no worse than the current view over detached storage buildings and concrete yards.

Parking, maneuvering and refuse storage

The proposals now provide 6 parking spaces to the rear of the extension, with a 6m wide reversing/maneuvering aisle.

This parking would provide spaces for each of the three flats above the shops and the shop owner, with customer parking available on street in Collingwood Drive itself. The parking provision is considered appropriate for this location within a local centre and the maneuvering space provided would comply with current guidance.

The proposed layout would provide improved maneuvering and access space over the existing situation, which is currently restricted by the position of the existing detached garage at the rear of No 79.

It is therefore considered that the proposals would not interfere with access and maneuvering space for other users of the service yard and would in fact improve the maneuvering space available. The proposals would create formal parking spaces in place of current adhoc parking within the service area.

The revised layout plans now include a bin storage area and refuse collection arrangements would remain unchanged. The shops and flats put their bins in the access drive on collection day, where they are collected, as the rear service area is inaccessible by a refuse vehicle.

Summary of Reasons for Granting Planning Permission

Summary of Reasons for Granting Planning Permission

It is considered that these revised proposals overcome the previous reasons for refusal. The size and length of the extension has been reduced and is now considered satisfactory in terms of the character of the rear service yard area, which comprises a number of adhoc detached storage buildings with no uniformity or character. The extension would now sit inside the line of the existing detached garage to the rear of No 79. The amended pedestrian access to the flat above the shop at No 81 has been reduced in length and increased in width creating a safer and improved access and the provision of a secure, private communal amenity space is considered satisfactory and would provide an appropriate residential environment for the occupiers of the flats. The revised parking and manoeuvring space would now provide a satisfactory level of defined parking spaces and improved manoeuvring space within the service yard as a whole.

It is considered that the revised proposals have overcome the objections and issues raised by local residents. As such the proposals are considered to accord with the aims and objectives of the development plan, in particular policies 2.1, 2.2, GP2, GP7, ENV32, H10, T7 and T13 of Walsall's Unitary Development Plan (2005), Supplementary Planning Document – Designing Walsall (2008) in particular policies DW2 – Safe & Welcoming Places, DW3 – Character and DW10 – Well Designed Sustainable Buildings and National Guidance contained within Department of Transport Manual for Streets (2007).

Recommendation

That Committee delegate the decision to officers subject to the expiry of additional public participation and no new issues being raised, and subject to conditions based on those set out below

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

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

2. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

4. Prior to commencement of development details of external lighting to the pedestrian access to the flats above and the rear parking area shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme installed prior to first occupation of the extension and thereafter retained and maintained.

Reason: To have regard to the objectives of 'Designing Out Crime' and safeguard the users of the site.

5. The parking spaces hereby approved and the communal amenity space shall be fully marked out and provided prior to first use of the extension hereby approved.

Reason: In order to ensure satisfactory parking provision and private amenity space for the site.



Walsall Council

ITEM NO: 7.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration and
Performance Directorate On 09 Dec
2008

REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Madeley

Application Number: 08/1526/AD

Application Type: Advertisements

Applicant: Mrs C Reynolds

Proposal: Display of illuminated neon sign
and non-illuminated fascia and projecting
sign.

Ward: Bentley & Darlaston North

Recommendation Summary: Part approve/refuse

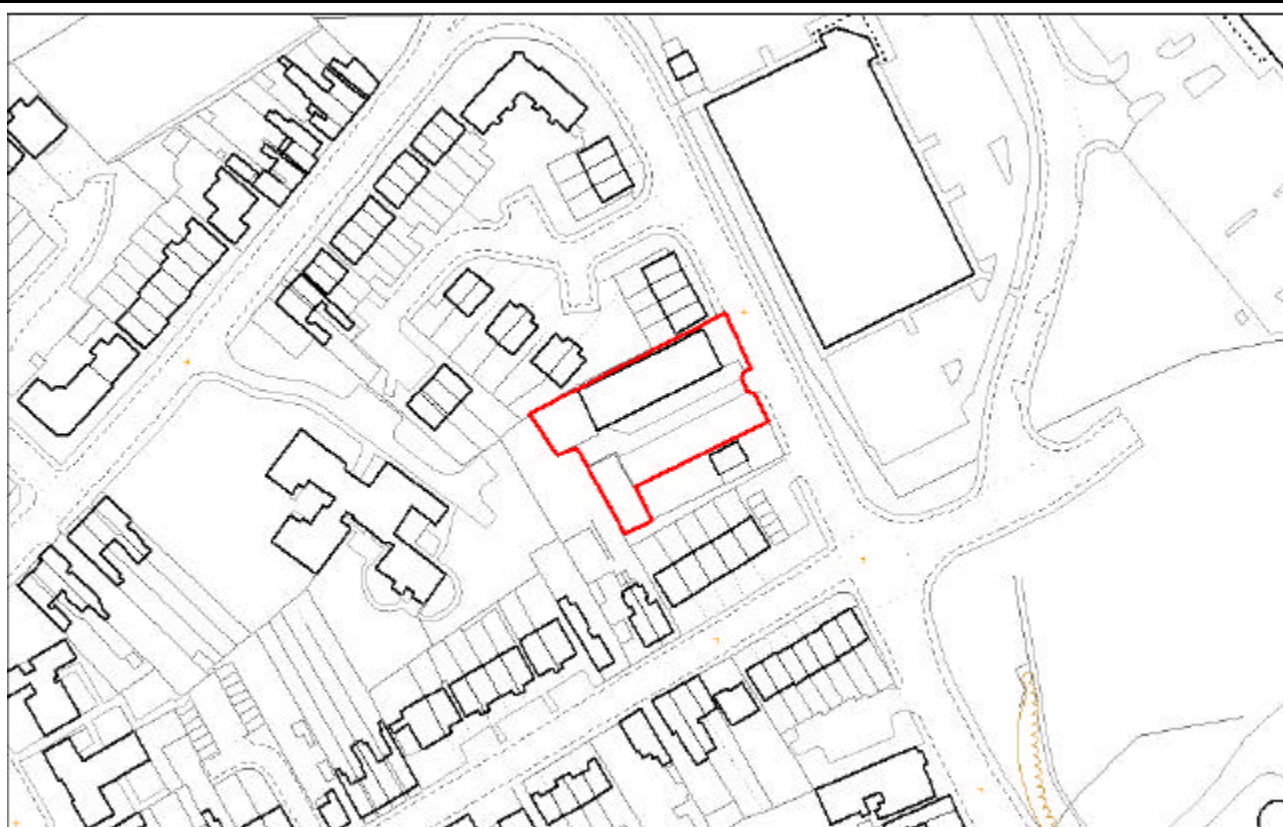
Case Officer: Mrs J Scrivens

Telephone Number: 01922 652436

Agent: Mr Anthony Spruce

Location: THE SUBSTATION, PARK
LANE, WEDNESBURY, WEST
MIDLANDS, WS10 9SE

Expired: 03/12/2008



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Regeneration and Performance, Planning and Building Control, Civic Centre, Darwall Street, Walsall,
WS1 1DG

Website: www.walsall.gov.uk/planning, Email planningservices@walsall.gov.uk, Telephone (01922)
652452, Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

Status

The application has been called in by Councillor Madeley who considers that the advertisements would have little effect on visual amenity and road safety.

Application and Site Details

The application, which is retrospective, relates to advertisements which are being displayed on a restaurant and takeaway at Park Lane, Wednesbury. These are:

- a blue neon sign, and decorative neon tube, on the Park Lane elevation at fascia level, advertising the name of the business, plus the words 'fish and chips' and 'breakfast'. The decorative tube extends onto the side elevation.
- an orange projecting sign 900mm by 900mm on the front elevation. The application describes this as a non-illuminated sign as, although it is capable of illumination, it has not been illuminated.
- an externally illuminated sign over the side entrance (individual letters painted onto the entrance canopy, illuminated by fluorescent tubes under the eaves
- a sign on the side wall, close to Park Lane. This is 4.4m wide by 1.85m high, white lettering on a dark blue background. The application describes this as a non-illuminated sign. It has however been seen illuminated.

The applicant states these signs are essential for the continuation of her business; the neon sign in particular informs potential customers of the location of the business from a few hundred yards away. The neon light is intended to emphasise the Art Deco design of the building and the sign is intended to complement this.

The building projects forward of its nearest neighbour to the south by approximately 5 metres, so that the sign over the side entrance and the dark blue signboard can be seen from the highway, viewed across the neighbouring front garden.

The rear part of the application site/ building is occupied by an industrial use. The other properties surrounding the site to the west of Park Lane are residential and there is a substantial landscaped area on the opposite side of the road which forms the rear boundary of an industrial estate.

Relevant Planning History

BC54194P Change of use from substation to hot food takeaway. Refuse 18.8.99
BC55308P After local Appeal: Change of use from sub-station to hot food take away. Granted subject to conditions 24.1.00.

05/1988/FL/W5 Extension of closing hours for takeaway to 11 p.m. Granted subject to conditions 13.12.05

Relevant Planning Policy Summary

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

Unitary Development Plan (UDP)

GP2 and 3.6 require development to make a positive contribution to the improvement of the environment

ENV32 states that poorly designed development or proposals which fail to properly take account of their context or surroundings will not be permitted.

ENV35 states that the design of frontages to shops and other commercial buildings should be appropriate to their setting and sympathetic to the building on which they are situated.

Supplementary Planning Documents (SPD)

Designing Walsall SPD

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

National Policy

Planning Policy Guidance PPG19 Outdoor Advertising states that advertisements should only be considered in terms of public safety and amenity.

Consultations

Transportation – No objection

Public Participation Responses

The occupier of the house immediately to the south of the site says that, as she cannot see the neon sign from her house, she has no objection to it.

The occupier of a property in Wood Street objects to the retention of the signage on the building as it has a significant impact on the surrounding area. The light pollution caused by the large rectangular sign is of particular concern.

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

Determining Issues

- public safety
- visual amenity

Observations

Public safety

There are no public safety issues arising from this application.

Visual amenity

The signs displayed on this building are all different in terms of materials, size, style, colour and lettering and this lack of consistency weakens the message which the signs are intended to bring (that of the identity and purpose of the site). This failure to find a consistent style for the advertising detracts from the character and appearance of the building.

Cumulatively the signs detract from the building although individually their impact varies.

The neon sign on the front elevation

This faces the highway and does not have a significant impact on the amenity of neighbours or the surrounding area; in isolation it would be acceptable.

The sign over the side entrance

This is sufficiently far from the neon sign for the differences in their style to be less easily appreciated. This sign is further from the highway and its retention would not have a particularly adverse effect on the visual amenity of the area. There has been an objection from a neighbour to the signs on this business but the distance of this sign from his property, approximately 60m would reduce any direct impact. This sign could be approved, in isolation, or in conjunction with the neon sign on the front elevation.

The orange projecting sign on the front elevation

Conversely, is incompatible in colour and design with the neon sign on the front and the large dark blue sign on the southern elevation (immediately adjoining around the corner of the building). However, it is small enough and far enough away from the neighbour to the south to avoid a detrimental effect on their amenity. The application describes this sign as non-illuminated and, provided that the sign is not illuminated, its retention could be approved.

The large blue sign on the southern elevation

This is similarly incompatible with the two signs on the front elevation which are viewed with it, in terms of colour and design, during the day time. At night the sign is illuminated and it matches the colour of the neon sign on the front elevation. Its scale is too great for the portion of building on which it is sited and it also creates advertising clutter on the Park Lane frontage of the site. This sign forms a visually intrusive feature both in relation to the adjoining residential property, where is detrimental to the outlook from its front garden, and in the street scene, due to its colour, size and location. The retention of this sign would be detrimental to the character and appearance of the building, the outlook of the adjoining property and the visual amenity of the area.

Conclusion

The retention of the neon sign on the front elevation, the sign over the entrance on the southern elevation and the projecting orange sign could be approved; they do not detract sufficiently from the visual amenity of the area to justify a refusal.

The retention of the other sign should be refused as detrimental to the character and visual amenity of the building and the area.

Advertisements should only be considered in terms of their effect on public safety and visual amenity. Although the applicant states that the large blue sign is essential to advertise her business, this is not a matter which the advertisement regulations allow to be considered.

It is also not the case that these particular signs are the only way in which the building can be advertised. For example, a pub-style post sign on the frontage of the site would be more appropriate to the building and would have the benefit of being visible from both directions.

Summary of Reasons for Granting Planning Permission

Recommendation: Part approve/refuse

In respect of the neon sign on the Park Lane elevation of the building, the orange coloured projecting sign and the externally illuminated sign over the doorway on the south elevation of the building, approve subject to the following conditions:

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: It is a requirement of the Regulations that the site owners permission be obtained before any advertisement is displayed.

2. No advertisement shall be sited or displayed so as to –

- Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- Obscure, or hinder the ready interpretation of, any traffic sign, railway signal, or aid to navigation by water or air; or
- Hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle

Reason: In the interests of public safety

3. Any advertisement displayed, and any site used for the displaying of advertisements shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To ensure the satisfactory appearance of the development.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: In the interest of public safety and amenity

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In the interest of public safety and amenity

6. The orange coloured projecting sign on the front elevation of the building shall not be illuminated at any time.

Reason: To define the permission. The application for this sign has been submitted

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and approved on the basis that this sign is not illuminated.

In respect of the sign on the southern elevation of the building, close to the frontage of the site with Park Lane, refuse for the following reason:

1. The sign is incompatible with the two signs on the frontage that are viewed with it, in terms of colour and design and adds to advertising clutter close to the Park Lane frontage of the site. It forms a visually intrusive feature in relation to the adjoining residential property and the streetscene due to its colour, size and location. The retention of this sign would be detrimental to the character and appearance of the building, the outlook of the adjoining property and the visual amenity of the area. The approval of this application would be contrary to policies GP2, 3.6, ENV32 and ENV35 of Walsall's Unitary Development Plan and to policy DW9 of the adopted Designing Walsall Supplementary Planning Document.



ITEM NO: 8.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration and
Performance Directorate On 09 Dec
2008

**REASON FOR BRINGING TO COMMITTEE: Cllr Hughes has called the
application in.**

Application Number: 08/1621/FL
Application Type: Full application
Applicant: Sutton Coldfield Golf Club
Proposal: New conservatory extension to
existing club house.
Ward: Streetly
Recommendation Summary: Refuse

Case Officer: Devinder Matharu
Telephone Number: 01922 652487
Agent: Mr Paul Spooner
Location: 110 Thornhill Road,
Sutton Coldfield, B74 3ER
Expired: 08/12/2008



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Application and Site Details

Sutton Coldfield golf lies within Streetly Area of Special Landscape Character. Residential properties lie adjacent the site and Sutton Park is situated on the opposite side of the road. The golf club is screened from the houses and the road by the boundary hedges and the proposed conservatory would be sited adjacent the existing club house and the access road. The application site is a paved area adjacent the existing club house and currently used as an outdoor seating/drinking area.

There are two Pine trees to the south of the proposed conservatory, one set at 2.75m and the other 4.7m away from the edge of the conservatory. The tree canopy of the nearest Pine extends over the conservatory footprint and the root protection of this Pine is 7.2m and extends over half the footprint of the proposed conservatory. The access to the site is adjacent the boundary with 112 Thornhill Road and the junction with Manor Road and Thornhill Road.

The application proposes the erection of a conservatory to the front of the building to link in to the existing lounge. The conservatory measures 5.9m in length by 4.3m in width and a height of 3.5m.

A Design and Access Statement has been submitted with the application advising that the proposal will be used as additional accommodation space as a member's lounge and will also serve as a private meeting room. It also states that the proposal is to construct a conservatory type extension, the height of which would sit at, or below the eaves height of the existing single storey part of the club house.

No Arboricultural Survey has been submitted.

Relevant Planning History

08/0685/FL. 110 Thornhill Road Sutton Coldfield. New conservatory to existing club house. Refused July 2007 for the following reasons:

- 1) The positioning of the conservatory towards the front of the club house would be visually prominent and as a result would be out of character with the surrounding special townscape. The design of the proposed conservatory by virtue of the extent of the UPVc glazing and the glazed roof would be visually detrimental to the character of the existing club house and the character of the Streetly special townscape character. It is considered that the proposal would be contrary to Policies GP2, 3.16, 3.116 and ENV32 of the Unitary Development Plan, Policy DW3 of Designing Walsall SPD and the advice given in the Streetly Area of Special Townscape Character SPG.
- 2) It has not been demonstrated that the proposals would neither unduly impact on the future health and longevity of the Oak tree, Larch Tree and 3 Pine Trees protected by Tree Preservation Orders nor protect these trees from the development; as such the proposal is contrary to Policies ENV18 and 3.64 of the Walsall Unitary Development Plan 2005, the advice given in the Streetly Area of Special Townscape Character Supplementary Planning Guidance and Policy NE8 of Conserving Walsall's Natural Environment Supplementary Planning Document.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

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

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

Policy ENV18: Existing Trees

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

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

II. the desirability of the proposed development significantly outweighs the ecological or amenity value of the trees.

(b) Where developments are permitted which involve the loss of trees developers will be required to minimise the loss and to provide appropriate planting of commensurate value; wherever possible, this should involve native species of local provenance.

Policy 3.64 Woodlands, trees and hedgerows are an important visual, ecological and historical resource, which should be retained and protected wherever possible.

Policies ENV32, 3.16, 3.116, 3.114 and 3.115 – refers to design and the need for good design that is well integrated with surrounding land uses and local character and creates a sense of place.

Streetly Area of Special Townscape Character SPG

This document refers to the general Edwardian character of the Streetly Area of Special Townscape Character.

New buildings should not merely copy existing designs, whose value is derived from their individuality. However, proposals should complement and provide a contemporary reflection of these elements.

Trees form a valuable and integral component of the established townscape character.

A number of the private trees are protected by Tree Preservation Orders (TPOs), the preference is for existing trees to be retained and the Council will look carefully at proposals where trees are to be removed.

Designing Walsall SPD

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

Development proposals must evaluate and understand the positive characteristics of the area it is located within to create or contribute to a distinctive sense of place in creating new designs.

Page 97 of this SPG refers to Streetly and states:

- The existing character in close relationship to Sutton Park provides a green and spacious sense of place which is echoed throughout the streets through mature tree planting and large plots
- A high quality living environment that maximises its proximity to Sutton Park
- New development should seek to reflect the most positive aspects of Streetly's character
- All new development must respect the green and spacious character of Streetly.

Conserving Walsall's Natural Environment SPD

NE8 All planning applications proposing the retention of trees, woodlands or hedgerows within a development site should demonstrate that the trees to be retained will survive without causing significant nuisance beyond the development phase. Adequate space should be retained for the trees to develop in the future without causing severe shading or requiring damaging containment pruning. The Council may refuse planning applications where inadequate consideration has been given to tree retention beyond the development phase.

NE10 The Council will use Tree Preservation Orders in a flexible way. This may include the serving of a Tree Preservation Order at any stage prior to, during or after the implementation of development proposals.

National Policy

Planning Policy Statement 1: Creating Sustainable Communities both emphasise the need for good design, and development which is sustainable.

Consultations

Transportation – No objection.

Landscape – No objection.

Arboricultural Officer – Objection.

The footprint of the proposed conservatory overlaps the root plate of a mature Corsican Pine that is an integral part of the road side treescape. Foundation construction and compaction to the root plate of this tree is likely to cause damage detrimental to its long-term health and hence their safe useful life expectancy. In addition to this, the location of the proposed structure will result in the Council being placed under pressure to fell or severely prune the tree as a result of falling cones and debris.

Conservation Officer – Objection. There is no noticeable difference to the proposal from the previous one, except for a few minor window detailing changes. Furthermore, my original principle concerns have not been adequately addressed.

The property is within the Streetly Area of Special Townscape Character. The proposed conservatory would be on the front elevation of the property. Conservatories on such prominent locations are not considered to be appropriate, especially in this area of special townscape character, where the character of the building could be harmed as well as giving an over-glazed appearance. The conservatory would be adjacent the highway and the clubhouse's entrance, so would be too visually dominant on approach in the context of the whole building. Overall, this proposal is not in accordance with the Streetly Area of Special Character document, nor Policy ENV32 of the Walsall UDP 2005. It would be in conflict with policy DW3 and the aspirations of the Designing Walsall SPD 2008.

Natural Environment – No objection subject to a user note for applicant advising them that the buildings may be used by bats for roosting and they would need to ensure that they are satisfied that there are no bats using the buildings affected by the development before work is carried out. If there is any evidence of bats then advice should be sought from Natural England.

Environmental Health – No objection. The proposal would not encroach upon 112 to any significant degree and cannot see that it would lead to increased noise issues.

Public Participation Responses

One letter from a local resident has been received raising the following concerns:

- Design of the extension is not in keeping with the building
- the building perimeter has extended towards 112 Thornhill Road including the entrance doors to the function room
- continuing problems with noise generated by activities at 110 Thornhill Road due to the number of social events held in the evening
- proposal does not say additional capacity will not be used to cater for larger functions which will result in greater noise
- the space occupied by the conservatory is a paved area used for outdoor drinking and this will be displaced further towards 112 Thornhill Road.

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

Determining Issues

Whether the proposal overcomes the previous reasons for refusal in respect of:

- unduly prominent position
- extent of uPVC glazing and glazed roof
- Impact on the existing trees on the site

Observations

The application is a resubmission of a previous scheme which was refused under planning permission 06/0685/FL. This scheme has been amended by the reduction of the length of the proposed conservatory by 1m and the design of the window fenestration. The conservatory would still be constructed in uPVC.

Prominent Position

The proposed conservatory is still positioned in exactly the same place, towards the front of the club house and would be visually prominent; as a result it would be out of character with the surrounding special townscape. There is a evergreen boundary hedge which screens the existing single storey element of this part of the club house.

Extent of the uPVC glazing and glazed roof

The design of the proposed conservatory is similar to the refused scheme; it is considered that the proposal by virtue of the glazing panels and the glazed roof would be visually detrimental to the character of the existing club house and the character of the Streetly Special Townscape Character. The proposal still seeks to utilise uPVC materials for the construction of the conservatory, it is considered that the domestic appearance of the proposed conservatory and the overall extent of the uPVC glazing and glazed roof would not be acceptable within the Special Townscape Character as they would not enhance the special townscape area.

However, if a more acceptable design employing a tiled roof and sensitively designed uPVC glazing pattern were to be considered at this prominent location then the Council would consider supporting a scheme at this site.

Impact on the existing trees

The five trees at the front of the site have been protected by a Tree Preservation Order as they are mature and prominent features along this part of Thornhill Road.

The previous reason for refusal made reference to the Oak tree and Larch tree and 3 Pines that would be affected by the proposal. On further inspection of the trees, it is considered that the Larch tree, Oak tree and 2 of the Pines are situated at a sufficient distance away from the proposal to indicate that the excavations for the foundations would not impact on the root systems of these trees.

No Arboricultural survey has been submitted and therefore it has not been demonstrated that the proposals would not unduly impact on the future health and longevity of the large Corsican Pine tree. The removal of the Corsican Pine would result in the removal of the adjacent, smaller Pine as these trees have grown together and should be treated as one. The removal of these 2 trees would be detrimental to the amenity, aesthetic and landscape value of the area, with the level of amenity value provided far outweighing the need for a proposal of this mature.

Policy ENV18 seeks to protect and enhance existing trees, especially those that are protected by Tree Preservation Orders. It is considered that the proposal is contrary to this policy and the advice given in the Streetly Area of Special Townscape Character SPG, which seeks to retain trees protected by Tree Preservation Orders especially along the frontage to properties.

The Arboricultural Officer has objected to the proposal as the footprint of the proposed conservatory still overlaps the root plate of the mature Corsican Pine. These issues are part of the recommendation to refuse.

Other issues raised since the refusal of the previous scheme

A neighbour has made comments in particular the design of the scheme, the current problems with noise and the fact that the proposed conservatory will be positioned closer than the existing club house to 112 Thornhill Road. It is considered that the proposal would not exacerbate any existing noise issues. Any noise complaints can be dealt through environmental health legislation, the Environmental Health Officer has no objections to the proposal. However, if the proposal overcomes the design

and trees issues then a noise survey to assess the impact the proposal would have on local residents can be secured by way of a planning condition. Once this report has been submitted then appropriate mitigation measures could be sought. Furthermore, the hours of use of the conservatory can be controlled through planning conditions to ensure the conservatory is only used at less sensitive times of the day.

Summary of Reasons for Granting Planning Permission

Recommendation: Refuse

1) The design and positioning of the conservatory on the front of the club house would be visually prominent when viewed from Thornhill Road and as a result would be out of character with the surrounding special townscape. The design of the proposed conservatory by virtue of the extent of the UPVc glazing and the glazed roof would be visually detrimental to the character of the existing club house and the character of the Streetly Special Townscape Character. It is considered that the proposal would be contrary to Policies GP2, 3.16, 3.116 and ENV32 of the Unitary Development Plan, Policy DW3 of Designing Walsall SPD and the advice given in the Streetly Area of Special Townscape Character SPG.

2) It has not been demonstrated that the proposals would avoid undue impact on the future health and longevity of the mature Corsican Pine protected by Tree Preservation Order, as such the proposal is contrary to Policies ENV18 and 3.64 of the Walsall Unitary Development Plan 2005, the advice given in the Streetly Area of Special Townscape Character Supplementary Planning Guidance and Policy NE8 of Conserving Walsall's Natural Environment Supplementary Planning Document.



ITEM NO: 9.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration and
Performance Directorate On 09 Dec
2008

REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Perry

Application Number: 08/1410/FL
Application Type: Full application
Applicant: Mrs. Christine Parker
Proposal: Retrospective: Change of use of
part of Land off Brewers Drive, to park one
Heavy Goods Vehicle (for personal use) for
45 hours per week, on Friday PM,
Saturdays and Sundays.

Case Officer: Alison Deakin
Telephone Number: 01922 652487
Agent:
Location: BREWERS
FARM, BREWERS DRIVE, HEATH
END, PELSALL, WALSALL, WS13
6LH

Ward: Pelsall

Expired: 11/12/2008

Recommendation Summary: Refuse, Enforce & Prosecute



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REASON FOR BRINGING TO COMMITTEE: Status

The application has been called in by Councillor Perry because of potential impacts on traffic capacity, the character of the area and inappropriate development in the Green Belt.

Application and Site Details

This application seeks retrospective planning permission for the use of a hardstanding on an area of land used for agriculture for parking one heavy goods vehicle (HGV) for 45 hours per week, being Friday pm, Saturdays and Sundays. The site lies in an open position behind the rear gardens of properties on Walsall Road and opposite new housing on Brewers Drive. It is within the Green Belt and an area designated as public open space. On site is a large agricultural building granted retrospective planning permission in 2006.

The Design and Access statement, indicates that the son of the applicant works for a German company based at Felixstowe, delivering and collecting throughout Europe during the week but getting home for his 45 hour rest period. The haulage company has an operator's license based at Ipswich. Closures to secure lorry parks at Truckstop at Featherstone and parking in Walsall mean that there are no secure parking in the area for him to use. Lay-bys or similar cannot be used as the HGV would have a load ready to take to the continent which poses too much of a security risk.

Relevant Planning History

06/1672/FL/E11 - Retrospective: Retention of replacement agricultural building, green house and hardstanding. Granted subject to conditions. 30/11/2006. This consent included a condition restricting use of the building for purposes only in connection with the agricultural use of the land i.e. it should not be used for haulage.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

Policy 2.1 and 2.2 define the aims of sustainable development, urban regeneration, & environmental improvements are identified.

Policy GP1: sustainable location of development. This supports developments which maximise the re-use of vacant urban land.

Policy GP2 requires all developments to make a positive contribution to the quality of the environment and the principles of sustainable development.

Para 3.16 The Council will consider development in relation to its setting.

Strategic Policy 3.3 safeguards the Green Belt.

3.3 The character and function of the Green Belt will continue to be safeguarded. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

ENV2 d) The making of any material change of use of land is inappropriate development in the Green Belt if it conflicts with the openness and purposes of the Green Belt.

ENV3 need to assess proposals for their impact on the Green Belt in terms of layout, siting and design.

ENV6: The Council will seek to protect the best and most versatile agricultural land from loss to inappropriate development or other uses. Proposals for further development of agriculture, including erection, extension or adaption of farm buildings necessary for the efficient operation of agriculture will be supported subject to the considerations identified in policy ENV3.

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

ENV33: Landscape Design

Good landscape design is an integral part of urban design and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

LC2: Identifies proposed additional areas of urban open space including LC2.3 Land at Goscote Road, Pelsall. This site is linked to the adjacent residential development. The Council will seek a planning agreement to secure the laying out of the land for open space and nature conservation.

Designing Walsall SPD

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

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

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

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

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

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

Policy QE1 - Environment

Overall, this policy seeks improvements to the design and sustainability of the urban areas.

National Policy

Planning Policy Statement 1: Delivering Sustainable Development - emphasises the need for sustainable development.

Planning Policy Guidance Note 2: Green Belts - advises on the control of development in the Green Belt and describes inappropriate development by definition as harmful to the Green Belt.

The change of use of land is inappropriate development unless it maintains openness and does not conflict with the purposes of the Green Belt. One of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. The objective of the Green Belt, amongst other matters is to retain attractive landscapes and enhance landscapes near to where people live, retain land in agricultural, forestry and related uses. There is a general presumption against

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inappropriate development in the Green Belt, such development should not be approved except in very special circumstances.

Consultations

Transportation – Objects. The proposal would be detrimental to both highway safety and to the integrity of highway infrastructure.

Strategic Policy – Objects. Inappropriate development in the Green Belt and would hinder implementation of policy LC2.3 new open space.

Pollution Control (Scientific Team) – No objection.

Pollution Control (Contaminated Land) – No objection.

Landscape – Objects as the application is not supported by a landscape scheme.

Natural Environment – No objection subject to the use of a condition to secure the planting of a native hedge and fencing to protect from grazing animals.

Environmental Health – No objection.

Police Crime Reduction – No objection.

Fire Services – No objection.

Public Participation Responses

Three letters has been received objecting to the application on the following grounds:

- Vehicle is an eye sore
- Rural open farm area is not the place to leave a huge lorry.
- Reduce property value.
- Safety risk with access through a residential area.
- Drains, kerbs and road surface will be damaged in the long term.
- Pollution to the air.
- Other places especially equipped to store heavy goods vehicles.

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

Determining Issue

- Whether the development is inappropriate in the Green Belt
- Whether any very special circumstances exist to justify inappropriate development in the Green Belt
- Impact on the openness and character of the Green Belt
- Highway safety
- Neighbour consultation comments
- Enforcement

Observations

Whether the development is inappropriate in the Green Belt

One of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. One of the objectives of the Green Belt, amongst others is to retain attractive landscapes and enhance landscapes near to where people live and to retain land in agricultural, forestry and related uses. The proposal to change the use of part of the hardstanding previously used for vehicle access to this agricultural site within the Green Belt for the parking of a Heavy Goods Vehicle would be inappropriate development under the terms of UDP policies 3.3 and ENV2 and PPG2.

Whether any very special circumstances exist to justify inappropriate development in the Green Belt

The use encroaches onto the countryside, and would not retain this part of the site as agricultural use. The applicant states that there are no secure parking sites within the area and due to the crime risk posed by having a HGV with loaded goods parked in the road, this site would be suitable. It is considered that this does not amount to very special circumstances to permit a use which is inappropriate in the Green Belt and thus directly against national planning policy. No evidence has been provided as to whether the applicant has carried out a comprehensive search of other more suitable sites within industrial areas in the vicinity and as the operator's licence is based in Ipswich presumably there is a suitable secure parking area at that location.

Impact on the openness and character of the Green Belt

The proposal by virtue of the size and nature of the HGV would appear dominant and an incongruous feature in this largely open site which is generally free from clutter. The parking of the HGV, even for 45 hours per week would compromise the openness of the Green Belt, injuring its character and visual amenity, both within the site itself and conspicuous from the wider Green Belt. The proposal fails to retain an attractive landscape or enhance this landscape in proximity to where people live.

The applicant states that she is prepared to put in planting to screen the development, but no details have been provided. This could not overcome the strong policy objection.

Highway safety

Transportation object to the application as the development involves a large articulated HGV being driven regularly through a residential area to the site. This type and size of vehicle is inappropriate in these streets on a regular basis as the highways were not designed to accommodate this size of vehicle in terms of street geometry and construction specification.

The development requires a large articulated HGV to undertake turning manoeuvres in a residential street to access/egress the site where road widths, kerbing and footways are not designed for regular commercial use and are unacceptable. The applicant has not demonstrated the swept path at the access point for the type and size of vehicle to be operated from the site to show that the turning manoeuvres can be made safely and without overriding footways and verges.

The proposed vehicle hardstanding is unacceptable in terms of construction. An unbound hardcore type construction is likely to result in stones being dragged onto the highway by the vehicle exiting the site to the detriment of highway safety.

The position of the proposed access and location of the gates will require vehicles to wait on the highway whilst the gates are opened. This is unacceptable as it would result in the highway being obstructed whilst this operation is taking place. Gates should be set back sufficiently far enough to allow vehicles to be clear of the highway whilst accessing the site, but it is accepted that this would not be feasible in this case given the size of the vehicle.

Neighbour consultation comments

One letter of objection raises concern that the proposal would cause pollution to the air. Pollution Control have considered the application and raise no objection on these grounds. Objection has also been raised saying that there are other places especially equipped to store HGVs instead of residential areas. The applicant suggests that there are no places within Walsall or the immediate area suitable for the secure parking of HGVs.

There are a number of haulage yards within Walsall which could be options to the applicant, though presumably at a cost. It has not been demonstrated that a comprehensive search of other more suitable sites has been carried out. Objections on the grounds of impact upon property values are not a material planning consideration.

Enforcement

The applicant states that the use has been taking place since December 2007. The assessment of this application sets out the strong policy objection. The use causes harm to the character and openness of the Green Belt and to the visual amenities of the surrounding area. It is in breach of national and adopted Council policy. Enforcement action should be pursued to secure permanent cessation of the use of the land for the parking of a HGV vehicle.

Recommendation: Refuse permission and authorise enforcement action and in the event of non-compliance the authorisation of prosecution

Summary of Reasons for Granting Planning Permission

Recommendation: Refuse, Enforce & Prosecute

Reasons for refusal

1. The proposal represents inappropriate development in the Green Belt. The application has failed to demonstrate that there are very special circumstances sufficient to outweigh the harm caused to the character and openness of the Green Belt by the storage of a Heavy Goods Vehicle. The proposal is therefore contrary to policies GP2, 3.3, 3.16, ENV2, ENV3, ENV6, ENV32, ENV33 of Walsall's Unitary Development Plan and Planning Policy Guidance 2: Green Belts.

2. The proposal would have a detrimental impact upon highway safety and the integrity of highway infrastructure on the grounds that a heavy goods vehicle would

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be driven through a residential area to access the site where the highways have not been designed to accommodate the size of the vehicle. The proposal fails to demonstrate that the vehicle can safely manoeuvre for access/egress purposes to the parking area without overriding footways and verges, additionally such vehicles have a blind spot when reversing, these manoeuvres would be detrimental to the safety of those using the highway and pavement in this residential area. The unbound hardcore vehicle hardstanding is likely to result in stones being dragged onto the highway to the detriment of highway safety. The position of the access and gates will require the heavy goods vehicle to wait on the highway while the gates are being opened, resulting in the obstruction of the highway. The proposal is therefore contrary to policies GP2 and ENV32 of Walsall's Unitary Development Plan.

Enforcement Recommendation

Delegate authority to the Head of Planning and Building Control and the Assistant Director - Legal and Constitutional Services for the service of Requisitions for Information notices and Enforcement notice(s).

Committee is also recommended to authorise that the decision as to the institution of legal proceedings in the event of non-compliance with the Notices, or the non-return of RFI's, to be delegated to the Assistant Director - Legal and Constitutional Services and Head of Planning and Building Control.

That authority be delegated to the Head of Planning and Building Control and the Assistant Director - Legal and Constitutional Services to amend and add to or delete from the wording set out above stating the nature of the breach(es) the reason(s) for taking enforcement action, the requirement (s) of the Notices or the boundaries of the site.

Steps Required

Permanently cease the use of the site for the parking of any Heavy Goods Vehicle not in association with the agricultural use of the site.

Compliance Period

2 months.
