



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 5th March 2015

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| 2 | 15 | 14/1858/FL | Four Crosses P.H Upper, Green Lane, Shelfield, Walsall, WS4 1RN | Variation of condition 10 of permission 12/0221/FL (erection of 30 bedroom care home with ancillary lounge and dining facilities above retained public house) to remove the restriction as a care home for the elderly and allow for residential accommodation and care to people in need of care and nursing home. | Grant Permission Subject to Conditions |
| 3 | 31 | 14/1878/FL | BRITISH CAR AUCTIONS, GREEN LANE, WALSALL, WS2 7BP | Erection of vehicle preparation building. | Grant Permission Subject to Conditions |

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| 4 | 41 | 14/1871/FL | THE BRIDGE, PARK STREET, DIGBETH, BRADFORD STREET AND LOWER HALL LANE, WALSALL, WS1 | Re-location of existing Walsall Town Centre Market to new permanent location including associated public realm works (phased developments). | Grant Permission Subject to Conditions |
| 5 | 53 | 14/0595/CM | FORMER WERNICKS HIRE SITE, APEX ROAD, WALSALL, WS8 7EP | Change of use to metal recycling facility, including recladding of existing building, installation of weighbridge, erection of new boundary fencing and planting to the canal towpath. | Grant Permission Subject to conditions, unless additional information is received which raises material issues |
| 6 | 75 | 15/0080/FL | FORMER 71 SKIP LANE, WALSALL, WS5 3LP | New build 5 bedroom house on plot of former house | Grant Permission Subject to Conditions |
| 7 | 87 | 15/0166/FL | SITE ADJACENT 452 WOLVERHAMPTON ROAD, WALSALL | Single storey front, rear and side extension and new pitched roof to cafe. | Grant Permission Subject to Conditions |
| 8 | 93 | 14/1777/FL | LAND BETWEEN LITTLE WOOD STREET AND MALT HOUSE LANE, WILLENHALL | Proposed car park | Grant Permission Subject to Conditions |
| 9 | 103 | 15/0138/FL | FORMER MOTORCYCLE PARK, NEWPORT STREET/LOWER HALL LANE, WALSALL | Temporary change of use for up to 2 years for open storage comprising 4 large steel containers (20ft x 8ft), 5 small steel containers (10ft x 8ft), 20 '1100' bins, erection of lighting column and creation of pedestrian access gate at Lower Hall Lane for use by the Council's Market Service. | Grant with conditions, subject to no new information raising new material issues |

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| 10 | 111 | 14/1857/FL | MULTI STOREY CAR PARK, LITTLE LONDON ACCESS ROAD, WALSALL, WS1 4DD | Demolition of existing multi-storey car park and construction of new surface car park. | Grant Permission Subject to Conditions |
| 11 | 119 | 14/1228/FL | LAND ADJACENT, 35 ROWLAND STREET, WALSALL, | Construction of 6 no. four bedroom, two and a half storey houses and 1 no. 2 bedroom dormer bungalow with new access drive. | Grant Permission Subject to Conditions |
| 12 | 135 | 15/0042/FL | 12 FEATHERSTON ROAD, WALSALL, B74 3JN | Two storey side extension with new canopies to front and side with two storey rear in to a single storey rear extension. | Grant Permission Subject to Conditions |
| 13 | 149 | 14/1906/FL | 19 TETLEY AVENUE, WALSALL, WS4 2HE | Proposed single storey ground floor and first floor rear extension. | Grant Permission Subject to Conditions |
| 14 | 157 | 14/1896/FL | 107 COPPICE FARM WAY, WILLENHALL, WV12 5YQ | Part two, part first floor side extension and replacement sloping roof at ground floor to existing garages (which are to be converted to habitable rooms). | Grant Permission Subject to Conditions |
| 15 | 165 | 14/1895/FL | 1-3 West Bromwich Road, Walsall, WS1 3HS | Proposed loft conversion to form 1 no. 1 person 1 bed flat. | Refuse |
| 16 | 171 | 14/1882/FL | 53 AVIEMORE CRESCENT, GREAT BARR, BIRMINGHAM, B43 7QA | Change of use of residential driveway for the storage of trailer unit associated with a business use. | Refuse |
| 17 | 177 | 15/0010/FL | 27 CHARLEMONT ROAD, WALSALL, WS5 3NG | Second storey side and single storey rear extension | Refuse |

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| 18 | 187 | 15/0008/FL | 17 WAYSIDE GARDENS, WILLENHALL, WV12 4BW | Ground floor rear extension | Refuse |
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Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 1.

Reason for bringing to committee: Major application

Application Number: 14/0822/FL
Application Type: Full application

Case Officer: Alison Ives
Telephone Number: 01922 652604
Email: planningservices@walsall.gov.uk
Agent:

Applicant: Bovis Homes Ltd

Proposal: Variation of condition 33d of permission 02/2417/OL/E2 (Former St Margaret's Hospital development) to amend the approved ground levels, topography and landscaping on the Former Male Homes part of the site.

Location: SITE OF FORMER ST MARGARET'S HOSPITAL, QUESLETT ROAD, GREAT BARR, WALSALL, B43 7EZ

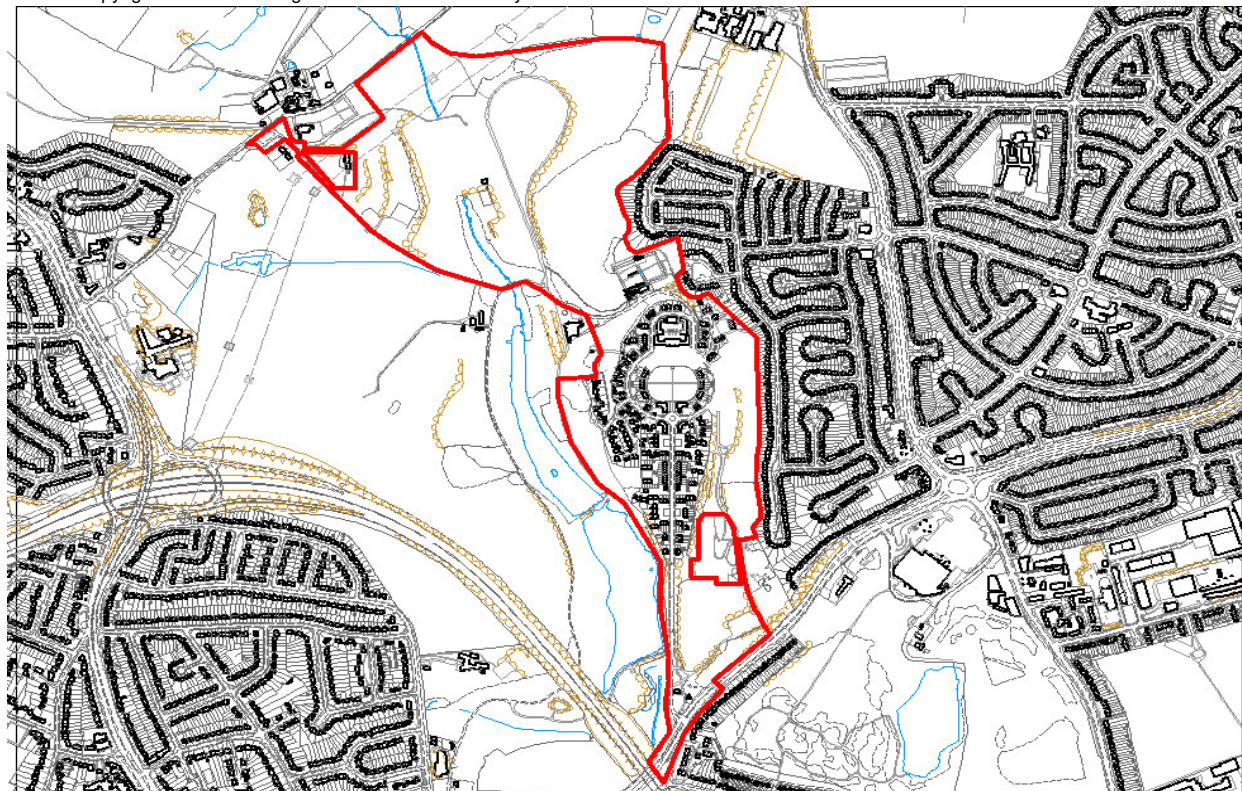
Ward: Pheasey Park Farm

Expired Date: 18/09/2014

Extension of Time Target Date: 28/11/2014

Recommendation Summary: Grant permission subject to conditions and subject to a Deed of Variation to the original Section 229A Agreement (equivalent to a Section 106 Agreement) to secure the outstanding provisions within the Agreement.

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Application and Site Details

The proposal seeks a variation of condition 33d of permission 02/2417/OL/E2 relating to the Bovis development at the former St. Margaret's Hospital site off Queslett Road. The outline permission for residential development and other associated development was granted on appeal in September 2004. Condition 33d requires a scheme of restoration of the natural ground topography of the Male Homes part of the site including reinstatement of the open watercourse between The Duckery and the Gothic Bridge. The site is located within the Great Barr Hall Park and Garden (Grade II Listed) and Great Barr Conservation Area. The former Male Homes part of the site lies to the north of Great Barr Hall and northwest of the housing development.

The proposal seeks to amend the approved ground levels, topography and landscaping on the former Male Homes part of the site. The proposal is to puncture the former Male Homes loop road and cover with demolition waste then cover with 12,500 cubic metres of top soil so that demolition waste is not within 1m of the finished grade level.

The Perry Brook culvert is to be excavated to remove the culvert and old made ground and create a new alignment of Perry Brook and cascades with clean subsoil within 300mm of finished levels.

All finished areas are to be cultivated to a depth of 50mm to form a fine tilth and seeded with species rich grass and wildflower meadow mix including aquatic plants.

The proposed ground levels are lower than existing approved levels and are graded out at a shallower gradient.

The applicant confirms that the materials used to create the landform were screened prior to burying and only materials as agreed within the original framework agreement were buried. They also confirm that the bund along the north side of Suttons Drive will be removed and used on the parkland area to complete the final re-grading levels. Prior to any planting works soil testing will be concluded to confirm the exact phosphorus content. The approved drawing makes reference to the burying of existing demolition materials to a depth of 1m below the final graded ground level, demolition materials are to be screened prior to them being buried to remove any harmful substances and there are no detritus material being buried within these areas. The arisings from the brook de-culverting are to be buried as per the approved drawings 1m below the final graded ground level. A final grading on completion of the earthworks will be carried out with any surface materials being removed.

The Soil Investigation – A survey was carried out in September 2014 where 12 spot points were tested throughout the site and further soil samples from the side of the new stream. It identified that the land has potential to be restored to a diverse, species rich grassland because nutrient levels are mainly low and pH and soil textures are variable. Phosphorus levels on the rubble area are suitable for species rich calcareous grassland. It recommends larger pieces of concrete block and brick fragments are removed as well as visible glass and pottery unless buried below a layer of clean soil 150mm deep. A clean layer of soil to prevent erosion of landfill material into the water is recommended.

Relevant Planning History

02/2417/OL/E2 – Outline application for residential development of former St. Margaret's Hospital Site, alterations to existing access at Queslett Road including repositioning of gate posts and associated development, application accompanied by an Environmental Statement and Master Plan providing up to a maximum of 445 dwellings and design statement - Allowed on Appeal 13/9/04. Condition 33 of the decision states the following:

33. Other than the works of demolition, no development shall commence until a scheme has been submitted to, and approved by the local planning authority relating to:

- a. *The specification of the works for the restoration of the Gothic Bridge including full repairs schedule and arrangements for the commencement and completion of the works.*
- b. *The timing and arrangement for the removal of the concrete pedestrian bridge situated alongside the Gothic Bridge.*
- c. *The specification of the works for the restoration of the Walled Garden including details of the existing and proposed ground levels; tree clearance; the repairs to the walls; the landscaping of the Walled Garden and the timing for completion of these works.*
- d. *A scheme for the restoration of the natural ground topography of the Male Homes part of the site following the demolition of the existing buildings and the removal of all materials from this part of the site. The scheme shall include details for the reinstatement of the open water course between The Duckery and the Gothic Bridge; the removal of the ornamental trees planted in association with the hospital development and the landscaping of this part of the site, including the provision of new tree and hedge planting and the removal of the bunding on the north site of Sutton's Drive.*
- e. *The development shall be carried out in accordance with the approved timetable and terms.*

A Section 229A Agreement (equivalent to a Section 106 Agreement) was completed to secure provision of Education, Transport Contributions and Facilities, Highway Works, Affordable Housing Primary Care and Community Facilities, Landscaped Areas and Public Open Space and works of restoration to the Lodge. Variations to this agreement have subsequently been approved in relation to provision of affordable housing including tenure and amount which has been reduced to 18% in total throughout the site.

There is a Tree Preservation across the site – 19/1995.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 81 encourages local planning authorities to plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.

Paragraph 109 states the planning system should contribute to and enhance the natural and local environment including protecting and enhancing valued landscapes, geological conservation interests and soils and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

137. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Paragraph 131 required consideration of sustaining and enhancing the significance of heritage assets and making a positive contribution to local character and distinctiveness.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include provision of a high quality environment.

The above are supported by the following policies:

CSP1: Sets out the targets for sustainable regeneration of the Black Country.

CSP4: A high quality of design of the built and natural environment is required.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

WM5: Resource Management and New Development.

Walsall’s Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.

The relevant policies are:

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

ENV1: Defines the purpose of the Green Belt.

ENV2: Allows limited infilling or redevelopment of major existing developed sites in accordance with policy ENV4.

ENV3: Identifies more detailed considerations for proposals in the Green Belt.

ENV4: allows for infilling or redevelopment of major developed sites in the Green Belt provided proposals have no greater impact than the existing development on the openness and purpose of the Green Belt.

ENV8: New development on Great Barr Hall and Estate and St. Margaret's Hospital other than that which is normally appropriate in the Green Belt will be limited to the replacement footprint of existing buildings. All proposals must provide for preservation, enhancement and improvement of the character of buildings of architectural or historic interest, and management of the historic landscape and SINC's, and preservation and enhancement of Great Barr Conservation Area.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV19: Habitat and species protection.

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

ENV25: Proposals for development which affect archaeological sites will normally need to be accompanied by an evaluation of the archaeological resource.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area. In the event the Council grants permission for demolition of a Conservation Area property possessing architectural or historic interest the Council will require a building recording scheme.

ENV30: Protects the Borough's registered parks and gardens from the effects of inappropriate built development.

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

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

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

ENV41:

T1: Seeks to improve access and help people get around

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

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;

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

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

Consultations

Transportation – No objections. There are no definitive or other recorded public rights of way crossing the site.

Pollution Control (Scientific Team) – No objections.

Pollution Control (Contaminated Land) – Objects to the proposed method of disposing existing waste by burying it as part of the proposed changes to the landscape profiles. Burying of waste materials without any pre-treatment to remove detritus is not acceptable particularly in close proximity to a water course. Further advice from the Environment Agency should be sought. No objections to the changes in the landscaping, profile and levels.

Conservation – No objections. English Heritage views should be sought as the application should be viewed in conjunction with the wider heritage management across Great Barr Hall Park and Garden.

English Heritage – It is regrettable that the developers have been allowed to tip spoil to raise the ground levels here but English Heritage accepts the current proposals to substitute a lower finished ground level than that envisaged when approval was first granted in 2005. There needs to be sufficient depth of topsoil to provide a relevant growing medium for re-establishment of parkland planting. Any overburden tipped near the Gothic Bridge should be removed. The developer should be required to implement an agreed parkland planting programme across the whole of the site. The removal of the bund along Suttons Drive should also be sought.

Environment Agency – No objections.

Local Access Forum (Walsall Ramblers) – No objections.

Natural Environment (Ecology) – No objections but further clarification is required to demonstrate that the proposals are feasible in landscape and ecological terms before the application is determined. Details of measures to prevent silt-laden water affecting the white clawed crayfish population in the lakes downstream are required. Details of reinstatement of the grassland to the south of the new brook course is required. Further details of the landscape design of the land to the north of the new water course. The planning condition refers to tree and hedge planting but the applicant needs to demonstrate how the creation of a diverse grassland area will be managed and what will people use the land for.

Natural England – No comments.

Public Participation Response

There are nine letters of objection from eight households. These representations are summarised as follows:

- Houses on the Bovis development were sold at a premium cost with the promise of a landscaped garden setting
- Dumping of building materials within the conservation area poses a significant risk to the environment

- The nature of the materials dumped is dangerous to people, pets and wildlife
- The materials used should have been screened and crushed to ensure they do not pollute the brook
- Failure to develop the land as originally proposed continues to increase potential for anti-social behaviour and adding to police pressures
- There are already security issues on the site
- Lack of privacy for surrounding houses due to loss of trees and bushes
- If the landscaping is not going to be delivered residents will feel cheated by Bovis
- The landscaping was part of a package of proposals for the development of the housing
- Query whether this the correct process to amend the permission
- Failure to consult with locals or adjacent landowners

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

Determining Issues

- Principle of development
- Impact on the historic parkland
- Relationship to surrounding properties
- Impact on Perry Brook
- Removal of bunds on Suttons Drive
- Section 106 Agreement

Observations

Principle of development

The principle of restoring the parkland to its original levels was approved on appeal and a scheme of restoration of the natural topography of this part of the site to be secured by condition 33d of the permission 02/2417/OL/E2 as follows:

33d. A scheme for the restoration of the natural ground topography of the Male Homes part of the site following the demolition of the existing buildings and the removal of all materials from this part of the site. The scheme shall include details for the reinstatement of the open water course between The Duckery and the Gothic Bridge; the removal of the ornamental trees planted in association with the hospital development and the landscaping of this part of the site, including the provision of new tree and hedge planting and the removal of the bunding on the north side of Sutton's Drive.

A scheme for restoration was granted as part of a submission to discharge the conditions. The approved scheme does not show removal of all materials from this part of the site as the approved Earthworks Strategy includes a reduced dig level in the Horseshoe (Nether Hall Park estate), opening of Perry Brook Watercourse and the re-use of arisings from the residential development. The total quantity of fill produced from these three sources was 75,000m³. The strategy explains how the fill material would be tested to determine the classification then compacted and then topsoil added and seeded with grass.

The current proposal is to amend the approved topography and landscaping due to the fact that there is less fill material available on site to create the previously approved topography. The contours have also changed so that they undulate to deter anti-social behaviour from quad biking for example.

Residents are concerned that the materials deposited on the land to complete the restoration are harmful and pose a significant risk to the environment and conservation of the site and could pollute the brook. The supporting information states that materials were screened before being buried. The approved Earthworks Strategy also allows the arisings to be utilised to create the landform.

In order to address the ecologist concerns regarding landscaping and its ongoing management a condition is recommended.

This application to vary the condition on the original permission is the correct process for determining the changes proposed despite residents concerns.

Impact on the historic parkland

Although English Heritage is concerned about the details of restoration already approved they reluctantly accept that the current proposals will not significantly affect the landscape provided there is sufficient topsoil to create a growing medium and secure implementation of the planting.

Paragraph 44 of the decision for 02/2417/OL/E2 states “the proposal would secure the removal of the derelict Male Homes from an open and sensitive part of the site, and reinstatement of parkland.” The proposal remains to reinstate the parkland.

All ornamental trees planted when the site was occupied as a hospital have been removed as required by the condition. New planting will be established to return some of the original character.

Relationship to adjacent properties

The nearest properties are new housing on Nether Hall Park, Great Barr Hall Grade II Listed Building and established housing in the Park Farm Road area. The housing and Great Barr Hall are located to the south of the site. Although the parkland originally fell within the curtilage of Great Barr Hall it is now under separate ownership and forms part of the land for which planning permission was secured by Bovis Homes. The proposal to restore the land to parkland will not have any significant impact on surrounding properties. It will also enable the developer to fulfil their obligations to reinstate the parkland and landscaping as many residents are disappointed this has not yet happened and was promised when they purchased their homes.

There have been reports of anti-social behaviour on the land in the intervening years since permission was granted and residents are concerned about security but it is anticipated that once the works are complete and residents make better use of the parkland this will discourage anti-social behaviour as there will be greater surveillance.

Residents are concerned that there has been insufficient consultation with locals and adjacent landowners. A press notice was published; site notices posted and a significant number of letters to immediately surrounding neighbours and land owners were sent as statutorily required.

The site is screened from nearby housing by existing trees and is a significant distance away (at least 80m away from the rear gardens of housing in Aviemore Crescent). On the basis that the principle of the landscaping has already been accepted it is considered that there will be no loss of privacy as a consequence of the amendments to the ground levels, topography or landscaping of this part of the site.

Impact on Perry Brook

The condition requires reinstatement of the open watercourse known as Perry Brook which forms part of the proposals. The brook is in the process of being de-culverted to open it up to open water as required by condition 33d.

Removal of bunds along Suttons Drive

The applicant has indicated that the bund along the northern side of Suttons Drive will be removed and material used to form the final contours on the parkland. This remains to be complied with as part of condition 33d. As all original conditions that have not yet been discharged fully are recommended to be imposed again where relevant this requirement will remain to be met.

Section 106 Agreement

There is an existing Section 229A Agreement (equivalent to a Section 106 Agreement) to secure provision of Education, Transport Contributions and Facilities, Highway Works, Affordable Housing Primary Care and Community Facilities, Landscaped Areas and Public Open Space and works of restoration to the Lodge. Variations to this agreement have subsequently been approved in relation to provision of affordable housing including tenure and amount which has been reduced to 18% in total throughout the site. There are still some matters which remain outstanding such as the primary care and community facilities which the developers are seeking to provide a contribution for in lieu of on-site provision. This was reported to Planning Committee on 29th March 2012 but negotiations are still ongoing with Bovis. In the circumstances a Deed of Variation is required to secure the outstanding matters as the variation of condition 33d result in the issue of a new permission if agreed. The Deed of Variation will essentially tie this permission to the existing Agreement.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

Recommendation: Grant permission subject to conditions and subject to a Deed of Variation to the original Section 229A Agreement (equivalent to a Section 106 Agreement) to secure the outstanding provisions within the Agreement.

General

1. The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

Reason: Pursuant to the requirements of Section 92 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 except in so far as may otherwise be required by conditions or as may have already been approved under the original consent 02/2417/OL/E2: -

- Site Location Plan (STMG/02/107) received 19/6/14
- Earthworks Reprofilling Plan (1154.01) received 4/6/14
- Earthworks Reprofilling Cross Sections (1154.02) received 4/6/14
- Perry Brook Profile (1154.03) received 4/6/14
- Earthworks Cross Sections (STM-5-1750 & 1751) received 4/6/14
- Cascade Detail (1154.04) received 4/6/14
- Planting Plan (1154.05) received 4/6/14
- Soil Investigation prepared by Rosemary Peel ADA UK Ltd received 17/11/14

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

3. No development shall commence on any phase of development until the following details for that phase of development have been submitted to and approved in writing by the local planning authority:

- i. Hard surfacing including roads and footpaths;
- ii. Street and other lighting proposals;
- iii. Details of construction programming; compound requirements and locations and temporary construction lighting requirements;
- iv. Details of public open space to be provided on that phase of development, including children's play area
- v. Details of the locations of underground services.

Reason: To ensure the satisfactory development of the site.

Amenity Areas

4. The areas of open space including areas of Public Open Space as shown on the master plan within each phase of the development shall be laid out within 12 months of completion of development in that phase of development in accordance with details to be submitted to and approved by the local planning authority.

Reason: To ensure the satisfactory provision of open space.

Open Areas

5. Prior to the completion of the amended ground levels, topography and landscaping works a revised Landscape Management Plan to take account of the amendments shall be submitted to the local planning authority for approval in writing and shall include details of the following:

- i. Long term design objectives
- ii. Management responsibilities and maintenance schedules for all the undeveloped areas of the site including open amenity areas within the housing development, the woodlands and the open land formerly comprising the Male Homes part of the site
- iii. Arrangements for the provision of public access to the open land including the provision for walking and cycling between Queslett Road and Chapel Lane using Sutton's Drive.

Reason: To ensure the satisfactory maintenance of the open areas of the site and public access.

6. All hard and soft landscape works approved by subsequent reserved matters submissions shall be carried out for each phase of the development within 12 months of the completion of the last dwelling in that phase of the development.

Reason: To ensure the satisfactory appearance of the development.

Ecological Management

7. Prior to the completion of the amended ground levels, topography and landscaping works a revised Ecological Management Plan to take account of the amendments shall be submitted to and approved in writing to the local planning authority. The Ecological Management Plan shall include long term design objectives, including phasing of works to limit public access to the woodlands within and adjoining the site; the identification of significant ecological interests and measures to protect these ecological interests in the woodlands within the site; and its

relationship to with the Landscape Management Plan required by Condition 5. The Ecological Management Plan shall be implemented in accordance with the phasing and timing of works contained therein.

Reason: To ensure the protection of wildlife and/or protected species on the site.

Cycle and Pedestrian Access

8. The pedestrian and cycle route between the site and 42 Park Farm Road shall be maintained in accordance with approved details and remain available for use by the public.

Reason: To secure sustainable cycle and pedestrian links to the wider area.

Highway Access

9. No access to the development site for motor vehicles except emergency service vehicles shall be made to the site other than from the improved access onto Queslett Road.

Reason: To maintain highway safety.

10. No dwelling shall be occupied until the parking area for that dwelling, and vehicle and pedestrian access to the dwelling from the public highway, has been hard surfaced.

Reason: To ensure the satisfactory completion of the development and availability of parking.

Drainage

11. Details of the scheme for foul and surface drainage for each phase of the development shall be submitted and approved by the local planning authority prior to the commencement of built development on that phase of development. The drainage works shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory development of the site.

Trees

12. All tree protection measures shall be implemented in accordance with the details submitted under application 02/2417/OL/E2.

Reason: To ensure the protection of retained trees.

13. No underground service shall be sited within the crown spread of any tree to be retained except where otherwise agreed in writing by the local planning authority.

Reason: To ensure the protection of retained trees.

14. No storage of plant, machinery or materials, the driving of vehicles or lighting of fires shall take place under the canopy of any retained tree throughout the construction period.

Reason: To ensure the protection of retained trees.

Implementation

15. Notwithstanding details previously submitted full details of the following matters shall be submitted to and agreed in writing by the local planning authority prior to the implementation of the works:

(a) Specification of the works for the restoration of the Gothic Bridge including a full repairs schedule and arrangements for the commencement and completion of the works;

(b) The timing of and arrangement for the removal of the concrete pedestrian bridge situated alongside the Gothic Bridge.

(c) The specification of works for the restoration of the Walled Garden including details of the existing and proposed ground levels; tree clearance; the repairs to the walls, the landscaping of the Walled Garden and the timing for completion of these works.

(d) The scheme for the restoration of the natural ground levels, topography and landscaping of the former Male Homes part of the site shall be carried out in accordance with the submitted details referred to in condition 2 of this permission. The reinstatement of the open water course between The Duckery and the Gothic Bridge; the removal of ornamental trees planted in association with the hospital development and the landscaping of this part of the site, including the provision of new tree and hedge planting and the removal of the bund on the north side of Sutton's Drive shall be implemented in accordance with an timetable to be first submitted to and agreed in writing with the local planning authority.

Reason: To ensure the satisfactory development of the site.

Restriction of Permitted Development

16. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or succeeding order or enactment, no development of the type specified below and within the following classes in Schedule 2 to the Order shall take place without prior approval of the local planning authority.

Part 1 - Development within the curtilage of a dwelling house

Class A: The enlargement, improvement or other alteration of a dwelling house.

Class B: The enlargement of a dwelling house consisting of an addition or alteration to its roof.

Class F: The provision within the curtilage of a dwelling house of a hard surface for any purpose incidental to the enjoyment of the dwelling house as such where such hard surface would be closer to a highway or other public area than the nearest part of the original dwelling facing that highway or public area.

Part 2 – Minor Operations

Class A: The erection, construction, maintenance, improvement or other alteration of a gate, fence, wall or other means of enclosure that is visible from a highway or other public area.

Class B: The formation, laying out and construction of a means of access to a highway.

Routing of Services

17. Save with the written approval of the local planning authority, all pipes; meter boxes; fibres; wires and cables required by statutory undertakers and all other appropriate bodies including cable TV operators or service providers of telecommunications shall be placed underground or in concealed locations, where this would not damage areas of ecological importance. Prior to any works referred to in this condition being carried out, areas of ecological importance shall have been previously defined on a plan submitted to and approved in writing by the local planning authority.

Reason: To safeguard areas of ecological importance.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 2.

Reason for bringing to committee: Major application with significant community interest. Called in by Councillor Rattigan who supports resident's objections regarding the lifting of the restriction for a care home for the elderly to an open care use as the type of residents causes concern over safeguarding issues particularly as there is a school opposite the site.

Application Number: 14/1858/FL

Application Type: Full application

Applicant: Cool Quay Ltd

Proposal: Variation of condition 10 of permission 12/0221/FL (erection of 30 bedroom care home with ancillary lounge and dining facilities above retained public house) to remove the restriction as a care home for the elderly and allow for residential accommodation and care to people in need of care and nursing home.

Location: Four Crosses P.H Upper, Green Lane, Shelfield, Walsall, WS4 1RN

Ward: Rushall-Shelfield

Case Officer: Alison Ives

Telephone Number: 01922 652604

Email: planningservices@walsall.gov.uk

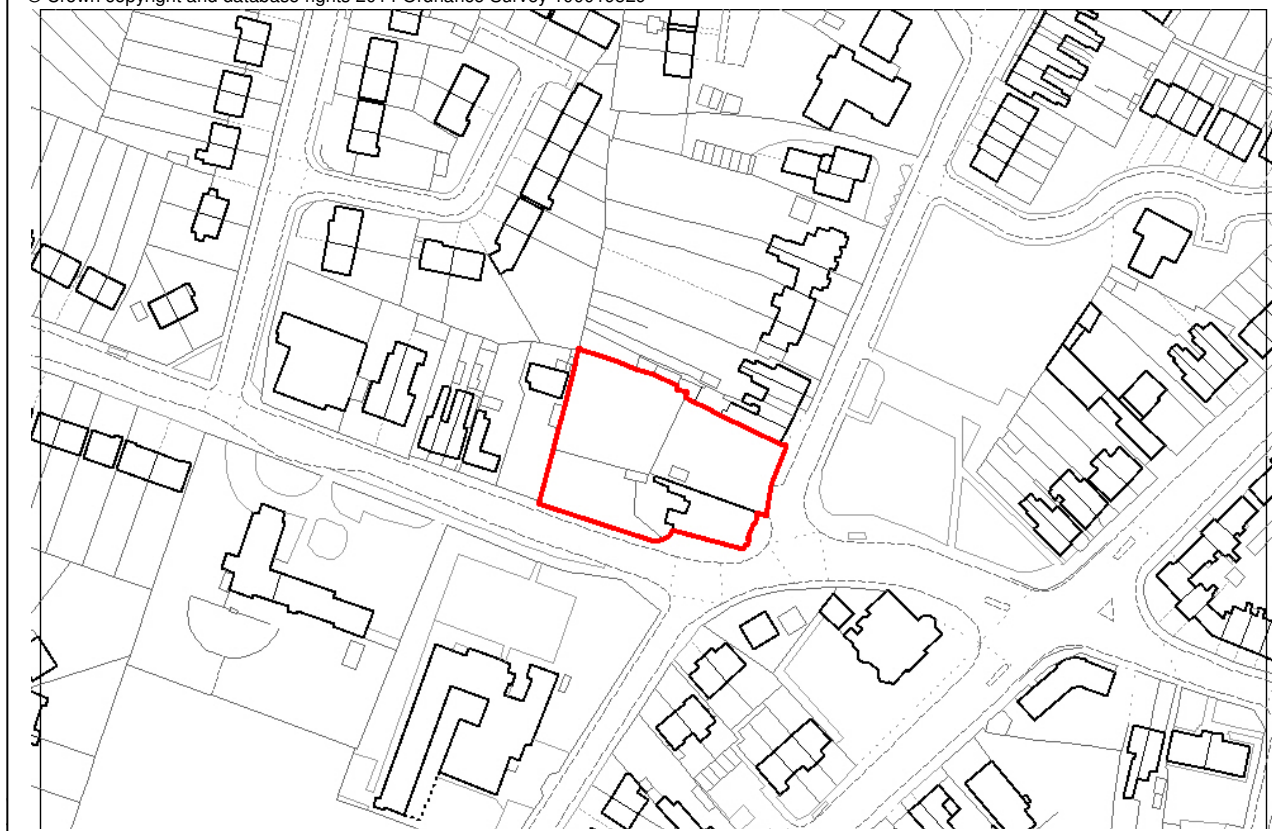
Agent: Keith W Reynolds MCIAT

Expired Date: 24/03/2015

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The proposal seeks a variation of condition 10 of permission 12/0221/FL which relates to the erection of a 30 bedroom care home with ancillary lounge and kitchen facilities within the Four Crosses Public House. The variation is sought to remove the constraint that the approved care home should only be occupied by the elderly.

The existing permission is for a two storey building to create a 30 bedroom care home for the elderly on land at the Four Crosses Public House. The proposed care home is linked to the existing public house at first floor utilising the existing first floor accommodation at the pub as ancillary lounge and dining facilities for the proposed care home. The public house is to remain open at ground floor and has its own kitchen facilities at ground floor. The proposal includes demolition and rebuilding part of the single storey accommodation at the rear of the public house to create new toilets and storage areas. A communal garden is proposed for the care home and car parking for 17 vehicles and an ambulance on the existing car park to the north of the public house with new brick walls across the frontage.

The public house is located at the junction of Green Lane and Mill Road within Shelfield local centre. It is a prominent building visible from Lichfield Road due to the staggered road junction and open land in front. There is a car park, housing, a school and shops surrounding the site. The nearest property on Green Lane is an end terrace shop and the nearest property on Mill Road is a bungalow which is set back from the road with detached garage in front. There is an established hedge along the Mill Road boundary that screens the land presently and is proposed to be retained. There is a zebra crossing on the Mill Road frontage giving pedestrian access to the school opposite.

The applicant considers that the current condition is too restrictive and discriminates those eligible for care within use class C2.

Condition 10 of the permission 12/0221/FL currently reads:

"10. Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any order revoking or re-enacting that Order, with or without modification, the premises shall only be used for a care home for the elderly and for no other purposes within Class C2."

Reason: In order to define the permission and protect the amenities of surrounding occupiers."

The proposal is to revise condition 10 to read as follows:

"10. Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any order revoking or re-enacting that Order, with or without modification, the premises shall only be used for residential accommodation and care to people in need of care and a nursing home and for no other purpose within Class C2."

Reason: In order to define the permission and protect the amenities of surrounding occupiers."

Class C2 use includes the provision of residential accommodation and care to people in need of care. The applicant states they consider the site is not capable of accommodating other uses mentioned in class C2, i.e. hospitals, residential schools, college or training centres.

A separate use class, C2A exists and covers the provision of secure residential accommodation. This scheme is not for a C2A use and any change would require planning approval from the Local Planning Authority.

Relevant Planning History

12/0221/FL - Two storey building to create 30 bedroom care home with ancillary lounge and dining facilities at first floor above retained public house plus car parking and communal garden – GSC 27/07/12.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Building a strong, competitive economy
- Ensuring the vitality of town centres
- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Promoting healthy communities

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 21 of the NPPF states that in drawing up Local Plans, local planning authorities should:

- *set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth;*
- *set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;*
- *support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances;*
- *identify priority areas for economic regeneration, infrastructure provision and environmental enhancement.*

Paragraph 23 seeks to promote competitive town centre environments and advises local planning authorities to recognise that residential development can play an important role in ensuring the vitality of town centres.

Paragraph 32 states all developments should have safe and suitable access to the site for all people.

Paragraph 34 advises decision should ensure developments that generate significant movement are located where the need to travel will be minimised and use of sustainable transport can be maximised.

Paragraph 38 considers large scale residential developments and states where practical key facilities such as local shops should be within walking distance of most properties.

Paragraph 49 advises housing applications should be considered in the context of the presumption in favour of sustainable development.

Paragraph 50 aims to deliver a wide choice of high quality homes and advises local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community such as older people amongst others.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Are visually attractive as a result of good architecture and appropriate landscaping
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 70 states to deliver services the community needs and advises planning policies and decisions should ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CSP4: A high quality of design of the built and natural environment is required.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

All developments will aim to achieve a minimum density of 35 dph, except where higher densities would prejudice historic character and local distinctiveness

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Seeks to bring forward derelict, vacant or underused land and buildings for new uses.

3.116 & ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character.

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.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

H5: Encourages provision of housing for people with special needs including single people, the elderly, ethnic minorities, people with disabilities, and any other groups that require specialist accommodation.

H6: States provision of nursing homes and homes for the elderly will normally be appropriate in residential and mixed residential/commercial areas. Proposals will be assessed in terms of access and parking amenity and landscape.

S5: In local centres where retailing and/or services are contracting housing will be favourably considered provided the remaining retail/service function of the centre is not prejudiced.

S8: Investment in housing development in local centres will be encouraged provided a satisfactory residential environment can be achieved and the function of the centre is not prejudiced.

LC8: Supports retention of community facilities including public houses.

T1: Seeks to improve access and help people get around

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

Residential homes: 1 space per 3 beds

Nursing Homes: 1 space per 2 beds.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

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;

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

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

Consultations

Transportation – No objection subject to restricting the type of Class C2 use permitted to exclude hospitals, boarding schools, residential college and training centres. It is unlikely that the proposed wider uses within Class C2 will generate significantly higher levels of vehicle movements than the consented use as a care home for the elderly. The level of parking is acceptable and there are no severe transportation implications.

Environmental Health – No objections.

Fire Service – No objections.

Housing Strategy – Supports the proposals. The removal of the age restriction would open up the accommodation to a wider range of people who require these types of homes and services.

Natural Environment (Ecology) – No objections.

Police – No objections.

Pollution Control – No objections.

Severn Trent Water – No objections.

Public Participation Response

13 letters of objection have been received from 11 households. A petition with 244 signatures from St Francis Catholic Primary School has also been received. These are summarised as follows:

- The proposal is not in the interests of the local community
- The home is too close to the nearby school and an open use poses a threat to school children
- Concern that the premises could be used for drugs rehabilitation or drop in centre
- Objects to the proposed use as a care home/rehabilitation facility as this is inappropriate so close to a primary school
- Concern about the type of future residents of the home if no restriction is imposed
- The home could accommodate mental health, special needs or young offenders which is inappropriate in close proximity to a school
- An open permission for people in need of care puts pupils at the school opposite at risk from potential drug or alcohol addicts, people recently released from prison or paedophiles
- School children cannot avoid walking past the site and rooms in the building overlook the school
- The Council has a duty of care to protect the local community
- The change is a material change of use as the permission was for a care home for the elderly
- The current approved plans are designed to provide care for the elderly
- Long term residential care is not necessarily appropriate for younger persons as the type of care is changing to supported living
- Short term accommodation for people recovering from addictions is different to accommodation for elderly persons
- No evidence of demand for the service has been provided
- The proposal will have a detrimental impact on Shelfield
- On street parking causes conflict with existing residents driveways
- Inadequate parking
- Potential flooding issues and overloading of the sewerage system

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

Determining Issues

- Principle of a new care home
- Implications of removing the restriction for the elderly
- Layout, Design, Access and Parking

Observations

Principle of a new care home

The principle of a new care home at the site is established by permission 12/0221/FL. The site is within Shelfield local centre close to local facilities and makes more effective use of underused land and buildings in a sustainable location. It will also help provide an income to maintain the viability of the pub so that it remains open as a community facility.

Whilst objectors consider there is no evidence of demand for such services the principle of a care home has already been accepted on this site. The application is merely to lift the restriction that the premises are used for a care home for the elderly and allow other permitted uses within the approved class C2 use it is not to change the use to anything other than class C2.

The principle of the development of a care home has already been approved by permission 12/0221/FL.

Implications of removing the restriction for the elderly

The current permission restricts the use within class C2 for a care home for the elderly only. Class C2 would ordinarily allow for *“provision of residential accommodation and care to people in need of care, hospitals, nursing homes, residential school, college or training centre”*. The purpose of the condition restricting the use was to define the permission by reflecting the advice given by the applicant at that time that it would be a care home for the elderly. It was also to protect the amenities of surrounding occupiers who expressed concerns similar to current concerns regarding the potential occupiers.

The proposal is to vary the condition to allow the premises to be used for a care home for those in need of care, i.e. not specifically the elderly, or as a nursing home. There are no proposed changes to the design and layout of the premises so there is no greater impact upon the appearance of the site or upon neighbours' outlook or privacy.

Residents remain concerned about lifting the restriction due to the type of residents who would be able to be accommodated on site and potential impact this would have on Shelfield and surrounding occupiers, particularly given the proximity to the school. Primarily objectors are concerned that a care home to accommodate person's dependant on drugs or alcohol or for a rehabilitation centre, young offenders, former prisoners or for those with mental health issues who pose a community safety threat particularly for school children as the school is immediately opposite the site.

For clarity some of the uses referred to by the objectors fall outside the scope of the permitted C2 use class and a change of use of the premises would be required. Separate use class C2A (secure residential accommodation) permits *“use for provision of secure residential accommodation including prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or military barracks”*. This includes some of the uses mentioned by objectors. Other uses mentioned by objectors include a drug rehabilitation centre but this falls within the separate use class D1 (non-residential institutions) for which permission would also be required.

The applicant has confirmed that they would not wish to use the premises for uses within Class C2A. They have also confirmed that they do not wish to use the premises for wider class C2 uses such as a hospital, residential school, college or training centre so these uses are excluded by the recommended amended condition.

Objectors state the Council has a duty of care to protect the local community and the proposals are not in the interests of the local community. The wider uses which appear to be of most concern to objectors fall within Class C2A or D1 and are not allowed by the current permission.

Objectors have also highlighted that long term residential care is not necessarily appropriate for younger persons as the type of care is changing to supported living and that short term accommodation for people recovering from addictions is different to accommodation for elderly persons. Whilst this may be the case the proposed use still falls within a class C2 use.

Policy H5 of the UDP encourages provision of housing for people with special needs including single people, the elderly, ethnic minorities, people with disabilities, and any other groups that require specialist accommodation. The proposal to lift the restriction widens the scope for provision of care to other groups in accordance with the policy. Policy H6 states provision of nursing homes and homes for the elderly will normally be appropriate in residential and mixed residential/commercial areas. This is just such an area.

Consideration has been given to the concerns of the residents and the earlier decision by the Council to limit the occupation to elderly. It is recognised that there is a concern from residents and especially parents at the school. Whilst paragraph 58 of the NPPF recognises that fear of crime should not undermine quality of life or community cohesion it is considered that the proposed amendment will not result in a significant alteration to the character of the care home to such a degree that it will erode cohesion within the wider community.

Although there will be some anxiety to the change, it is considered that long-term the premises will not generate a constant fear of crime. This view is based on a consideration of the scope of the change and the fact that the use of the building for people recovering from drug use or other addictions will not be covered by this application and will be need to be considered through a separate planning application.

It is considered that the proposal to amend the condition and allow the premises to be occupied by a wider range of people in need of care or as a nursing home rather than just the elderly is still within a class C2 use and will not have a significant impact on the surrounding area or the amenities of residential amenities and is appropriate.

Layout, Design, Access and Parking

The layout of the site, design of the building, means of access and parking levels were considered under the original planning permission and are not proposed to be altered. The proposed change to the type of residents that could be accommodated does not require any further amendments to these matters. The relationship to surrounding properties including housing and the school has already been determined and potential parking issues have been considered appropriate. With regards to potential flooding and drainage capacity a condition is already included to secure details of drainage to address this concern.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

Recommendation: Grant Permission Subject to Conditions

1. This development must be begun not later than 27th July 2015.

Reason; Pursuant to the requirements of Section 92 of the Town and Country Planning Act, 1990.

2a. Prior to the commencement of the development, drainage plans for the disposal of surface water and foul sewage shall be submitted to the Local Planning Authority for written approval.

2b. The scheme shall be implemented in accordance with the approved details before the development is first brought in to use.

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

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

- I. A desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases likely to present a risk to proposed structures or future occupants of the development to be present on site. Results of the desk study and site

reconnaissance shall be submitted to and agreed in writing prior to built development commencing. (See Note for Applicant CL4).

- II. In the event that the desk study and site reconnaissance indicates the potential presence of contamination and/or ground gases on site. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (See Note for Applicant CL1).
- III. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (See Note for Applicant CL2).
- IV. Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (See Note for Applicant CL2).
- V. The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- VI. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part ii) of this condition is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- VII. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (See Note for Applicant CL3)

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

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 with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development.

5a. Prior to the commencement of the development full planting details of proposed landscaping shall be submitted for approval in writing by the local planning authority.

5b. The landscaping shall be carried out in accordance with approved scheme and implemented within 12 months of the development being completed.

5c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants 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 of the area.

6a. Prior to the commencement of the development full details of all boundary treatment and surface materials shall be submitted for approval in writing by the local planning authority.

6b. The development shall be implemented in accordance with the approved details and maintained thereafter.

Reason: To safeguard the visual amenities of the area.

7a. Prior to the commencement of the development, details of a secure, covered and illuminated cycle shelter facility for the use of staff and visitors shall be submitted for approval in writing by the Local Planning Authority.

7b. The approved details shall be fully implemented prior to the development first coming into use.

Reason: To encourage the use of sustainable modes of travel and to accord with policy T13.

8. Prior to the first occupation of the development hereby approved, all highway infrastructure works detailed and specified within the agreement under the S278 of the Highways Act 1980, shall be fully implemented, completed and brought into use to the satisfaction of the Highway Authority.

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

9. Prior to the development first coming into use, all car parking, accesses and vehicle manoeuvring areas shown on the approved plan shall be fully consolidated, hard surfaced and drained and the parking bays shall be clearly demarcated on the ground. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory operation and completion of the development.

10. Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any order revoking or re-enacting that Order, with or without modification, the premises shall only be used for residential accommodation and care to people in need of care and a nursing home only and for no other purposes within Class C2.

Reason: In order to define the permission and protect the amenities of surrounding occupiers.

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

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

12. This development shall not be carried out other than in conformity with the following plans and documents submitted under permission 12/0221/FL: -

- Site Location (A874.2010.09) received 22/2/12
- Proposed Ground Floor (A874/2010.04) received 22/2/12
- Proposed First Floor (A874.2010.05) received 22/2/12
- Elevations – Sheet 1 of 2 (A874.2010.06A) received 19/7/12

- Elevations – Sheet 2 of 2 (874.2010.07B) received 19/7/12
- Proposed Roof Plan (A874.2010.08) received 22/2/12
- Context Plan (A874.2010.10) received 25/5/12
- Proposed 3D views (A874.2010.12A) received 19/7/12
- Context Plan/Aerial Photo (A874.2010.11)
- Planning Statement prepared by DJ Curtis & Associates received 2/3/12
- Design & Access Statement prepared by DJ Curtis & Associates received 22/2/12
- Preliminary Investigation prepared by Dunelm Geotechnical & Environmental (August 2011)
- Transport Statement prepared by Transport Potential (July 2011) received 22/2/12

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 and effective control is maintained over ancillary elements of the development, as such (except in so far as other conditions may so require).

Notes for Applicant – Contaminated Land

CL1: Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework (2012); British Standard BS10175: 2011 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same

CL2: When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3: Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

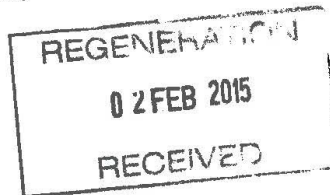
CL4: The desk study and site reconnaissance shall have regard to the previous unknown filled ground and materials used and processes carried on. Further details on the matters to be addressed is available in “Model Procedures for the Management of Contamination” (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

Note for applicant regarding S278 Agreement

An agreement under S278 of the Highways Act 1980 shall be completed to include details of the following items:

- i. the revised vehicle access point off Green Lane (which shall take the form of a footway crossing),
- ii. improvements to the pedestrian crossing points across the Green Lane junction (to include tactile paving),
- iii. the realignment of a section of kerb line on the western side of the Green Lane/Mill Road junction to reduce vehicle turning speeds around the corner into Green Lane
- iv. the removal of two existing redundant vehicle crossings in Mill Road back to full kerb height,
- v. the addition of bonnets to the existing belisha beacons on the zebra crossing in Mill Road directly outside the site.

✓
St. Francis Catholic Primary School,
Mill Road,
Shelfield,
Walsall, WS4 1RH

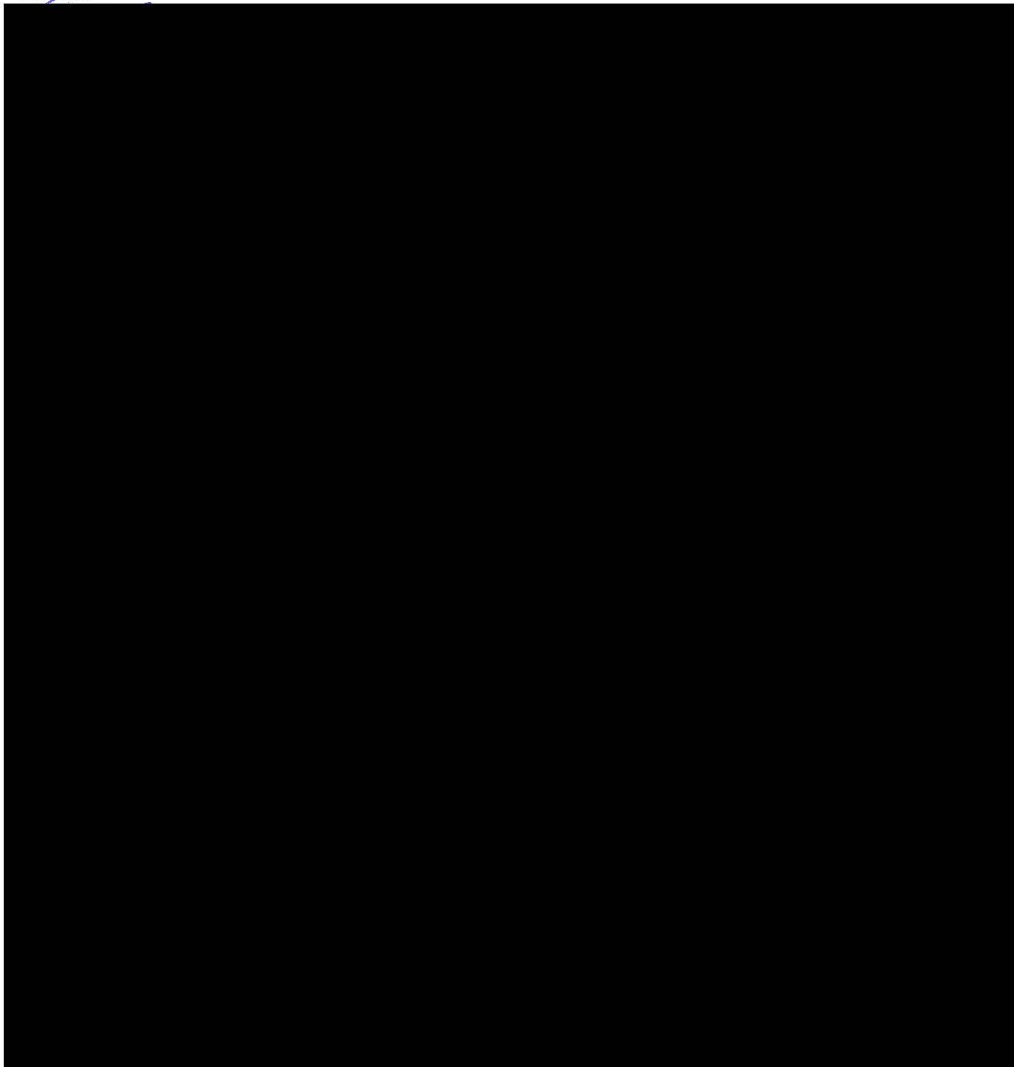


AI ✓
Regeneration Planning and Building Control,
2nd Floor, Zone 2b,
Civic Centre, Darwall Street,
Walsall, WS1 1DG

Re: Planning application for the building of a care home at the Four Crosses Public House, Green Lane, Shelfield

Planning ref no: 14/1858/FL

The parents and nearby residents are alarmed and concerned with the above planning application and strongly object to the proposed use as a care home/rehabilitation facility as we feel it is not appropriate use so close to this primary school.



5



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 3.

Reason for bringing to committee: Major application

Application Number: 14/1878/FL
Application Type: Full application

Applicant: British Car Auctions

Proposal: Erection of vehicle preparation building.

Location: BRITISH CAR AUCTIONS, GREEN LANE, WALSALL, WS2 7BP

Ward: Birchills Leamore

Case Officer: Paul Hinton

Telephone Number: 01922 652607

Email: planningservices@walsall.gov.uk

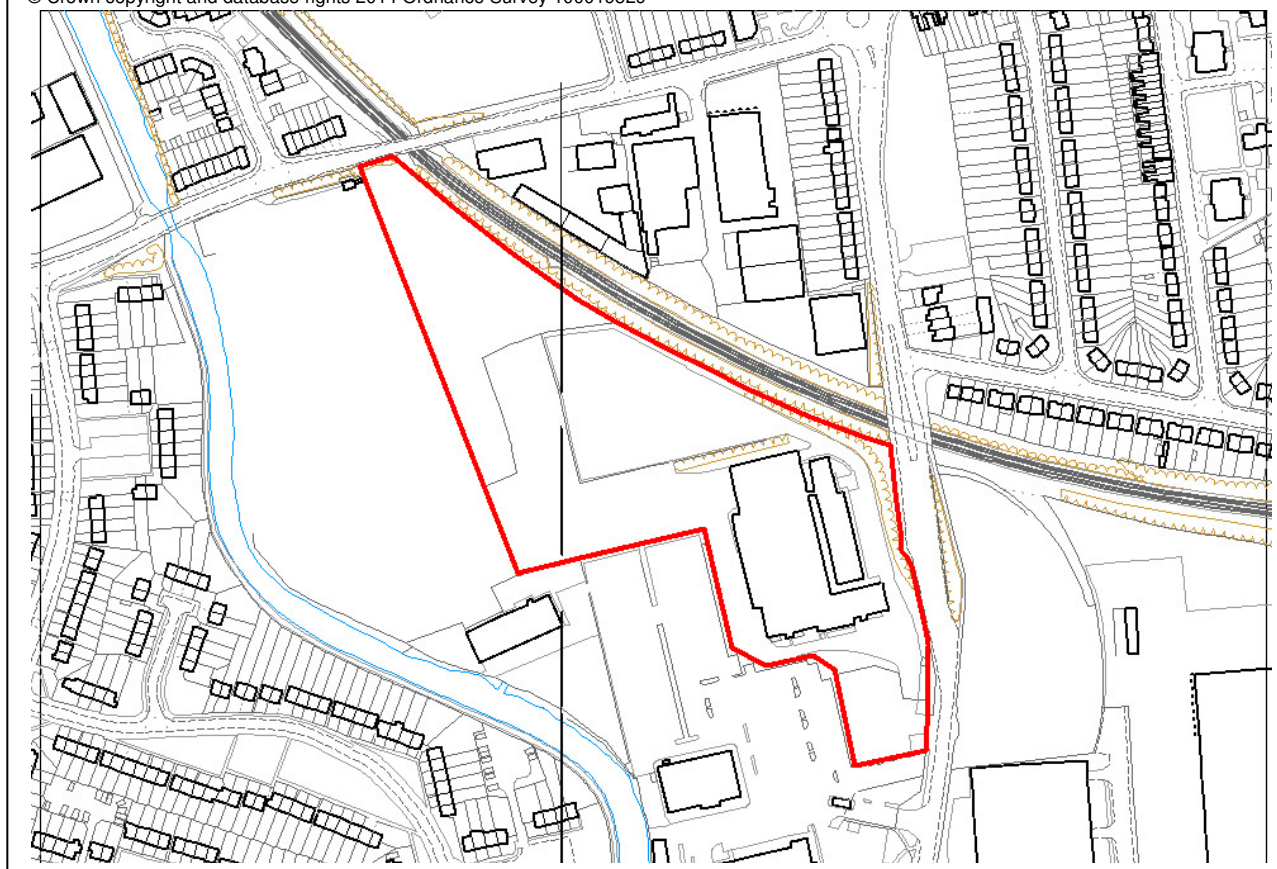
Agent: GHP Architects

Expired Date: 23/03/2015

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application seeks planning permission for the erection of an industrial style metal clad building on an existing yard used as part of the operations at British Car Auctions. The building would have a length of 85m and a width of 15m, with a shallow dual pitched roof with an eaves height of 4.2m and a ridge height of 5.5m. The building would have a floorspace of 1275sqm and would be located close to the boundary with the now vacant former Deeley Castings site. The yard is currently used for the storage of vehicles ready for auction. The building would be used to prepare vehicles for auction, with the northern part of the building being open sided.

British Car Auctions consists of one large building fronting Green Lane, with a large parking area to the side and rear. The site is bounded by the railway to its east elevation, residential properties to the northern elevation along Leamore Lane, the vacant site to the west and South Staffs Water to the south. The houses along Leamore Lane sit high above the application site due to a sharp change in ground levels.

The following document has been submitted with the application:

Design and Access Statement

- Continuing improvements and innovations in BCA's services to clients has lead to a demand to re-organise how vehicles are prepared, appraised and imaged. This is influenced by need to provide full vehicle inspections and images which are made available online.
- Workflow dictates vehicles are washed, valetted, appraised and finally imaged before proceeding on to auction. To achieve this a new facility is required to accommodate all of these processes as the existing facilities on site are inadequate or nonexistent.
- Layout is driven by "production line" format, with three lanes each carrying out these operations leading to the requirement of a long and narrow building footprint.
- The building is located to provide a site circulation pattern which allows BCA to operate this process efficiently within the overall site circulation.

Relevant Planning History

Bc16358P – Change of use to Motor Vehicle Auction Centre. Granted subject to conditions 26/3/1986.

BC29426P – Compound extension, car park, fencing and erection of 4 lighting masts. Granted subject to conditions 26/6/1990.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places the country needs.
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas

- encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

1. Delivering sustainable development

18 The Government is committed to securing economic growth in order to create jobs and prosperity.

19 Planning should encourage and not act as an impediment to sustainable growth.

21 Investment in business should not be over-burdened by the combined requirements of planning policy expectations.

4. Promoting sustainable transport

32 All development should have safe and suitable access to the site for all people. Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

7. Requiring good design

56. Good design is a key aspect of sustainable development, is indivisible from good planning.

58 Developments should function well and add to the overall quality of the area.

61 Securing high quality design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of the new development into the built environment,

64 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11. Conserving and enhancing the natural environment

109 The planning system should prevent new and existing development from contributing to...unacceptable levels of soil, air, water or noise pollution or land instability.

111 Planning decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided it is not of high environmental value.

120 To prevent unacceptable risks from pollution decisions should ensure that new development is appropriate to its location. The effects (including cumulative effects) of pollution on health or general amenity and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

122. Local planning authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

123 Planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts
- mitigate and reduce to a minimum adverse impact on quality of life arising from noise from new development, including through the use of conditions.
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

CPS4: The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

EMP1-4: Seeks to secure, safeguard and provide appropriate levels of employment land to aid sustainable economic growth

EMP3: Local quality employment areas provide for the needs of locally based investment and will be safeguarded for: industry and warehousing; motor trade; haulage and transfer depots; trade wholesalers; scrap metal, timber, construction; and, waste collection, transfer and recycling.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Provision of a high quality network of streets, buildings and spaces

ENV4: Seeks to ensure that canalside development gives a positive impression to the towpath and the integrity of the canal is maintained and enhanced.

ENV5: Seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

Walsall's Unitary Development Plan (UDP)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2 Expects all development to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact upon the environment.

3.6 Development schemes should, as far as possible, help to improve the environment of the borough.

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems. ENV10 states that development which may give rise to pollution such as noise and smell will only be permitted where it would not have an adverse effect on adjoining uses/potential uses.

ENV18: Ensure the protection of trees.

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

ENV35: The design of commercial buildings should be appropriate to their setting

JP7: Use of land and buildings in other employment areas.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of parking to meet operational needs while not exceeding any maximum parking standards that are specified.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

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

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

Walsall Employment Land Review

Area 25: Retain as local quality

Consultations

Transportation – no objection.

Coal Authority – no objection. Recommended note for applicant.

Pollution Control – no objections subject to the use of recommended conditions in regard to a ground has survey being undertaken

Canal and River Trust – no objection.

Environmental Health – no objection.

Severn Trent Water – no objection subject to a condition requiring full drainage details.

Network Rail – no objection.

Arboricultural Officer – No objection subject to conditions.

Fire Services – no objection.

Public Participation Responses

Site notice displayed, press advertisement and surrounding occupiers notified by letter.

None received.

Determining Issues

- Principle of use
- Impact upon the character and appearance of the area
- Impact upon amenity
- Highway safety

Observations

Principle of use

This is an existing and long established site used for the storage, preparation and sale of vehicles through auction. The proposal would not change the nature of the site, but would look to consolidate existing washing, valeting, preparation and imaging areas that currently take place across the site and into one building which would bring efficiencies to the way the site operates. This is an 'other site' in the UDP and considered a local quality area in the Employment Land Review. Accordingly the principle of the proposal is acceptable.

Impact upon the character and appearance of the area

This is a large industrial building within an area that is immediately defined by industrial buildings. The orientation and topography would mean that the nearest residential properties along Leamore Lane (72m away) would have views of the end of the building and the roof. The boundary to the vacant site has a long line of tree and hedge planting which would provide a partial screen along the length of the building. The building would be metal clad, while no details of this colour finish to this cladding has been provided at this time, a condition would be necessary and could ensure a suitable neutral colour. The proposal would therefore not have an adverse impact upon the character and appearance of the area.

Because of the position of the building close to the western boundary, consideration has been given to the relationship of the property to the trees on the boundary. The Council's Arboricultural Officer notes the building is located on an area of existing hard standing, where cars are currently parked. The building is indicated as being 4m from the south west boundary. This indicates that there will be minimal disruption to the root system of the trees due to the presence of existing hard standing. Given the distance that the building is from the boundary and the current size of the trees along the boundary, it appears as if this issue would not be overly detrimental to the long-term health and condition of the trees. Therefore, this issue alone would not be sufficient to warrant refusal of the application.

Impact upon amenity

This is an existing commercial site next to other industrial buildings and the railway. The nearest houses along Leamore Lane are elevated above the site and would be 72m from the open side of the proposed building. Due to the existing level of activities at the site and the surroundings and the distance from residential properties it is not considered the proposal would give rise to a level of noise and disturbance that would warrant refusal of the application. Neither Environmental Health nor Pollution Control raise objections to the application.

The proposal is located adjacent to the former Deeley's Casting site, which is known to have an area of filled ground that appears to have elevated levels of methane gas. Whilst this proposed building is effectively a canopy over an existing hard surface it will be necessary for a ground gas investigation to be undertaken to determine whether mitigation measures will be required to protect the building and its users. A condition is recommended that can secure this.

The Coal Authority records indicate that there are 7 mine entries, within or within 20m of the site boundary. The site is also in an area of likely historic unrecorded underground coal mine workings at shallow depth. The building is to be constructed on the existing hardsurface and will not therefore require substantial foundations or earthworks, and consequential loading placed on the ground by this building will be less than for other forms of development. The Coal Authority do not object to the application, but a note for applicant is recommended.

Highway safety

The building will displace some of the existing parking to accommodate the proposal, however this parking will then take place in the areas freed up as part of this consolidated operation and vehicles will also be within the building itself. It is considered the proposal would not have any further impact upon highway safety. Transportation raise no objection to the application.

Positive and proactive working with the applicant

Officers have liaised with the applicant's agent during the application process to secure additional information to enable full support to be given to the scheme.

Recommendation: Grant Permission Subject to Conditions

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

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

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

- Location plan (00) received 16/12/14
- Proposed site plan (100) received 16/12/14
- Proposed plan and elevations (300) received 16/12/14

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3i. Prior to built development commencing an assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

3ii. Prior to built development commencing a copy of the findings of the ground gas assessment, together with an assessment of the hazards arising from any ground gas shall be forwarded to the Local Planning Authority.

3iii. Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority.

3iv. The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

3v. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

4a. Prior to built development commencing a schedule of facing materials to be used in the development shall have been submitted to and approved in writing by the Local Planning Authority.

4b. The approved scheme shall be implemented in accordance with the submitted details.

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

5a. No development shall commence until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

5b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

6. The development hereby approved shall be ancillary to use of the site for car auctions and associated activities.

Reason: To define the permission.

7. Prior to any works commencing on site, the crowns of the trees along the south west boundary shall be pruned to give a maximum clearance of 2m between the proposed building location and the nearest point of the tree crowns. The pruning work shall be undertaken in accordance with British Standard 3998:2010: Tree Work.

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

8. The trees indicated for retention on submitted Block Plan (No: P 100) shall not be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped without the written approval of the local planning authority until the expiration of 5 years from the completion of the proposed development.

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

9. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Borough Council.

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

Notes for Applicant

Pollution Control

CL1 -Ground gas surveys should have regard to current “Best Practice” and the advice and guidance contained in 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 before installation of same.

CL3 - Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Coal Authority

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place

Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website; at www.gov.uk/government/organisations/the-coal-authority



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 4.

Reason for bringing to committee: Walsall Council is the applicant; site area is greater than 0.5 hectares.

Case Officer: Katie Parsons

Application Number: 14/1871/FL

Application Type: Regulation 3 Consent

Telephone Number: 01922 652603

Email: planningservices@walsall.gov.uk

Agent: Mr Rod Griffin

Applicant: Walsall Council

Proposal: Re-location of existing Walsall Town Centre Market to new permanent location including associated public realm works (phased developments).

Location: THE BRIDGE, PARK STREET, DIGBETH, BRADFORD STREET AND LOWER HALL LANE, WALSALL, WS1

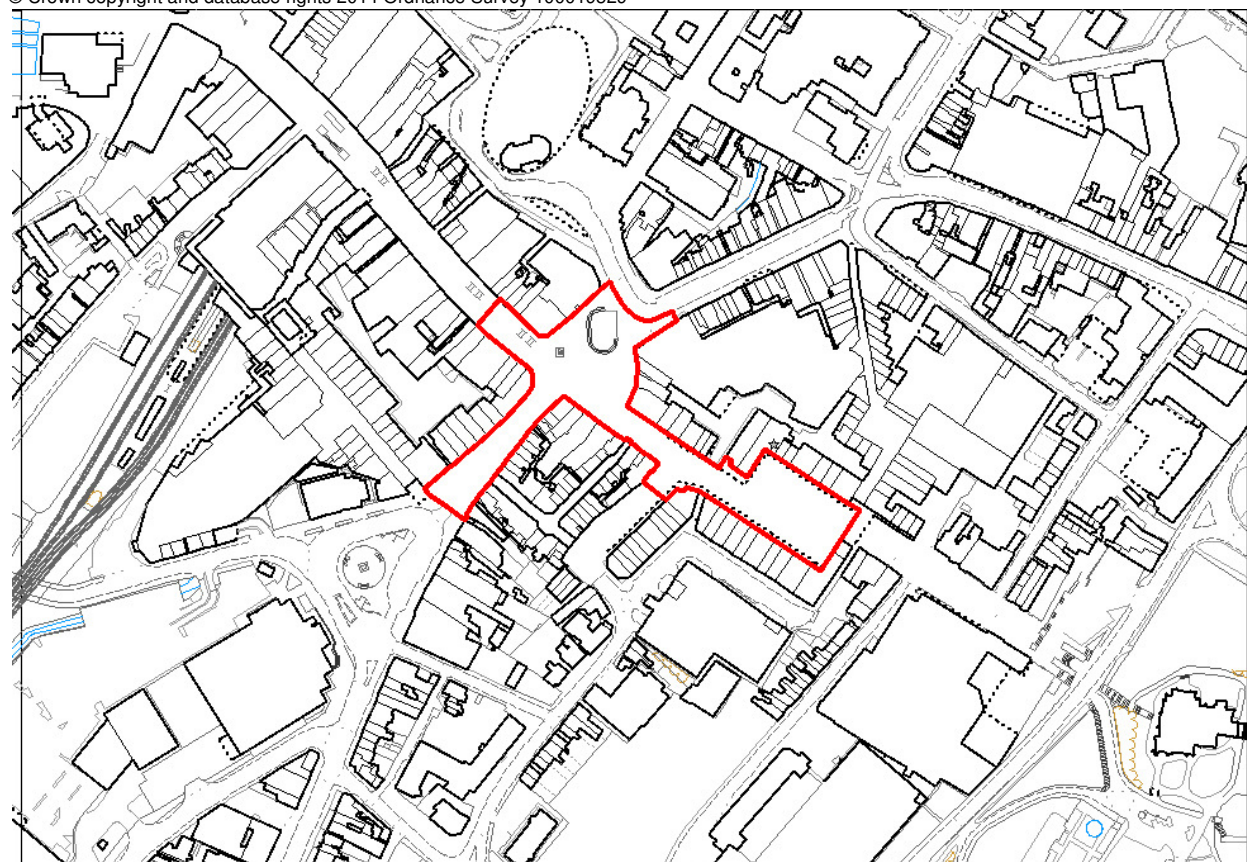
Ward: St. Matthews

Expired Date: 23/03/2015

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application for Regulation 3 planning permission is for a permanent location for Walsall Market, to be achieved by redeveloping the current market area in phases, with associated public realm works. The application site comprises public land at The Bridge, Park Street, Digbeth, Bradford Street and Lower Hall Lane. The total site area is approximately 0.8 hectares, which includes the interim and final locations of the market pitches and all of the land where public realm works are proposed. As such the application site area is substantially larger than the area that will eventually be covered by the permanent market location.

The current location of the market across The Bridge, Park Street, Bradford Street, Lower Hall Lane and Digbeth is subject to a temporary planning permission which expires in April 2015. This application, if approved, would allow the transition from the existing layout to the permanent location focussed on The Bridge, through a phased sequence of works.

The site is located within Walsall Town Centre, within the Primary Shopping Area. Parts of the site are within Bridge Street Conservation Area and contain listed buildings such as Lloyds Bank and the Victorian Arcade and public art such as the Hippo sculpture, Sister Dora monument, The Source of Ingenuity fountain and a clock. Parts of the site are within Flood Zone 2 (medium flood risk).

The scheme cannot be finalised until planning permission has been granted and a contract for the works has been secured. However indicative phasing has been provided. Phase I would commence upon granting of planning permission to allow up to 15 stalls and two catering vehicles to be re-located out of Digbeth to elsewhere across the market site. This is to allow the implementation of a market exclusion zone outside the upcoming Primark store and facilitate Network Rail's proposed electrification works (as parts of The Bridge and Park Street will be required for vehicular access). This Phase would include removal of 6 lime trees from the north-east side The Bridge, temporary removal of the Hippo sculpture (to be re-located off-site and re-instated in Phase II) and relocation of up to 11 stalls and 1 catering vehicle to this part of The Bridge. Elsewhere the layout would comprise up to 17 stalls on Bradford Street, up to 6 on Park Street, up to 8 on the north-west side of The Bridge and up to 42 stalls and 3 catering vehicles in Market Square.

Phase II would include demolishing the podium and removing the fountain and six further lime trees from The Bridge. Sister Dora and the clock would be re-positioned and the Hippo would be returned to a new position on The Bridge. Various items of street furniture such as cycle racks, bollards, signs, lighting, bins and power points would also be removed and/or relocated and 15 replacement trees would be provided. Hard landscaping works would also be carried out across the site area to rationalise the hard surfacing, but no works are proposed for Bradford Street other than at the junction of The Bridge. The fountain would be stored and a suitable new location within the town centre will be identified in due course. These works would allow the new market pitches to be provided in their permanent positions. It may be necessary to carry out the works and move pitches in sub-phases to minimise disruption to traders and the town centre.

When completed, the market pitches would be concentrated around the Bridge, extending to Park Street and Bradford Street. 70 market pitches would be provided to accommodate up to 70 stalls. They would be in two zones for catering and general uses, and could accommodate configurations of 3m x 3m or 3m x 4.5m stalls as well as catering vans, to allow flexibility. Therefore the number of stalls could vary dependent upon demand and the combination of stall sizes and catering vehicles. The new stalls would be demountable structures but of sufficient construction to allow them to remain in situ for longer periods of time as required. As the new stalls would be demountable, the ground fittings would be fixed in a grid to define the maximum extents of the market area, and would include power points. The stalls would be demounted if the public square

was to be utilised, and would be stored in a council-owned storage facility. There would also be two dedicated catering vehicle spaces on The Bridge. A seating area near the food zone is also proposed, although this would not contain permanent furniture and it would be set out daily as per the current situation (tables, chairs and canopies). All existing pitches would be removed from Bradford Street and Market Square.

It is proposed that the new market would operate up to 7 days a week, from 8.30am to 5pm, whereas currently it does not operate on Thursdays and Sundays.

Existing street trader pitches do not form part of this application and will be subject to separate review.

The proposal has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and was determined not to be EIA development.

Drawings have been received showing the existing market layout, existing utilities, the proposed phased areas of the market, different configurations of market stalls and catering vehicles the permanent market could accommodate, the layout when all stalls are demounted, proposed surfacing materials, indicative street furniture, new locations for retained public art and proposed sections.

The following supporting documents were also received and informed the assessment below:

Arboricultural Advice report

Includes a tree survey and tree constraints plan. It identifies that 12 common lime trees of Category B (moderate quality) would be affected by the proposals. The plan shows that these are in two groups on The Bridge.

Design and Access Statement

Sets out the proposal, assesses the local area, explains the context and rationale of the proposal and the alternative options considered.

Flood Risk Assessment

Examines the flood risk and drainage implications of the proposals and concludes the development would not increase flood risk.

Heritage Statement

Assesses the Bridge Street Conservation Area, the character zones and listed buildings within it, and the context of the proposals in relation to these heritage assets.

Location Review and Evidence Base

Assesses potential locations for the new market and justifies the need to continue providing the market and the location chosen.

Operational Plan

Explains broadly how the market would be managed and operated.

Planning Statement

Explains the proposal, its context, and assesses it in relation to relevant planning policies.

Statement of Consultation

Explains the consultation process undertaken prior to submission of the planning application in relation to the proposed final market position, and summarises and responds to the feedback received.

Transport Statement

Sets out how the proposal would be accessible in relation to pedestrians, disabled access, cyclists, public transport links and vehicles. Includes commentary on existing Traffic Regulation Orders, access for emergency vehicles, refuse collections and other servicing and market trader loading and unloading. Includes analysis of a pedestrian survey.

Relevant Planning History

14/1760/SCRE – Application for EIA screening for a permanent Walsall Market and associated public realm works – Environmental Statement not required.

13/0433/FL - Variation of condition 1a of planning permission 11/1118/FL relating to the temporary position of Walsall Market and to extend the period at the current location for a further 2 years until April 2015 – granted subject to conditions.

11/1118/FL - Variation of condition 1 of planning permission 10/1181/FL to extend for a period of 18 months until April 2013 – granted subject to conditions.

10/1181/FL - Application for temporary permission for a further 12 months Walsall Market (100 stalls) in Lower Hall Lane (only to be used if redevelopment requires future relocations) and removing 5 stalls from Bradford Place, The Bridge and elsewhere in Digbeth – granted subject to conditions.

09/1277/FL - Relocation of existing Walsall Town Centre Market (100 stalls) to new temporary location- option to include 8 stalls in Park Street – granted subject to conditions and implemented December 2009.

09/1276/FL - Relocation of existing Walsall Town Centre Market (100 Stalls) to new temporary location (trading 8am to 5pm, seven days) - option to include 16 stalls in Park Street – refused.

08/1624/FL - Relocation of existing Walsall Town Centre Market (80 stalls) to new temporary location – withdrawn.

08/1084/FL - Relocation of existing Walsall Town Centre Market (80 stalls) to new temporary location - Granted subject to conditions but permission revoked.

Relevant Planning Policy Summary

Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration in planning decisions and sets out that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

National Planning Policy Framework 2012 (NPPF) and associated guidance

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

It is based on 12 **core planning principles**. Those particularly relevant in this case are:

- Proactively drive and support sustainable economic development

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas.
- Support the transition to a low carbon future in a changing climate.
- Conserving and enhancing the natural environment and reducing pollution
- Conserve heritage assets
- Actively manage patterns of growth

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

These Policies are considered to be consistent with the NPPF.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies, as relevant to this application:

CSP1 sets out the targets for sustainable regeneration of the Black Country focusing on the town centres

CSP3 requires development to protect and enhance environmental infrastructure

CSP4 requires development to make a positive contribution to place-making

CSP5 sets out the transport strategy to support development across the Black Country

CEN1 identifies the Strategic Centres
CEN2 identifies the hierarchy of centres
CEN3 sets out the need to ensure growth in the Strategic Centres
CEN4 relates to the regeneration of town centres
ENV1 requires development to safeguard nature conservation
ENV2 requires development to protect and promote historic character and local distinctiveness
ENV3 promotes high quality design and sustainability
ENV5 relates to flood risk and sustainable drainage systems
ENV6 promotes high quality open spaces and environmental quality
WM1 promotes sustainable waste and resource management
WM5 relates to resource management in new development

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

These Policies are considered to be consistent with the NPPF.

The policies relevant to this proposal are:

GP2 requires developments to make a positive contribution to the quality of the environment and sustainable development principles.
GP5 promotes equal opportunities in the design of developments.
GP6 requires access for disabled people.
ENV17 supports new tree and hedgerow planting.
ENV18 seeks to protect, enhance and positively manage existing woodlands, trees and hedgerows.
ENV23 promotes enhancing habitats and nature conservation.
ENV25 relates to archaeology
ENV27 seeks to protect buildings of historic or archaeological interest
ENV29 requires developments to preserve or enhance the character and appearance of Conservation Areas.
ENV32 promotes high quality development and sets out how the quality of design of proposals will be assessed.
ENV33 requires good landscape design to form part of proposals
ENV34 relates to public art
ENV40 requires conservation and protection of water resources.
S1 defines town centres uses
S2 sets out the hierarchy of centres
S3 seeks integration of development into centres
S4 sets out general principles for development in town and district centres
T1 sets out measures to assist people to get around developments and the Borough
T8 promotes pedestrian routes.
T10 relates to general accessibility standards.
T11 relates to access for pedestrians, cyclists and wheelchair users
T12 relates to access by public transport
WA1 defines the primary shopping area of Walsall town centre
WA2 recognises the importance of the market
WA5 identifies conservation areas and areas of high townscape value
WA7 defines areas with significant development/investment opportunities
WA19 gives priority to disabled people, pedestrians and cyclists in the primary shopping area

Supplementary Planning Documents

Where relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Conserving Walsall's Natural Environment

Relates to development with the potential to affect species, habitats or earth heritage features and seeks to protect and enhance habitats and biodiversity.

Designing Walsall SPD

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles.

The emerging Site **Allocations Development Plan Document** and **Town Centre Area Action Plan** are also relevant to this proposal but are not considered to be at a sufficiently advance stage to carry significant weight at this stage of their preparation. It is not considered that their content would change the assessment of the proposals.

Consultations

Access Officer – no objections.

Asset Management – no comments received.

Centro – no comments received.

Communities and Public Protection – no comments received.

Conservation Officer – no objections.

Drainage – no comments received.

Economic Regeneration - no comments received.

English Heritage – no objections.

Environment Agency – no objections.

Environmental Health – no objections.

Fire Officer – no objections.

Greenspace Services (Leisure)/Clean and Green – no objections.

Highway Authority – no objections subject to recommended conditions.

Local Access Forum – Impacts on pedestrians during works appear inevitable but can be appropriately managed by the Council.

Market Traders Association – no comments received.

Natural Environment Team (Ecology) – No significant impacts on ecology.

Natural Environment Team (Landscape) – Concerns raised regarding loss of existing trees; provision of replacement trees in planters; choice of materials and how these will integrate with existing materials outside the site; loss of water fountain.

Natural Environment Team (Trees) – It would be preferable for replacement trees to be ground-planted rather than in planters.

Pollution Control – no objections.

SRF Walsall Town Centre - no comments received.

Town Centre Manager (Walsall) – supports the application.

Walsall Civic Society – no objections.

Walsall Friends of The Earth – support the principle but concerned about loss of trees and replacements in planters rather than ground-planted.

West Midlands Police Crime Prevention Design Advisor – Concerns raised about design of stalls as fixed stalls and canopies could provide areas of shelter which may lead to anti-social behaviour. Retractable canopies would be preferable.

Public Participation Responses

No responses were received from individuals.

Determining Issues

- Principle of development
- Appearance and character, including heritage asset considerations
- Access and highways considerations
- Drainage and flood risk

Observations

Principle of development

The site is located within the town centre, in the primary shopping area, and comprises public realm which is already partly used for the market. The existing market is acknowledged to be a traditional, historic part of the town, in need of improvements to ensure its long-term success. The site provides a prominent accessible position for the market, and also provides the opportunity for a large public square for events when the stalls are demounted. It is considered to complement the existing and planned retail development in the town centre and would improve the attractiveness and success of the market and town centre, whilst providing a more usable public square.

The existing market has 100 pitches with recorded peak occupancy of 51 traders over 70 pitches. Given that the existing market does not operate at capacity, and the new market seeks to improve the offer on the stalls, the reduction in the number of pitches proposed is considered to be acceptable. It is also noted that sufficient space would remain should the new market prove successful enough to consider expansion (subject to further planning permission being granted).

The new market would operate over the same hours as the current market (8.30am to 5pm) but could open seven days a week, whereas currently it does not operate on Thursdays and Sundays. Given that the opening hours remain the same and that other shops in the town centre are open seven days a week, it is considered that this would not have an unacceptable impact on amenity or retail function.

The proposed phased provision of the new market is considered to be acceptable as this allows other development sites and the Network Rail electrification project to come forward in the interim and cause minimum disruption to market traders and customers.

Appearance and character, including heritage asset considerations

The site is partly located within the Bridge Street Conservation Area and is within the vicinity of several Grade II listed buildings. There is also important Public Art within the site.

The application would locate the market at the historic core of the town centre. The proposed new layout would be condensed and simplified, with new street surfacing, furniture and planting, which is considered to be an enhancement to the town centre.

The proposal is considered unlikely to impact significantly on the historic environment as the market already exists within parts of the Conservation Area and it would not change any historic street patterns, but it does include relocation of some of the public art. The new market location and layout would improve views across the Conservation Area and open up the frontages of some of the listed buildings, as well as improving visual and pedestrian links through the town centre, therefore enhancing the setting of heritage assets. It would also retain access to retail frontages and key views through the centre and improve views when stalls are demounted.

The Hippo, Sister Dora and the clock public art pieces would be provided with more prominent locations. It is not proposed to relocate the fountain within the site due to its size, therefore an alternative town centre location will be provided for it in due course. It is noted that it has not been operational for some time.

The new stalls would be demountable. They would measure either 3m x 3m or 3m x 4.5m and would have 2.1m high eaves and a 3.6m high marquee-style roof, covered with hard-wearing, weatherproof fabric. Stall skirts will be provided and removable side sheets will also be available should traders require them. New, higher quality stalls would improve the appearance of the market and wider town centre. The back-to-back layout proposed would also more actively engage with pedestrian routes and retail frontages.

The West Midlands Police Crime Prevention Design Advisor has raised concern that the design of the market stalls and their semi-permanent nature could lead to crime and/or anti social behaviour. However it is noted that the existing stalls are of a similar design and are also not demounted regularly and no specific problems are noted to have been reported in this respect. It is considered that this is a management consideration for the market rather than a material planning consideration.

In respect of materials, concerns have been raised that they are not in keeping with existing materials used across the town centre and would instead create a new scheme within the application site which may not integrate well with existing materials. There is a variety of existing surface materials and street furniture across the site at present. The proposals would bring greater consistency to the streetscape and reduce visual clutter as well as providing definition to the market area and new public square. Ensuring appropriate junctions between new and old materials would be dealt with at the detailed design stage and secured by condition.

The removal of twelve lime trees on The Bridge is necessary to create the new public square and facilitate additional stalls in this area to implement the exclusion zone on Digbeth. The loss of the trees is unfortunate as they do contribute to the appearance of the conservation area but they are a significant constraint to the development and are very young specimens and of low ecological value, therefore removal and one-for-one replacement is considered to be acceptable in this instance. It is not proposed to re-provide lime trees due to the amount of sap they produce, which damages the paving and market stalls. Replacement trees are proposed as part of Phase II, along High Street/Digbeth, Lower Park Street and The Bridge. These are indicated as a mixture of ground-planted and within planter boxes, subject to ground surveys at detailed design stage. Whilst ground-planted trees would be preferable, this would undermine the rationalised market

layout and flexibility of the new public square. It would also be difficult to achieve due to the number of services very close to the surface of the streets. Furthermore the proposed planters would be consistent with those already evident further up Park Street, outside the application site. As such, replacement trees in planters would be acceptable in this instance should ground-planted trees prove unsuitable.

The full details of all of the works in each phase would be secured by condition.

Access and highway considerations

A new dropped kerb would be provided to allow market vehicles access from Bridge Street. An application will be made to amend the existing Traffic Regulation Order to permit market trader vehicles to exit across The Bridge onto Bridge Street when the market closes. Vehicular access for traders is required only at the start and end of the trading hours and traders have responsibility for parking their own vehicles somewhere appropriate off-site. As at present, traders will be required to vacate the site no later than 6.30pm to allow street cleansing to take place. Removable bollards would be used to control access to the market site. It is recommended that a Market Management Strategy be secured by condition to control these aspects of the proposal.

Vehicular access routes for servicing and emergency vehicles throughout the town centre would be maintained by the proposed market layout.

Pedestrian and vehicular routes would be defined by different coloured paving and bollards, ensuring separation of pedestrians and vehicles where possible. Proposed paving would allow ease of access through the site by pedestrians, vehicles, wheelchairs and pushchairs. Street furniture positions would also improve pedestrian routes and provide seating at regular intervals.

Pedestrian routes at least 3m wide would be provided between pitches to aid access and permeability. Food stalls have been located to provide maximum space should any queues form, therefore not blocking pedestrian routes, with a conveniently located seating area. A condition is recommended to ensure that these separation distances are maintained, with a further condition setting minimum height clearances to the stalls.

Two locations for storing waste and recycling bins are proposed. These are conveniently located for all pitches and for collection, and would be screened from view. This would encourage recycling and responsible waste disposal whilst enhancing the street scene and allowing easy servicing.

The Highway Authority are supportive of the scheme subject to the recommended conditions to maintain highway safety.

Drainage and flood risk

Parts of the site are located in Flood Zone 2 and the Ford Brook runs underneath The Bridge in a culvert. The proposal would not increase the land use, extent or amount of hard standing, would utilise existing draining connections and would not affect the culvert, therefore it is considered that flood risk would not increase as a result of the proposals and the sequential and exceptions tests do not need to be applied to the proposal. Existing surface drainage is predominantly through surface channels, which would be improved as part of the public realm works. Market traders would be provided with a drainage point near the bin stores, using a gully system with mesh and trap to prevent debris entering the sewer.

Conclusions

The application is considered to be acceptable subject to suitable conditions.

Positive and Proactive working with the applicant

The scheme as submitted is considered to be acceptable.

Recommendation

Approve subject to conditions (subject to any amendments or additional conditions deemed appropriate by officers).

Recommendation: Grant Permission Subject to Conditions

1. The development shall be carried out and completed in full accordance with the following approved plans and details:

ARP-PL-002 rev 01 Phasing Plan
ARP-PL-003 rev 01 Market Operation Boundaries
ARP-PL-400 rev 01 Proposed Market Layout

REASON: to define the permission and ensure the development is carried out and completed in accordance with the approved plans and details.

2. Commencement of Phase I, as shown on drawing SK20022015 and defined as the removal of six lime trees from the north-east side of The Bridge, temporary re-location of the Hippo sculpture off site (to be reinstated in Phase II), removal of 15 stalls and 2 catering vehicles from Digbeth and introduction of an interim market layout of up to 11 stalls and 1 catering vehicle on the south-west side of The Bridge, up to 17 stalls on Bradford Street, up to 6 stalls on Park Street, up to 8 stalls on the north-west side of The Bridge and up to 42 stalls and 3 catering vehicles in Market Square, shall constitute implementation of this planning permission.

No works other than those forming part of Phase I shall commence until a Phasing Strategy, to include details of each proposed Phase and/or Sub Phase, the list of works forming that Phase or Sub Phase, and an indicative timeline for implementation and completion of each Phase or Sub Phase, has been submitted to and approved in writing by the Local Planning Authority.

Once the Phasing Strategy has been approved, no Phase or Sub Phase shall commence until full details and method statements of all works forming part of that Phase or Sub Phase and the timeline for implementation and completion have been submitted to and approved in writing by the Local Planning Authority.

Each Phase or Sub Phase shall be completed in its entirety in accordance with the approved details before the next Phase or Sub Phase commences, unless otherwise set out in the approved details.

Where items are proposed for removal in one Phase or Sub Phase and are to be re-provided in a later Phase or Sub Phase, the re-provision shall be carried out in accordance with the approved details for that Phase or Sub Phase, or, in the event that more than two years elapse from removal of the item without its re-provision, in accordance with

alternative details to be submitted to and approved in writing by the Local Planning Authority.

REASON: To enable the Local Planning Authority to retain effective control over the site and to protect the amenities of the area.

3. Prior to any vehicular access being allowed through The Bridge from Park Street, appropriate temporary or permanent TRO's shall be confirmed and implemented including any associated signage and physical control measures to prevent through access for vehicles from The Bridge to Bradford Street.

REASON: To ensure the safe and satisfactory operation and servicing of the market, local premises and the public highway.

4. Within three months of the date of this decision, a Market Management Strategy (including details of refuse collection, recycling and disposal; street cleansing; market upkeep and repair; stall management; market operation including vehicular access and restrictions) shall be submitted to the Local Planning Authority, and re-submitted with amendments as required until the Local Planning Authority approves it in writing. Once approved, the management strategy shall be implemented immediately in accordance with the approved details. The Management Strategy shall be revised and resubmitted in advance of the commencement of works for each Phase or Sub Phase implemented in accordance with condition 2 above.

REASON: To ensure the environmental quality and amenities of the town centre are protected and enhanced; to ensure adequate controls and management are in place in the interests of the safe and satisfactory operation and servicing of the market, access to nearby and adjacent premises and the safe operation of the public highway.

5. A) Goods displayed for sale shall be contained completely within the footprint of the stall and shall not overhang or extend beyond the limits of the stall.
B) No stall shall extend beyond the limits shown on the approved plans
C) Any stall canopies overhanging pedestrian or vehicle routes shall not hang below a height of 2.1m above the ground at any point.
D) Pedestrian and vehicle routes between pitches shall be kept clear of obstructions at all times.

REASON: To ensure free movement is maintained around the stalls at all times; in the interest of highway safety and access for emergency vehicles.

NOTES TO APPLICANT

1. Prior to any works within the public highway, the applicant will be expected to obtain the necessary Road Opening Permit/S278 agreement or other appropriate consent from the Highway Authority.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 5.

Reason for bringing to committee: Significant Community Interest

Application Number: 14/0595/CM

Application Type: County Matters Application

Applicant: Tandom Metallurgical (Midlands) Ltd

Proposal: Change of use to metal recycling facility, including recladding of existing building, installation of weighbridge, erection of new boundary fencing and planting to the canal towpath.

Location: FORMER WERNICKS HIRE SITE, APEX ROAD, WALSALL, WS8 7EP

Ward: Brownhills

Case Officer: Barbara Toy

Telephone Number: 01922 652615

Email: planningservices@walsall.gov.uk

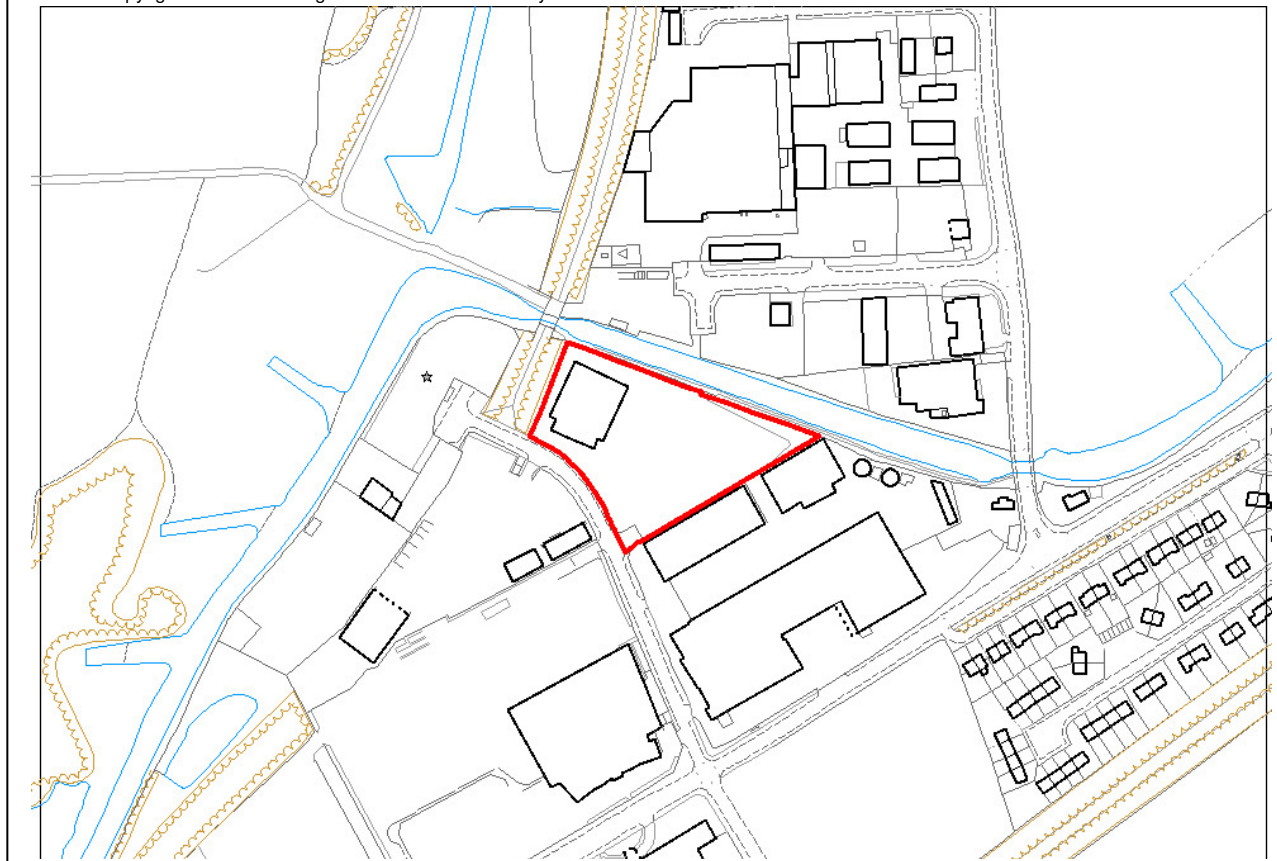
Agent: Blendcheck Ltd

Expired Date: 26/11/2014

Extension of Time Target Date: 05/02/2015

Recommendation Summary: Grant Permission Subject to conditions, unless additional information is received which raises material issues

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Application and Site Details

The site is situated on the north eastern side of Apex Road, a no through road off Pelsall Road (A4124 part of the Strategic Highway Network (SHN)) and comprises a 0.8 hectare vacant site with open yard and 1100sqm warehouse and office building in the north western corner of the site, which is currently in a poor state of repair. The site was previously used for storage and distribution for temporary mobile buildings and has been vacant for approx 3 ½ to 4 years. The main building is double storey in height with two storey brick offices on the frontage with parking on the forecourt in front, with its own vehicle access. The main site access is situated in the south western corner of the site. The site is currently secured by a mixture of palisade and chain link fencing. The application boundary includes a 3m strip along the north eastern boundary of the site, along the Wyrley and Essington Canal. The site is situated within a designated Core Employment area known as Coppice Side Industrial Estate.

Immediately to the north east and north west of the site is the Wyrley and Essington Canal (a bend in the canal) with Brownhills Common and The Slough Site of Importance for Nature Conservation (SINC) which includes a former railway embankment with a greenway along the top and well vegetated embankments heading north from the canal (Slough Bridge). Beyond the canal to the north is a skip hire and recycling yard and a crane hire company and further industrial premises within the Coppice Side Industrial Estate.

To the west of the site at the head of Apex Road is a large car park area for staff of One Stop, who occupy the site to the south east of the site fronting Pelsall Road. The One Stop site comprises a warehousing and distribution centre as well as their head office, two large storage buildings are set to the rear of their site that back onto the boundary of the application site (7m and 12m high respectively) with a further large building fronting Pelsall Road and three/four storey office accommodation fronting Apex Road. To the south of the site is the Council Depot site and Tarmac contractors yard, all situated within the Core Employment area. The junction of Apex Road and Pelsall Road is controlled by traffic lights. Further to the south on the opposite side of Pelsall Road is the Clayhanger SSSI.

The closest residential properties are a row of semi detached houses situated approx 290m to the south east of the site within a service road on Pelsall Road. With one isolated property (122 Pelsall Road) situated approx 100m to the east along the canal towpath.

This application proposes the change of use of the site to a metal recycling site (MRS). It is proposed to re-clad and reuse the existing warehouse building and offices, install a weighbridge within the yard area, install new boundary treatment and planting to the canal towpath.

The scheme has been amended since submission to take on board comments made by consultees, this includes the reduction in the height of the proposed boundary treatment and the addition of screen planting to the canal towpath.

The boundary treatment would vary between 4m and 5m high concrete wall and 2m high chain link fencing. The concrete walls would form the rear of storage bays within the site. The chain link fencing would sit behind the wall along the canal boundary with existing hedging, which will be re-enforced with additional planting and new planting to the remainder of the frontage.

36 concrete storage bays 6m x 4m would be provided, 20 along the southern boundary with One Stop 5m in height and 13 along the north eastern boundary with the canal between 4 and 4.5m in height. The outer side of the new boundary walls would be painted, a colour to be agreed. The existing concrete hardstanding within the yard would be retained.

This use would involve the relocation of an existing metal recycling business from a site in Birmingham to allow the company to expand. The activities would include:

- Collection of waste metal from industry, construction and demolition
- Waste would be brought in by large 8 wheeler or articulated vehicles tipped into specified areas in the yard, sorted and graded (manual and the use of cranes and mobile grabbers)
- Sorted materials would be placed in designated bays around the north and south eastern boundaries of the yard
- High value materials would be stored in the building
- All processing activities would be undertaken at a sister company elsewhere.

It is anticipated that approx 75,000 tonnes of metal would pass through the site on an annual basis. The use would require 2 x 360 degree grab cranes and forklift trucks, together with a mobile cropper and baler would be situated within the yard area. A weighbridge would be installed in the yard area and a small self bunded fuel tank would be sited to the rear of the building.

It is anticipated that the use would employ 20 staff, 10 additional to their existing staffing levels and would result in approx 50 vehicle movements a day. 14 parking spaces would be provided on the forecourt of the offices together with storage for 4 cycles.

The business proposes to operate 0600 – 1800 hours Monday to Friday and 0600 – 1300 hours Saturday with no Sunday or bank holiday working.

A bespoke permit (EPR/BB3607FT) for the site has already been issued by the Environment Agency (Sept 2014) which provides restrictions to the operations at the site.

An Environmental Impact Assessment (EIA) Screen Opinion has been completed for these proposals which conclude that an Environmental Impact Assessment is not needed.

The following have been submitted in support of the proposals:

Planning Statement

This provides details of the existing site and the proposed development.

Coal Mining Risk Assessment

This has been analysed by The Coal Authority

Transport Statement

The original statement submitted with the application has been updated twice during the course of the application on request from Transportation to ensure that it included all the information required to accurately assess the proposals. The final submission included a capacity assessment of the Apex Road/Pelsall Road signal junction. It predicts that the development would generate approx 76 vehicle movements per day which is about 17 extra movements per day over the extant use. It is predicted that this would result in approximately 11 vehicle movements in the AM peak hour and approximately 9 movements in the PM peak hour. Across the whole day an average of about 6 movements per hour is predicted. In order to assess what potential impact the predicted level of trips will have on the Apex Road/Pelsall Road signal junction, a capacity assessment has been undertaken. The results have shown that the additional development traffic makes a marginal impact in terms of additional queuing and delay at this junction but does not have a significant impact on the operation of the junction.

Planting on the Canal Bank

This identifies planting for the canal towpath in line with comments made by Canal & River Trust and the Natural Environment team.

Relevant Planning History

BC42395P, new access, granted subject to conditions 08-11-94

BC44729P, 2.5m high fencing and gates and additional car parking, granted subject to conditions 11-10-95.

BC57551P, 3m high fencing and gates and new access and additional parking, variation of conditions on BC44729P, granted subject to conditions 11-02-99.

Relevant Planning Policy Summary

National Planning Policy

European Union Waste Framework Directive (2008/98/EC) and Waste Regulations 2011 (As Amended)

The most important objectives of national and local policy come directly from the European Union Waste Framework Directive (2008/98/EC). The Directive has been transposed into secondary legislation in England through the Waste Regulations 2011 (as amended).

The requirements of the Directive and regulations are reflected in the current National Planning Policy for Waste (see below) and National Planning Practice Guidance on Waste (October 2014), the Waste Management Plan for England 2013, and Defra Guidance on Applying the Waste Hierarchy (June 2011), the Legal Definition of Waste (August 2012), and guidance on Energy from Waste (February 2013), which are also “material considerations” when considering an application for waste management development.

The key requirements when considering applications for a waste management facility of this type are:

- Application of the “waste hierarchy” in accordance with Article 4 of the Waste Framework Directive (Regulation 12); and
- Application of the principle of “protection of human health and the environment” in accordance with Article 13 of the Waste Framework Directive (Regulation 18 (a)).

The “waste hierarchy” is summarised in Appendix A of the National Planning Policy for Waste (October 2014) and I have explained below under Observations what this means for new waste management proposals. The guidance set out in the National Planning Policy and Planning Practice Guidance on waste set out how waste planning authorities are expected to apply the above principles.

As the proposed facility is not a waste disposal installation or an installation for the recovery of mixed municipal waste, the other key principles in the legislation, “proximity and self-sufficiency,” do not apply.

National Planning Policy Framework (NPPF)

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

All the core planning principles have been reviewed and those relevant in this case are:

- Proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places the country needs.

- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- contribute to conserving and enhancing the natural environment and reducing pollution.
- encourage the effective use of land by reusing land that has previously been developed
- Support the transition to a low carbon future...and encourage the use of renewable resources.

Key provisions of the NPPF relevant in this case:

1. Delivering sustainable development

18 The Government is committed to securing economic growth in order to create jobs and prosperity.

19 Planning should encourage and not act as an impediment to sustainable growth.

21 Investment in business should not be over-burdened by the combined requirements of planning policy expectations.

4. Promoting sustainable transport

32 All development should have safe and suitable access to the site for all people.

Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

35 Developments should be located and designed where practical to: accommodated efficient delivery of goods, give priority to pedestrian and cycle movements, create safe and secure layouts.

7. Requiring good design

56. Good design is a key aspect of sustainable development, is indivisible from good planning.

58 Developments should function well and add to the overall quality of the area. Establish a strong sense of place using streetscapes and buildings to create attractive and comfortable places to live, work and visit. Optimise the potential of the site to accommodate development. Respond to local character and history, and reflect the identity of local surroundings and materials. Create safe and accessible environments that are visually attractive as a result of good architecture.

61 Securing high quality design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of the new development into the built environment,

64 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11. Conserving and enhancing the natural environment

109 The planning system should prevent new and existing development from contributing to...unacceptable levels of soil, air, water or noise pollution or land instability.

111 Planning decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided it is not of high environmental value.

120 To prevent unacceptable risks from pollution decisions should ensure that new development is appropriate to its location. The effects (including cumulative effects) of pollution on health or general amenity and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

122. Local planning authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

123 Planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts
- mitigate and reduce to a minimum adverse impact on quality of life arising from noise from new development, including through the use of conditions.
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy (NPP) for Waste (October 2014)

The NPP for Waste should be considered alongside the NPPF. The key principles outlined in the NPP for Waste and the supplementary Planning Practice Guidance on Waste are that planning should:

- Help deliver sustainable development by driving waste up the waste hierarchy;
- Consider the need for additional waste management capacity of more than local significance.
- Consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B of the NPP, which are as follows:
 - a) Protection of water quality and resources and flood risk management;
 - b) Land instability
 - c) Landscape and visual impacts
 - d) Nature conservation
 - e) Conserving the historic environment
 - f) Traffic and access
 - g) Air emissions including dust
 - h) Odours
 - i) Vermin and birds
 - j) Noise, light and vibration
 - k) Litter
 - l) Potential land use conflict
- Consider the cumulative effects of waste management facilities on the well-being of the local community, including impacts on environmental quality, social cohesion and inclusion;
- Ensure waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area;
- Focus on implementing the planning strategy in the Local Plan, giving priority to the use of previously-developed land, including employment land;
- Work on the assumption that the relevant pollution control regime will be properly applied and enforced, although regard should be had to any comments received from the relevant bodies on the potential impacts of the proposal on the environment and health; and
- Where necessary, consider imposing planning conditions to control the effects of the development on the environment, health and amenity, and put into place adequate arrangements for enforcement and monitoring.

Planning Practice Guidance

Land stability:

The planning system has an important role in considering land stability by: helping ensure that various types of development should not be placed in unstable locations without various precautions.

Waste:

The guidance outlines the key principles of the Waste Framework Directive (2008/98/EC) and Waste Regulations 2011 (as amended), including the “waste hierarchy” and the principle of protection of human health and the environment, and explains the role of the planning system in implementing them, and the role of other regulatory authorities in controlling environmental and health effects. The main role of planning is ensuring that facilities are developed in appropriate locations.

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)

The application has been assessed and is a Schedule 2 Development, but due to the site area, substantially less than 20ha it is not an EIA development.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms ‘Local Plan’ policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*”. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

ENV1: Nature Conservation

Development within the Black Country will safeguard nature conservation, inside and outside its boundaries by ensuring that:

- development is not permitted where it would harm internationally (Special Areas of Conservation), nationally (Sites of Special Scientific Interest and National Nature Reserves) or regionally (Local Nature Reserve and Sites of Importance for Nature Conservation) designated nature conservation sites;

CSP3: Development proposals need to demonstrate that the environmental infrastructure will be protected, enhanced and expanded at every opportunity.

This includes open space, areas of importance for biodiversity and areas and buildings of high design quality.

CSP4 - develops the need for high quality place making and design

CSP5 - sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

EMP1 - seeks to provide for economic growth and to ensure a sufficient stock of employment land to meet demand and support the growth and diversification of the economy.

EMP3 seeks to provide for a portfolio of local quality employment land.

TRAN1 sets the priorities for the development of the transport network and promoting sustainable transport modes.

TRAN2 requires development proposals to manage transport impacts of new development

TRAN4: Cycle parking facilities should be provided at all new developments and should be located in a convenient location with good natural surveillance

TRAN5 sets out the requirement for development to focus on moving away from the reliance on the private car

DEL2 - sets out considerations in managing the balance between employment land and housing

ENV1: Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV4: Seeks to ensure that canalside development gives a positive impression to the towpath and the integrity of the canal is maintained and enhanced.

ENV5: Seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage.

WM1: The Black Country will aim to achieve zero waste growth by 2026 through: moving waste up the waste hierarchy and supporting proposals which involve optimum uses for waste materials.

WM2: Strategic waste management site is defined as: Forming a vital part of the Black Country's municipal waste management infrastructure; fulfil more than a local role; specialise in a particular waste stream; recovery/treatment processing facilities with annual throughput capacity of more than 50,000 tonnes per annum.

WM3: Identifies sites as strategic waste management proposals and notes other opportunities may come through other planning applications. The Black Country has an unmet demand for Municipal Solid Wastes and Commercial and Industrial Waste

WM4: Waste arising in the Black Country should be managed within Black Country where feasible.

The clustering of related or complementary waste treatment, transfer and disposal operations in a specific location will also be supported, where this would not have adverse cumulative impacts on neighbouring uses. All proposals should minimise adverse visual impacts, potential detrimental effects on the environment and human health, and localised impacts on neighbouring uses from noise, emissions, odours, vermin and litter. To minimise such impacts, wherever possible, waste management operations should be contained within a building or other physical enclosure.

All proposals should minimise adverse visual impacts, potential detrimental effects on the environment and human health, and localised impacts on neighbouring uses from noises, emissions, odours, vermin and litter. Where possible, waste management operations should be contained within a building or other physical enclosure. Material Recycling/Recovery facilities are likely to be suitable on all employment land.

Sets out locational criteria for new facilities, including:

- Whether the proposal supports national and local waste strategies, objectives and targets for waste;
- Whether the proposal is well-located in relation to the sources of waste it will be managing;

- Whether the location is suitable for the type of facility and operations proposed and capable of adapting to changing;
- Whether the proposal would provide opportunities for co-location of related uses and/ or generate other benefits (for example, would it manage a range of waste types or streams, produce high quality aggregates or other useful raw materials, or supply heat and power or other forms of energy to adjacent uses);
- Whether the proposal would involve re-use of previously-developed land;
- Whether the proposal contributes towards the positive environmental transformation of the Black Country;
- Whether the proposal is compatible with neighbouring uses (taking into account the nature of the wastes being managed, the technologies used, the hours of operation and cumulative effects), and if so, whether it identifies and adequately addresses potential harmful effects on amenity;
- Whether the proposal supports economic and growth objectives for the Black Country (for example, would it create or retain local jobs, provide a service to local businesses, produce material resources for local industries, or aggregates to supply construction projects within the Growth Network);
- Whether the proposal would address impacts on the highway/ transport network (for example, has the potential to move waste by rail or inland waterway been fully considered, and does it identify and adequately address impacts on the local/ strategic highway and drainage network

In developing these criteria, regard has been had to the locational guidance and criteria in the former PPS10. Although this has since been replaced by paragraphs 4 and 5 and Appendix B of the NPP for Waste, there has been little change to the general locational guidance and preference for previously-developed land including employment land, or to the locational criteria in the Appendix. It is therefore considered in this case that the relevant provisions of the BCCS can be given full weight.

Saved policies of Walsall Unitary Development Plan

GP2: Environmental Protection

Expects all development to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact upon the environment:

i) Visual appearance, ii) The creation of, or susceptibility to, pollution of any kind, iii) Potential problems of land stability, contamination, vii) Accessibility by a choice of means of transport including adequacy of access, xix) The hours of operation.

3.6 Development schemes should, as far as possible, help to improve the environment of the borough.

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV10: Pollution

a) Development of an industry or facility which may cause pollution will only be permitted if it would not:

1. Release pollutants into water, soil or air
2. Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust steam, heat, light, vibration, smell, noise or other polluting emissions
3. Have an unacceptable adverse effect on nearby land uses and/or restrict the types of new development that could be permitted in the locality, or impose special conditions on them.

b) Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV14: Development of Derelict and Previously Developed Sites

Seek to bring forward derelict, vacant or underused land and buildings for new uses. Where there is contamination, stability or ground gas issues, the application must assess the level of the risk and set out a strategy for dealing with them as part of the proposed development.

ENV23: Nature Conservation and New Development

Layout of all new development must take account of potential for enhancement of the natural environment through habitat creation. The Council will require habitat creation to encourage the conservation of wildlife in proximity to a SSSI, LNR, SINC or SLINC and in proximity to wildlife corridors.

ENV24: Wildlife Corridors

New development which would sever or unacceptable harm the integrity of a wildlife corridor or of linear features such as rivers, streams, canals etc will not normally be permitted.

ENV26: Industrial Archaeology

(C) The Council will seek to protect and improve the canal heritage and new development adjacent to the canals should take full account of the opportunities created by the setting in terms of design, layout, landscape detail and boundary treatment.

ENV32: Design & Development Proposals

Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV33: Landscape Design

Deals with landscape design and opportunities to create and enhance environmental quality.

ENV35: Appearance of Commercial Buildings

The design of commercial buildings should be appropriate to their setting

JP5: Core Employment Areas

These areas will be safeguarded for core employment uses

JP8 Bad Neighbour Industrial Uses.

(b) The Council will normally impose conditions on planning permissions covering the following matters:-

- I. Height of open storage.
- II. Location, within the site, of activities with a potentially adverse impact.
- III. Hours of operation.
- IV. Boundary treatment to include fencing of an approved standard, native trees and shrubs, and earth mounding as required.
- V. Proper demarcation of areas for parking, loading and manoeuvring which shall be kept clear of stored material.

T4: The Highway Network

Sets the aim of managing the flow of traffic on the Borough's road network

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of parking to meet operational needs while not exceeding any maximum parking standards that are specified.

T10: Accessibility Standards

The Council will use planning conditions to ensure that accessibility standards continue to be met throughout the life of the development.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

10.7: The Council will give particular attention to safeguarding the environment and protecting amenities of local residents, taking into account the proximity of the site to existing or proposed housing or other sensitive uses.

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents

Designing Walsall SPD

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process. The relevant SPD's are:

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;

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

DW10 – new development should make a positive contribution to creating a sustainable environment.

Natural Environment SPD

Policies NE1, NE2, NE3, NE4, NE5, 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.

‘It is considered in this case that the relevant provisions of Designing Walsall and Walsall’s Natural Environment policies are consistent with the NPPF.’

Consultations

Transportation – No objections subject to conditions relating to:

- A parking layout plan to ensure 6m reversing aisle and disabled spaces within the parking area.
- Details of boundary treatment to back of pavement adjacent to the car parking area
- Maximum of 75,000 tonnes of materials per year
- Parking and vehicles manoeuvring areas kept clear
- Details of cycle storage facilities

The Transport Statement has been amended and additional information provided during the course of the application in order to satisfy the Highway Authority that the cumulative impacts of the proposals in transportation terms would not be severe.

Canal & River Trust - The redline boundary of the site has now been amended to include a strip of land within the ownership of the Canal & River Trust to be planted up, the implementation of this can be dealt with via a planning condition, which does not require any formal agreement from the Trust at this stage. The applicant will however be required to secure the consent of the Trust for the works if planning consent is granted, this however is a separate matter between land owners and would be subject to a detailed agreement between the two parties which would include more specific details of the planting and the long term maintenance of the area.

Environment Agency – An Operational Permit from the Agency has already been issued. Comments on this application will be reported on the Supplementary Paper at Committee.

Environmental Health – No objections.

Severn Trent Water – No objections subject to drainage condition.

Natural Environment – No objections to the amended scheme subject to conditions. Advice on a suitable ecological scheme for the canal frontage has been provided during the course of the application which has resulted in the amended scheme. Conditions are recommended to ensure that the planting on the canal towpath includes native planting, the planting is implemented prior

to any commencement of works on the site and maintained in the future as well as the treatment of the gap between the boundary and the storage bins.

The Coal Authority – No objections subject to condition. Satisfied with the additional Method Statement submitted for site investigation and remedial works, a condition is recommended on any approval to require works to be carried out prior to commencement of any development.

Pollution Control – Contaminated Land Team No objections subject to conditions regarding ground investigation and contamination survey. The property is located in an area previously utilised as a lime works, which may result in hotspots of contaminated soil that may present Health and Safety implications to persons undertaking ground works.

Pollution Control – Scientific Team – No objections. A noise assessment is not required in this instance taking into account the character of the area and the development proposed.

Fire Officer – No objections

Health & Safety Executive – No comments. The development does not fall within the consultation distance zone of either major hazardous site or major accident hazardous pipeline.

Inland Waterways – Objection. Insufficient information provided to fully assess the proposals. The amended boundary treatment is welcomed as well as the extension of the site onto the canal towpath to strengthen planting, but insufficient information regarding the planting and the external finish (canal side) of the proposed wall is provided.

Public Participation Responses

Objections have been received from 10 occupiers (including One Stop) in respect of the original scheme and the amended proposals, 2 occupiers have sent 3 letters of objection.

Objections:

Traffic & Highway Safety

- Already heavily congested traffic on Pelsall Road, a further 100 plus vehicles would create more fumes and pollution on a daily basis.
- Proposals will increase the existing congestion adding to the high volumes of vehicles from One Stop and the Council Depot.
- Will create further problems for residents getting onto Pelsall Road from service road and likely to result in tail backs into Clayhanger.
- Service road already used as a cut through because the road so busy, this will make it worse.
- Pelsall Road is a very heavily used commuter route which will be made worse by the proposals, a further increase in vehicles in Pelsall Road is unacceptable.
- One Stop move trucks between Apex Road and Pelsall Road sites, which start early in the morning till late into the night, 7 days a week.
- Whichever way vehicles leave, towards Brownhills or Pelsall there are bottlenecks and additional vehicles will cause further disruption for local residents and businesses.
- Coppice Road very narrow if vehicles use this it will cause a safety issue.
- Existing road safety issues on Apex Road, increased HGV's will increase the risk of collision/pedestrian injury due to the narrow road width and poor access to existing properties.
- The traffic light junction Apex Road/Pelsall Road is not suitably designed for HGV use, already capacity issues which will be exacerbated by the significant increase in vehicle movements, particularly by large vehicles..
- Highway improvements required
- Increase in vehicles will impact on further road junctions away from Apex Road

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- Junction improvements to Pelsall Road/ Clayhanger Lane have never been implemented despite a request from Walsall MBC to acquire the land. The works are still needed, increased traffic from the Council Depot and now the traffic from the new proposals.
- Full Transport Assessment require
- Queuing vehicles in Apex Road will obstruct access to One Stop and its car park.
- Traffic queuing would significantly impact on the distribution operations of One Stop and may adversely impact on and affect their business viability. If traffic impacts are severe One Stop may consider relocating their distribution centre with the loss of 165 jobs
- Unclear whether the vehicle movements specified include staff vehicles.
- Tailbacks on Pelsall Road could impact on the office accommodation.

Environment and impact on Amenity

- Adverse impact on the environment for local residents, wildlife and the canal from exhaust fumes, road damage, health, safety and traffic flows.
- The height of the boundary walls would have an adverse impact on vegetation, wildlife and the canal, creating shading.
- Noise from tipping scrap metal in the yard, adversely impacting on adjoining offices
- Adverse impact on the SSSI from the new boundary walls
- More noise and disturbance 24 hours a day.
- Pelsall Road is a residential area
- Potters Clay & Coal Company is close by, the excavating of clay has ceased but refining plant still operational and additional firms now operating from the site having an impact on privacy. (Not relevant to the current proposals)
- Area becoming like an industrial estate
- One Stop noise, numerous HGV's operating night and day.
- The Council Depot has resulted in a huge increase in vehicles, deteriorating the area.
- Vibration from vehicles in Pelsall Road
- Result in increased air pollution
- Accepted fact that exhaust fumes are a cause of premature deaths
- Proximity of the site to non-industrial uses
- Impact of noise on the adjacent office building of neighbouring business (One Stop), a noise assessment is required to accurately assess the proposals
- Likely significant increase in local noise levels from metal being emptied from lorries, moving metal by grab cranes, forklifts and processing machines as well as additional traffic. 50 vehicles a day will mean a lot of tipping, continuous background noise.
- Metal storage in bays along the boundary closest to One Stop offices

Economic

- The disadvantages to the local area would far outweigh the small benefit this facility would bring to the local economy.
- No known hours of business
- Unlikely to create any new jobs despite stating 20 as company relocating and will bring staff with them.

EIA

- Walsall MBC must comply with EIA Article 3 Directive 2003/35/EC
- Site falls within Para 11(b) of Schedule 2 of EIA Regulations 2011 and it is considered that it should be positively screened because of noise/vibration, significant adverse affects on highways, potential to emit polluting emissions and adverse impact on existing adjoining land uses.

Contrary to Policy

- Contrary to UDP policy JP8, core employment area not suitable for 'bad neighbour industrial uses'
- Contrary to UDP policy ENV10, adverse impact in terms of noise
- Contrary to BCCS policy WM4, submission fails to make the necessary assessments required by the policy and it is considered that the use would significantly impact on the highway network and would be incompatible with One Stop offices.

Petition of 46 signatures:

Objection to development, material increase in traffic (lorries) on Pelsall Road and Lichfield Road. Mandatory public notification procedures not complied with to date and the proposals must comply with EIA Directives.

Petition of 31 signatures:

Petition states:

Since December 1997 each local authority in the UK has been required to carry out a review and assessment of air quality in this area (they are given funding to cover this), for the most part this is to cover the concentration of nitrogen oxide (micrograms per cubic metre) where it is to be understood that the EU limit is now a recommended maximum of 40ug/m3 as covered by DEFRA. WE understand the above to be facts of environmental law.

As one can see we are already faced with air quality problems in this area due to the fact that developments highways infrastructure has not been put in place, with the growth in population in and around this area, Lichfield/Cannock etc, the problem can only get worse if this local developments highway infrastructure is not addressed as there will be a significant increase in traffic.

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

Determining issues

- The Principle of the Development
- Waste Management/Hierarchy Policy
- Design and Layout
- Impact on Amenity
- Impact on the character and appearance of the area
- Highway Safety
- EIA Screening

Observations

The Principle of the Development

The application site is in a UDP Core Employment Area, (Coppice Side Industrial Estate) where certain land uses are supported. These are research and development/light industry (B1b/c) general industry (class B2) and warehousing and distribution (B8) uses permitted in accordance with "saved" UDP Policy JP5. The proposed land use does not fall within any of these classes and is defined as "sui generis," (in a class of its own). However, the BCCS, which post-dates the UDP, identifies this area as "Local Quality" employment land (Economy Key Diagram, Policy EMP3). BCCS Policies EMP3 and WM4 are more flexible and allow a broader range of waste recovery facilities in this type of location.

Saved Policy JP8 from the UDP sets out a series of six criteria which must be met in respect of bad neighbour industrial uses. On the first matter, JP8 accepts such uses should be in employment areas but not core employment areas. In some aspects, development along Apex Road has

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become more focused towards local quality employment since the adoption of the UDP especially with the redevelopment of the former Wagon Automotive works site into the Council Depot and furthermore, taking into account the designation of the site in the BCCS as a Retained Local Employment area and the weight given to Core Strategy Policy EMP3 which allows for scrap metal, timber, construction premises and yards, it is considered on balance between the UDP and Core Strategy policies that the site is acceptable in regard of this matter.

On the second point of Policy JP8, the development will not result in an adverse effect on a sensitive land use. This is a point addressed in detail below. The site provides suitable screening and landscaping and accordingly the third point is met. Although next to the canal, the applicants have submitted revised plans showing a belt of native planting alongside the canal. On the fifth point, the site will be regulated by the Environment Agency so it is considered the criteria raised will be met. On the final point, the development is also considered to be in compliance with the criteria set out in Policy GP2.

The proposal is therefore considered to be consistent with current Local Plan land use policy.

This is a previously developed site in a sustainable location that has the potential to generate employment opportunities, the proposals would allow for the re-use of a site that has been vacant for approx 5 years and the improvement of a building that is now in a poor state of repair.

Waste Management/Hierarchy Policy

The waste hierarchy has five levels. Prevention is the top priority in waste management. Next best is re use, then recycle, recovery & at the bottom is disposal - the least attractive. MRS sites are defined as a 'recovery' operation rather than a 'recycling' operation.

BCCS Policy WM4 provides the criteria for the assessment of waste developments. The BCCS does not identify any need for new MRS capacity or any targets for this as the Black Country already has surplus metal recycling capacity.

Under the Waste Regulations the Waste planning authority has a role in ensuring that waste management development is appropriately located so that it would not endanger human health or harm the environment. To assess the location of the development in relation to the source of waste, the suitability of the site for a waste use and its ability to adapt to changing circumstances must also be assessed.

A waste management land use in this location is considered acceptable. There is no conflict with national policy objectives for waste in Paragraph 1 and Appendix A of the National Planning Policy for Waste (October 2014). Although the facility would not contribute towards the requirements for new waste infrastructure identified in the current local plan (BCCS Policy WM1, Table 16), it would broaden the range of waste infrastructure available in this part of Brownhills, as there are currently no other metal recycling sites at Coppice Side, and there is also no conflict with local plan strategy towards waste management in the Black Country (BCCS Spatial Objective 9 and Policy WM1). Evidence from national surveys shows that most metal waste generated in England is currently recycled, and the proposed facility would contribute towards the movement of this waste stream up the "waste hierarchy" in accordance with national and local policy, by providing a facility for sorting and bulking up scrap metal for recycling elsewhere.

The proposed development would also comply with current local plan policy on the location of new waste management facilities (BCCS Policy WM4). The Coppice Side Industrial Estate is identified as Retained Local Quality Employment land in the latest published Walsall Employment Land Review (2012), and employment land within this category is identified in BCCS Policies EMP3 and WM4 as being suitable for development of metal recycling facilities. Having assessed the proposal

against the criteria in BCCS Policy WM4, it is considered that the proposals would provide a benefit in terms of re-use of previously-developed land and job retention.

Although the sources of the waste are not specified, metal waste could potentially originate from any industrial area in the West Midlands. While the site is not well-located in relation to the motorway network, it is in an area where other waste management activities are already present (e.g. Brownhills Skip Hire, Envirosol hazardous treatment facility and the Council's Environmental Depot). This location is well-placed to serve the wider Brownhills area of Walsall, as well as north Birmingham and adjoining parts of southern Staffordshire, and to exploit a potential gap in the market, given that metal recycling facilities tend to be clustered in the older traditional industrial areas. Taking into account the impact of the previous use of the site, and the likely catchment area of the customers, a metal recycling site is unlikely to have materially greater impacts on the local highway network. The site is not near any residential areas or other sensitive land uses, apart from the canal, that could be affected by noise or dust from the facility. There is also sufficient flexibility within the scheme design to enable the site to accommodate a higher quality enclosed recycling facility at a later date, should market conditions be favourable. In this respect it is considered the development proposed accords with the criteria set in BCCS policy WM4.

While there is potential for harmful impacts on the canal corridor, which is an important feature in the local landscape and has also been designated as a SLINC, and for heavy metal pollutants leaching into the ground or entering the canal due to surface water run-off, it is anticipated that any harmful effects can be overcome through appropriate enhancement of habitats/ boundary treatment along the canal frontage and through the regulatory controls which will be imposed under the waste permit.

Whilst it could be argued that the proposals as a 'bad neighbour use' would conflict with UDP policy JP8 as the site is situated within a core employment area, it must be recognised that each site must be assessed on its own basis and that any conflict should be resolved through the most up to date policies. Policy WM4 and EMP3 of the BCCS are the most recent local policies that were designed to build in greater flexibility for such uses and as discussed above it is considered that the proposals comply with both.

Design and Layout

The site is large enough to allow for storage bins around the boundaries whilst retaining an appropriate space for manoeuvring and a weighbridge within the open yard. It would allow for the retention and upgrade of the existing warehouse building through recladding, improving the overall appearance of the building.

The existing vehicle access points to the site would be utilised, one for the main access to the yard and one for the car parking area for staff and visitors.

The scheme has been amended since submission to take into account the adjacent canal and SINC, to improve the overall appearance of the facility from the canal and impact on the natural environment. The proposed boundary walls (required to provide appropriate storage bays) have been reduced in height, now varying between 4m and 5m in height and extending the redline boundary of the site onto the canal towpath to allow for retention and enhancement of the planting along the canal with native planting.

Impact on Amenity

The NPPW states LPAs should concern themselves with implementing the planning strategy and not with the control of processes. The NPPF says that authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Modern, appropriately located, well-run and well-regulated waste management

facilities operated in line with current pollution control techniques and standards should pose little risk to human health. Local planning authorities should assume that these regimes will operate effectively. While planning permission is required for the use of the site, environmental permits are required to operate it. The Environment Agency is the organisation in charge of day-to-day operations and has already issued a Bespoke Environmental Permit to the operator for the site, which will control the operations.

As indicated above the site is situated within the Coppice Side Industrial Estate which is designated as Core Employment and is surrounded by other industrial uses including the Council's Depot, a skip hire business, a chemical treatment facility as well as other B2 and B8 uses. The closest residential properties are a row of semi detached houses situated approx 290m to the south east of the site within a service road on Pelsall Road. Although there is one isolated property (122 Pelsall Road) situated approx 100m to the east along the canal towpath from the site. This property does however sit immediately adjacent to the large warehouse and office premises operated by One Stop which involves significant activity. It is not considered that the proposed use have any additional adverse impact on the amenities of the occupiers of the residential properties in the immediate vicinity over the existing uses or the previous use of the site, given the operating restrictions imposed by the EA Permit. Pollution Control has raised no objections to the proposals.

One Stop have raised objections to the likely noise from the site adversely impacting on their head office building situated on the end of their main building that fronts Pelsall Road, with the offices facing Apex Road. The offices are situated approx 52m to the south of the site, with their own warehouse buildings and main vehicle access for their own delivery vehicles situated in between. Immediately opposite the offices is the Council's depot. It is considered that the noise levels from the proposed use would not have a significant impact on the occupiers of the offices above that of the previous and still authorised use of the site for the storage and hire of portable buildings or the existing traffic movements of One Stop vehicles, immediately adjacent to the offices. Evidence held by the Council (aerial photos) clearly show as recent as March 2011 that a large number of portable buildings were stored on the site double storey, a use that would have created significant traffic movements from large vehicles and manoeuvring of units around the site.

Pollution Control have confirmed that a noise survey was not considered necessary for this application as the site is situated within an industrial area, surrounded by other industrial users, with two other waste activities located nearby in Collier Close. In coming to this conclusion, consideration has been given to the NPPF and the Planning Practice Guidance to the potential for significant adverse effects, adverse effects and whether a good standard of amenity can be achieved at neighbouring properties. Attention has also been given to the fact that the site will be managed by the Environment Agency (EA) under the IPPC regime which will cover emission levels including noise.

Taking the above into account, it is considered that the proposed development meets with the requirements of saved UDP policy ENV10 in that the impacts from the development will not cause unacceptable harm to health and safety or the natural environment or cause unacceptable adverse effects on nearby land uses or restrict the types of new development that could be permitted in the locality, or impose special conditions on them. Furthermore, it is considered the development will not affect the health, safety or amenity of the occupants or users of the site through the impacts arising from any pollution generated on site.

Attention has also been given to the guidance in the NPPF which states in paragraph 193 that Local Planning Authorities should take a proportionate approach to seeking information from applicants and request it when it is necessary. In this instance it is considered that the information is desirable and not necessary given the nature of development proposed, characteristics of the area, the level of back ground noise generated including that from lorries operating in the area and the EA regulation arrangements.

Whilst the whole of Walsall MBC is an air quality management area for nitrogen oxide (NO₂), the main source of which is emissions from road traffic, the latest modelling (Sept 2013) by the Council indicates that this site is not in an area of exceedance. Pelsall Rd (A4124) is not a route where limit values are currently being exceeded, and it is considered that the net increase in trips associated with the proposed use is unlikely to add significantly to road traffic emissions on the wider highway network where limit values are exceeded.

The operating hours would be restricted to 0600 – 1800 hours Monday to Friday and 0600 – 1300 hours Saturday with no Sunday or bank holiday working, normal operating hours for a business within a core employment area.

Impact on the character and appearance of the area

The site is currently cleared so has a neutral impact. The previous use of the site for the hire of portable temporary buildings included significant storage of units within the open yard including double stacked units, the existing boundary treatment (mixture of palisade and chain-link fencing) allowed for full views of the storage from both Apex Road and the canal. The proposed use would include the sorting and storage of metal within storage bays/bins around the boundaries of the site screened from full views by the proposed 4 / 5m high rear walls to the bays. Whilst the walls would be visible (thou painted to improve their appearance) the storage beyond would be hidden. The proposed planting to the canal towpath would assist in screening the wall from full views from the canal and enhance the immediate canal environment. The site is already completely hard-surfaced, so the proposed planting to the boundary would be a significant improvement over the current situation, improving the overall appearance of the site. A condition is recommended to ensure that the proposed planting is implemented prior to the commencement of any work on site and is maintained in the future by the applicant. The implementation of the planting will be subject to a separate agreement with the Canal and River Trust for consent to implement on their land, but without this consent the recommended conditions ensures that the use cannot be implemented.

Some views of the boundary walls would be seen against the backdrop of the existing double storey storage warehouse building on the site which has a maximum height of 18m and the southern elevation would sit adjacent to One Stop buildings 7 and 12m in height. It is considered that the appearance of the site would have no adverse impact on the amenities of the surrounding occupiers, the street scene of the canal environment.

Highway Safety

The comments and concerns from residents with regard to highway safety are noted and have been taken into consideration in the assessment of the proposals. The initial Transport Statement submitted has been supplemented twice by additional work following assessment by the Councils Transportation officers. The final statement included a capacity assessment of the Apex Road/Pelsall Road signal junction.

The Transport Statement predicts that the development would generate approx 76 vehicle movements per day (including 15 staff vehicles) which is about 17 extra movements per day over the extant use. It is predicted that this would result in approximately 11 vehicle movements in the AM peak hour and approximately 9 movements in the PM peak hour. Across the whole day an average of about 6 movements per hour is predicted. In order to assess what potential impact the predicted level of trips will have on the Apex Road/Pelsall Road signal junction, a capacity assessment has been undertaken. The results have shown that the additional development traffic makes a marginal impact in terms of additional queuing and delay at this junction but does not have a significant impact on the operation of the junction. The Urban Traffic Control Team, which manages the signalised traffic network, has checked the submitted junction assessment and the predicted level of vehicle trips from the site and considered it acceptable.

Whilst the objections and comments from residents and surrounding occupiers are noted the Transport Statement identifies that the proposed use would have little additional impact on the highway network over the previous existing lawful use of the site. The previous use for the storage and hiring out of portable buildings involved the use of large vehicle movements to and from the site, similar to the proposals. Whilst the site has been vacant for approx 3 ½ to 4 years, this is still the authorised use of the site and could be re-used without any further planning consent.

Whilst it is recognised that there is already significant traffic using Pelsall Road, it forms part of the strategic highway network within the Borough. The houses, nos 149-185 Pelsall Road sit within a service road off the main road, schemes like this are designed to improve the flow of traffic within the main road caused by individual direct access onto the main road.

The very nature of a signalised junction will create queuing traffic, but the Urban Traffic Control Team have assessed the Transport Statement and consider that the proposals are acceptable and would have little adverse impact on the highway network. Coppice Road is an existing industrial access road suitable for commercial vehicles and the A4124 is part of the strategic highway network in both directions. There are no junction improvements currently proposed.

On balance the Highway Authority considers that the cumulative transportation impacts of the development are not severe and the development is in accordance with paragraph 32 of the NPPF.

Other Matters

Consideration has been given to the impact of the proposed use on the existing drainage system and water course. It is recognised that the site was previously used for storage and distribution for temporary mobile buildings and to this end the proposed use is considered similar in nature due to both schemes centred on open storage. To ensure adequate drainage facilities are provided, a condition to address both soil and surface water drainage is recommended.

It is also considered that the site and the proposed use do not present any new risks to ground instability over and above those already addressed within the Method Statement for Stabilisation of Shallow Mine workings and Mine Entry Investigation submitted by the applicant and agreed by the Coal Authority, subject to a condition being imposed for the works to be implemented.

With regard to issues of odour, vermin or litter, these are all matters that will be addressed through the operation of the site. As indicated earlier, the NPPW states that it is the role of the Local Planning Authority to consider the planning and land use matters appertaining to the proposal and not the day to day operation of the site as this is dealt with through other legislation controlled wither by the Environment Agency through their permitting regulations or the Councils Environmental Health team.

Environmental Impact Assessment (EIA) Screening Opinion

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

The development falls within Schedule 2 part 11(b) (ii) as it is for the disposal of waste with a site area of development that exceeds 0.5 hectares. The site is not located within a 'sensitive area' and the development is considered unlikely to have significant adverse effects on the environment.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

Positive and Proactive working with the applicant

Negotiations have taken place with the applicant throughout the course of the application to resolve outstanding issues.

Recommendation: Grant Permission Subject to conditions, unless additional information is received which raises material issues

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 plans and documents: -

- Site Location Plan submitted 25th November 2014
- Site Layout Plan Drawing TAN/BLE/02 Rev A submitted 22nd January 2015-01-26
- Plan and Elevations Drawing TAN/BLE/03 submitted 22nd April 2014
- Cross Section Drawing TAN/BLE/04 Rev A submitted 22nd January 2015
- Canalside Elevation Drawing TAN/BLE/07 submitted 23rd January 2015
- Planning Statement submitted 22nd April 2014.
- Method Statement – Stabilisation of Shallow Mineworkings & Mine Entry dated 6th January 2015 by M & J Drilling Services Ltd
- Coal Mining Risk Assessment submitted 8th September 2014
- Method Statement – Stabilisation of Shallow Mineworkings & Mine Entry Investigation Apex Road Brownhills by M & J Drilling Services Ltd submitted 6th January 2015.
- Transport Statement by Infrastructure Planning and Design Ltd submitted 1st July 2014
- Transport Statement by Infrastructure Planning and Design Ltd submitted 21st July 2014
- Transport Statement by Infrastructure Planning and Design Ltd submitted 10th September 2014

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3. Prior to the commencement of any development on site, site investigation and remedial works as detailed in Method Statement – Stabilisation of Shallow Mineworkings & Mine Entry dated 6th January 2015 by M & J Drilling Services Ltd shall be fully implemented.

Reason: In order to satisfy the requirements of The Coal Authority to protect the public and the environment in mining areas.

4a. Notwithstanding the details within the 'Planting on Canal Bank' submitted, prior to the first occupation of the site for the use hereby approved the planting to the canal frontage shall be implemented in accordance with revised planting details and future maintenance scheme to be submitted to and approved in writing by the Local Planning Authority.

4b. The planting shall be retained thereafter and managed in accordance with the approved planting scheme. All fencing on the canal frontage shall be erected prior to the planting taking place.

Reason: To ensure the proper landscape treatment of the canal frontage and safeguard the visual amenity of the area.

5a. A revised car parking layout plan shall be submitted to and approved in writing by the Local Planning Authority showing; i) All parking spaces having a clear 6 metre reversing aisle. ii) The disabled parking space having a 1.2 metre wide access zone to the side and rear.

5b. Prior to the development first coming into use, the car park shall be clearly demarcated on ground in accordance with the approved details and shall thereafter be retained and used for no other purpose.

Reason: The current proposed car parking layout shows a number of spaces without adequate clear reversing aisles which is likely to result in unsatisfactory operation of the car park and lead to indiscriminate parking on the public highway, contrary to UDP Policy GP2, T7 and T13 and to highway safety.

6a. Prior to the first occupation of the site for the use hereby approved full details of an appropriate boundary treatment between the car parking area and the adjacent public footway, shall be submitted to and approved in writing by the Local Planning Authority.

6b. Prior to the development first coming into use, the boundary treatment shall be fully implemented in accordance with the approved details and shall thereafter be retained.

Reason: To ensure vehicles parked on the car park do not encroach or drive over the adjoining public footway other than at the approved access point, in the interests of highway safety and in accordance with UDP policy GP2 and T7.

7. Prior to the first use of the site for the use hereby approved the public facade of the new boundary walls shall be painted a colour to be agreed with the Local Planning Authority and thereafter maintained.

Reason: To safeguard the visual amenity of the area.

8. The maximum tonnage of waste materials imported into the site shall not exceed 75,000 tonnes per year.

Reason: To ensure the predicted level of vehicle trips to the site as a result of the development does not exceed the level of predicted in the submitted Transport Statement which is based upon the expected tonnage of waste materials per annum and expected vehicle type usage. In accordance with UDP Policy GP2, T4 and Black Country Core Strategy TRAN1 and TRAN2 and in the interests of the free flow of traffic on local highway network and to highway safety. To be consistent with the Environment Agency Permit.

9. All vehicle parking, turning and manoeuvring areas within the site shall be kept free of any stored materials and shall be kept free of any obstructions at all times.

Reason: To ensure adequate turning and manoeuvring space within the site is available at all times and to ensure satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13 and highway safety.

10a. Prior to the first occupation of the site for the use hereby approved full details of the cycle shelter facility shall be submitted to and approved by the Local Planning Authority,

10b. The facility, which shall be covered and illuminated, shall be fully installed in accordance with the approved details prior to the development first coming into use.

Reason: To encourage sustainable travel modes and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

11. Prior to operations commencing a ground investigation and contamination survey having regard to current best practice shall be undertaken to form a base line assessment of conditions currently in, on or under the site.

(See note to applicant CL1).

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

12. Prior to the commencement of any development on site, site investigation and remedial works as detailed in Method Statement – Stabilisation of Shallow Mineworkings & Mine Entry dated 6th January 2015 by M & J Drilling Services Ltd shall be fully implemented.

Reason: In order to satisfy the requirements of The Coal Authority to protect the public and the environment in mining areas.

13a. 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.

13b. 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.

14. Permitted operating hours including collections, deliveries and despatches shall be: 0600 – 1800 hours Monday to Friday and 0600 – 1300 hours Saturday with no Sunday or bank holiday working.

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

Reason: In order to define the permission and safeguard the amenities of the occupiers of adjoining premises.

15. All loading and unloading shall take place within the curtilage of the site.

Reason: In the interests of maintaining the free flow of traffic and highway safety.

NOTE TO APPLICANT

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

Contaminated Land

CL1

Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; 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



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 6.

Reason for bringing to committee: Significant Community Interest

Application Number: 15/0080/FL

Application Type: Full application

Applicant: Mr D Purba

Proposal: New build 5 bedroom house on plot of former house

Location: FORMER 71 SKIP LANE, WALSALL, WS5 3LP

Ward: Paddock

Case Officer: Stuart Crossen

Telephone Number: 01922 652608

Email: planningservices@walsall.gov.uk

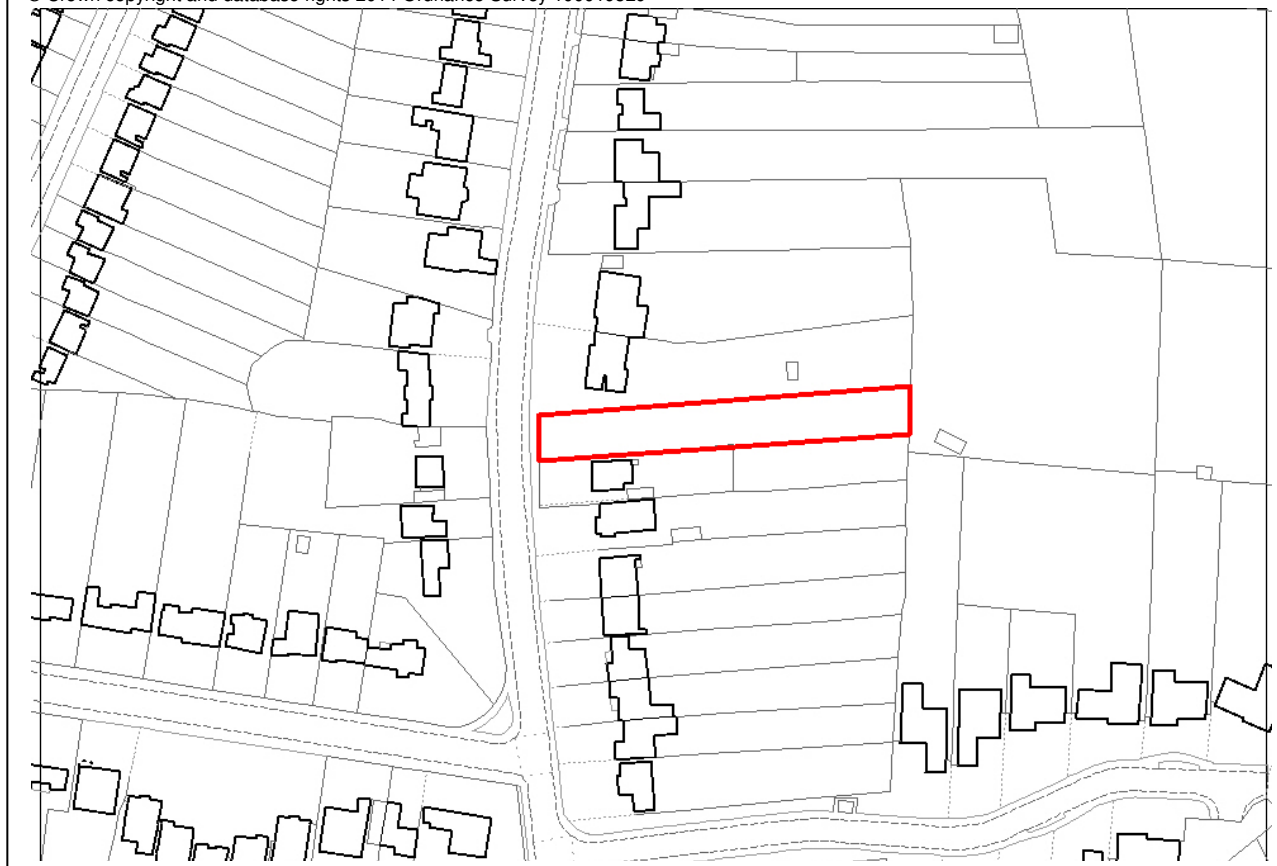
Agent: DNA Group

Expired Date: 17/03/2015

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The application proposes a new 5 bedroom 2 storey house with projecting gables and bay windows. The application site was once the plot of number 71 which was demolished following fire damage, the plot is vacant and is fenced off.

The appeal site is a currently vacant plot of land on the eastern side of Skip Lane. Although currently undeveloped the site formerly housed a single dwelling which was demolished following a fire. The prevailing character of the area is spacious and verdant, with dwellings generally set back some distance behind the Lane in mature gardens. One notable exception to this general pattern is the older, Georgian style, dwelling at No 42 which sits perpendicular to the road and has a two storey wing extending up to the back edge of the carriageway.

The predominant architectural style and period is from the early twentieth century and many dwellings display cat-slide roofs, hipped gables, dormer windows and architectural detailing resonant of the arts and crafts movement.

On the east side of Skip Lane the nearby houses are a mix of detached and semi-detached houses. Many of these houses are built close to shared boundaries or up to them. Of the 12 houses on this side from the corner with Woodfield Close only 3 have gaps at both sides.

This application differs from the previously refused application 14/0911/FL as follows:

- Projecting garage removed
- Dormer windows removed
- Front bay window features now match in width
- No significant proposed change to ground levels
- Gap to number 69 is reduced by 600mm to 900mm

The house would provide a lounge, kitchen, utility room, dining room, toilet, cloak room and double garage on the ground floor, four bedrooms, a prayer room, four en-suites and dressing rooms on the first floor and a bedroom, storage rooms and study in the attic. The garden would be over 60 metres deep and would be terraced below the existing ground levels of the application site and the gardens level to number 69. Beyond the rear garden is greenbelt.

The house design includes a main side gable roof, two gable roof front projections with bay windows, a gable rear dormer a two storey rear projection and single storey flat roof rear projection with balcony above. The main habitable room windows would be on the front and rear elevations apart from the proposed kitchen

The proposed house would include slate tiles, render, sand stone banding and grey aluminium windows. The key measurements of the house are:

- 900mm gap to number 69
- Eaves to align with the shared boundary of number 73
- Main front elevation in line with number 69
- House to be 8.4 metres high
- Ground floor depth of 21.2 metres
- First floor depth of 18.8 metres
- 11.5 metres wide

Number 69 is a detached house to the south of the application site, traditionally styled with low eaves roof and first floor part dormer windows. This house is 7.8 metres high. The side elevation of this house has no habitable room windows and an existing single storey rear extension extends 4 metres beyond the original rear elevation 3.5 metres high up to the shared boundary. There is a gap between the side of number 69 to the shared boundary with the application house of at least 500mm.

Number 73 is a bungalow to the north on higher ground 3 metres from the shared boundary of the application house. The front elevation faces away from the application house and is being extended to the side and rear, the rear part would project 1.5 metres less than the depth of the proposed house. The construction of the side extension at number 73 is currently incomplete. When completed there would be a 1.5 metre gap to the application house at the front, reducing 5.4 metres back from the front of the house due to the angle of this house in relation to the application house. Also approved at number 73 are 1.8 metre high pillars and railing and 2 metre high gates.

The application house would include a driveway and garage providing at least 3 car parking spaces.

The application includes front boundary walls and railings with brick pillars and gates measuring 1.8 metres high.

The proposed site level plan incorrectly illustrates the rear single storey extension at number 69 to project 3 metres along the shared boundary to the application site from the original rear elevation, the actual measurement is 4 metres.

Amended plans have been submitted. A new street-scene now includes the extensions under construction at number 73 and amended site plans now have additional measurements annotations for clarification.

Relevant Planning History

02/2330/FL/H4 - 73 Skip Lane, Walsall, WS5 3LP –Single storey side and rear extensions, enlargement of roof to provide additional rooms at first floor level including dormer windows to the front, and garden wall and gates to the front. Granted Subject to Conditions 10/12/02. These works have only been part implemented, development has commenced and building works here are ongoing.

14/0911/FL - 71 Skip Lane, Walsall, WS5 3LP - New 5 bedroom 3 storey house with projecting garage and dormer windows. Refused 04/08/14

1. The design of the proposed houses which include the following features:
 - Change in topography including 500mm high retaining walls
 - Excessive mass due to the height, 600mm higher than number 69 and significantly higher than the neighbouring bungalow and side gable roof design which almost fills the plot width
 - Combination of double front 2 storey hipped projections, front roof dormer and projecting garage would result in an excessive number of front projecting features

These features are considered to form a contrived design to allow for the erection of a three storey house, and would not reflect the existing development on this side of Skip Lane which respect the existing topography and are simpler designs, the proposal would also be especially prominent when travelling along Skip Lane North to South due to the height difference it would have with the neighbouring bungalow.

2. The following proposed main habitable room windows would not enjoy satisfactory levels of amenity through lack of light, poor outlook and are likely to experience a significant overbearing impact from other proposed elements and from the existing blank side elevation of number 69 which the proposed design has not taken account of:
 - The front dining room window by virtue of the change of ground level and proposed front projecting garage would experience insufficient levels of light and poor outlook.

- The kitchen window would face the side wall of number 69 over 3.5 metres high, 7.5 metres away which would result in an overbearing impact and insufficient levels of light and which would be contrary to the Council's 13 metre separation standards.
- The formal lounge window would face the rising rear garden terrace and would be between 6 metre projections of the proposed house and the blank side elevation of number 69 which would result in an overbearing impact, insufficient levels of light and which is contrary to the Council's 45 degree code.

Appeal 2224472 was lodged with the Planning Inspectorate and subsequently dismissed on the 8th December on design grounds in particular concerning the ground level change, retaining walls, projecting garage and because of the number of front elevation bay/dormer features all of different sizes.

Planning Policy

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Contribute to conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV18: Existing Woodlands, Trees and Hedgerows

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

ENV23: Nature Conservation and New Development

- (b) The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology. Where loss or damage of existing features is unavoidable, the Council will require mitigation measures to which adequately compensate for the features lost.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
- The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed buildings / structures.
 - The materials proposed for buildings, external spaces and means of enclosure.
 - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

T7: Car Parking

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

T13: Parking Provision

| | |
|----------------------------|-------------------|
| 1, 2 and 3 bedroom houses | 2 spaces per unit |
| 4 bedroom houses and above | 3 spaces per unit |

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall

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;

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

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

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed

below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).

Consultation Replies

Ecology – No objections. The TPO Oak tree would not be affected.

Public Participation Responses

The occupiers of number 34 Skip Lane who are opposite number 65 and 67 have objected on the following grounds:

- Proposal would result in terracing
- The proposal is too high

The occupier of number 67 has objected on the following grounds:

- Proposal would result in terracing
- A gap to the boundary is required to reflect the character of the area and provide access to drainage (access to drainage is a matter for the applicant and not a determining issue of this application)

The occupier of number 73 Skip Lane has objected on the following grounds

Proximity to the shared boundary

- Would result in terracing, would not reflect the existing gaps between houses
- The following 6 houses are referred to in the objection which have been granted planning permission in the last 8 years and which have gaps to the boundary on both sides: 42 to 52 Park Road, 87 Skip Lane, 48 Skip Lane, 44 Skip Lane, 37 Skip Lane and 17 Park Hall Road. The nearest of these is 50 metres from the application site on the opposite side of the road.
- 73 has permission to build up to the boundary already.
- There should be a 900mm gap to the boundary.
- They will not allow scaffold on their land while the proposed development is being built. (This is a private matter and not a determining issue of this planning application)
- There was always a gap between number 71 and 73.
- Would impact on the Hawthorn tree
- The streetscene plan exaggerates the gap (This is acknowledged and is not relied upon for the Officers assessment)
- The inspectors report refers to photos illustrating that the previous dwelling was “hard up to the boundary” when it was not.

The occupier of number 73 Skip Lane has objected on the following grounds

Alters the appearance and character of Skip Lane

Sub-terranean element is still included

Gable wall to number 73 sets a precedence (each case is determined on its own merits)

Terracing

Deep boundary retaining walls have an adverse affect on 69 and 73

Garden tiers will have an impact on drainage and TPO tree

Not a replacement house due its size.

Determining Issues

The floor plan layout ensures that there is a satisfactory level of amenity by way of light and outlook for occupants and are similar to the amended plans the Planning Inspector considered were acceptable. For these reasons the proposal overcomes the second refusal reason, accords with the decision by the Planning Inspectorate and is not one of the following determining issues of this application.

- Whether the proposal overcomes the following refusal reasons in the appeal decision:
 - The impact of a change in ground level and front projecting garage on the streetscene.
 - Integration of the front elevation projecting features.
- Relationship between the extensions at number 73 and the proposed house.
- Conditions.

Observations

Whether the proposal overcomes the previous refusal reasons and appeal decision.

The impact of a change in ground level and front projecting garage on the streetscene.

The proposed design would not now alter the topography when viewed from the street and the front projecting garage has been omitted. The Inspectors comments on the character of the area related to the proposed house when viewed from the front, although this application also includes retaining walls and alterations to the topography they would now only be to the rear and as such would have little impact on the street or character of the area.

Integration of the front elevation projecting features.

The front elevation with matching bay windows has a much simplified traditional design from the previous refused scheme due to the omission of the mis-matched hipped roof front projections, garage projection and the off centre hipped roof dormer. The revised front elevation is considered a significant improvement in keeping with the character of the area.

For the above reasons the proposal would cause no harm to the character and appearance of the surrounding area accords with the requirements to secure good design within the Framework, and accords with the design related requirements of policies GP2 (i) and ENV32 (a [vi], and b [i, ii, iv, vi, and vii) of the Walsall Unitary Development Plan (2005) (the UDP). It would also accord with the aims of policy ENV2 of the Black Country Core Strategy (2011) (the CS) which requires, amongst other things, that development proposals preserve or enhance local character. As such the proposal overcomes the previous refusal reasons.

Relationship between the extensions currently being built at number 73 and the proposed house

Planning permission 02/2330/FL/H4 approved in 2003 has been part implemented. The side part of this extension was not begun at the time of the previous application or appeal for this site. This existing permission is a material consideration of the current application.

This application proposes to be 900mm from the shared boundary to number 69 and although the gable roof eaves roof would be built up to the boundary with number 73, there would be a 1.5 metre gap between the approved front elevation of number 73 and the shared boundary when the building works there are complete. Number 73 and the attached bungalow do not follow the building line of this part of Skip Lane and are angled away from the application house. This relationship and the bungalow design of number 73 with low eaves are considered sufficient to ensure that the proposed house would retain a detached character consistent with the neighbouring houses in this part of Skip Lane which are predominantly built up to a boundary on at least one side. For the reasons outlined above this proposal is considered would not result in terracing and accords with the requirements of policies GP2 (i) and ENV32 (a [vi], and b [i, ii, iv, vi,

and vii) of the Walsall Unitary Development Plan (2005) (the UDP). It would also accord with the aims of policy ENV2 of the Black Country Core Strategy (2011) (the CS).

The approved proposed side elevation of number 73 includes two windows, one serving a utility room on the ground floor and a bathroom on the first floor. These are non-habitable room windows and the relationship between these and the proposal would not unduly affect the amenities of occupants of these rooms and accords with the Council's numerical standards in appendix D of Designing Walsall.

Conditions

It is considered reasonable to attach conditions if planning permission is granted to ensure:

- the satisfactory appearance of the development where materials have not been specified,
- adequate drainage is provided
- to ensure that the proposed rear balcony does not provide opportunity for overlooking the garden of number 73,
- that 3 car parking spaces are retained in accordance with the Council's parking standards
- construction hours are minimised to protect neighbours amenity

Other issues raised through consultation.

Concern has been raised by a resident that the Planning Inspector stated the previous house at this site was hard to the shared boundary. It is acknowledged that this is not accurate and that there were previously gaps at both sides. The assessment of this application is based on the character of the area as it is now, the previous relationship between number 73 as originally built and 71 where it once stood is not fundamental to determining this current planning application.

The Planning Inspector considered that the proximity of the proposed house to the shared boundaries would be close, but that it is not uncommon on the street. In this part of Skip Lane number 67 is built up to the boundary with number 69 and predominantly houses on this side of Skip Lane are semi-detached. One of the objectors has provided details of 6 other recent permissions for new houses where they have gaps to shared boundaries on both sides. It is considered that these houses are too far away or are on the opposite side of the road to be considered part of the character of the area where the application site sits.

Objection has been raised that the deep boundary retaining walls have an adverse affect on 69 and 73. The proposed house would be set into the ground which minimises any loss of amenity to neighbours, number 69 and 73 already has large rear extensions and the proposal would not result in significant loss of amenity and accords with the Council's numerical standards in Appendix D Designing Walsall.

An objection has been raised about the loss of a Hawthorn Tree. The Ecology Officer with respect to this application or the previous application raised no concerns about the loss of the Hawthorn tree which is not protected.

Positive and Proactive working with the applicant

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

Recommendation: Grant Permission 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: This development shall not be carried out other than in conformity with the following approved plans: -

Location Plan deposited 20/01/15
Existing and Proposed Site Plan (2015/001/003) deposited 20/01/15
Existing Site Levels (2015/001/001) deposited 20/01/15
Proposed Site Levels (2015/001/002) deposited 20/01/15
Proposed Elevations (2015/001/005) deposited 20/01/15
Proposed Floor Plans (2015/001/004) deposited 20/01/15
Streetscene (2015/001/007) deposited 20/01/15
Proposed Property Section (2015/001/008) deposited 20/01/15
Proposed Site Section 2 (2015/001/006) deposited 20/01/15
Design and Access Statement deposited 20/01/15

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

3a: Prior to the commencement of the development the following details shall be submitted and approved in writing by the Local Planning Authority:

- Brick type including size texture and colour used in the house and front wall
- Gate design details
- Gate and railing RAL colour
- Balcony screen details

3b: The approved details shall be fully implemented and retained thereafter.

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

4a. No development shall begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

4b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

6: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, 3 car parking spaces shall be provided within the application site, they shall be retained as such and used for no other purpose.

Reason: To provide satisfactory parking provision and to comply with policies T7 and T13 of Walsall's Unitary Development Plan.

7. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 Mondays to Fridays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect the amenities of surrounding occupiers.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 7.

Reason for bringing to committee: Call in by Councillor Jones because of the inadequate access, traffic capacity, impact on surrounding area, would be detrimental to the Town Centre and proposal will lead to a significant increase in HGV's which could impact on a multi-million pound road improvement scheme

Application Number: 15/0166/FL

Application Type: Full application

Applicant: Mr Ken Hill

Proposal: Single storey front, rear and side extension and new pitched roof to cafe.

Location: SITE ADJACENT 452 WOLVERHAMPTON ROAD, WALSALL

Ward: Pleck

Case Officer: Stuart Crossen

Telephone Number: 01922 652608

Email: planningservices@walsall.gov.uk

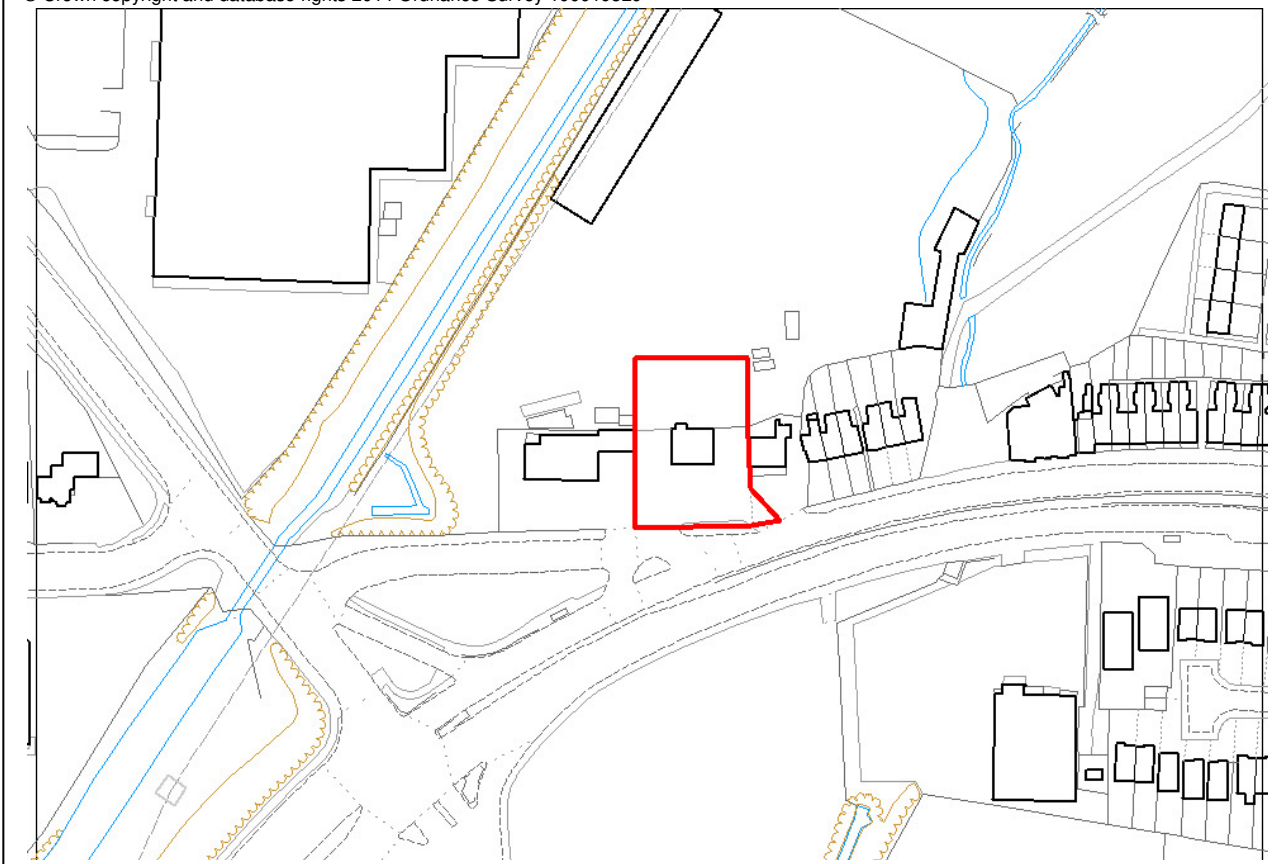
Agent: G & G Building Consultancy Ltd

Expired Date: 31/03/2015

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Textphone: 0845 111 2910, Fax: (01922) 652670

Application and Site Details

The application proposes a rear and side extension to an existing cafe which is currently not in use, to provide new kitchen facilities, toilets and a front extension for a new entrance. Also proposed is a hipped roof to replace the existing flat roof. The design has an art deco facade which is rendered and in need of maintenance. The existing café floor space is 111 sqm's. The proposed extension(s) would have a floor space of 102 sqm's.

The cafe parking area to the rear has an in and out access shared with vehicles using the adjacent scrap yard to the rear of the site. This access and the existing parking to the front and rear of the cafe were established with a certificate of lawfulness in 1996, there are no restrictions on the opening hours of the cafe.

The rear extension would extend from the original rear wall 5 metres deep into the existing parking area.

The new roof would increase the height of the building by 2.2 metres.

The side extension would be 3.3 metres wide in line with the existing front elevation and the rear elevation of the proposed extension, with side windows serving the toilet facilities.

The new front entrance feature would be 1.3 metres deep, 2.4 metres wide and 3 metres high. The eaves would be 500mm lower than the main building and the proposed roof would extend over the entrance.

As part of the development a new side wall would be created near to the boundary with the bungalow.

The site is off the old Wolverhampton Road which can be accessed from Bloxwich Lane or the Wolverhampton Road dual carriageway, part of the strategic highway network. The site is 300 metre from junction 10 of the M6. To the rear of the site is an existing long established scrap metal yard (in the same families ownership as the application site), to the west is a car repair garage and to the east is a bungalow (in the same families ownership as the application site).

The site can be accessed to and from Bloxwich Road and Wolverhampton Road, if users of the cafe want to travel directly back to Junction 10 they would have to do so from Bloxwich Road.

Relevant Planning History

BC46246P – Granted 28/08/1996 - which was a certificate of lawfulness to confirm a established lawful use of the scrapyard to the rear. The approved plan of this permission also illustrated and confirmed the cafe parking area to the rear of the existing cafe building.

Relevant Planning Policy Summary

National Planning Policy

National Planning Policy Framework (NPPF)

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

All the core planning principles have been reviewed and those relevant in this case are:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants

- Take account of the different roles and character of different areas.
- Positively drive and support sustainable economic development to deliver business, taking account of the needs of the residential and business communities.

Key provisions of the NPPF relevant in this case:

1: Building a Strong, Competitive Economy

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

On decision-taking the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Other Relevant National Policy

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*”. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

ENV2 states that development proposals will be expected to preserve and, where appropriate, enhance local character.

CSP4 - develops the need for high quality place making and design

ENV3: Design Quality

Development should deliver an urban renaissance through high quality design that stimulates economic, social and environmental benefits.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (2005)

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

II. The creation of or susceptibility to pollution of any kind

Policy 3.7 proposals for development the council will seek to protect people from unacceptable noise, pollution, and other environmental problems.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

ENV10: Pollution

Development of a facility which may cause pollution will only be permitted if it would not:

ii Cause unacceptable adverse effect in terms of ...lights, vibration, smell, noise, or other polluting emissions.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development
- The integration and co-ordination of buildings and external space.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

T4: The Highway Network

(a) The Strategic Highway Network for long distance and strategic traffic.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

Policy T13: Parking Provision for Cars, Cycles and Taxis

Developers must, however, still demonstrate in all cases (including developments below the size thresholds) that the development will provide adequate on-site car parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

Supplementary Planning Document "Designing Walsall" (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;

DW3 – Character - all new development must be designed to respect and enhance local identity
DW9 – High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

'It is considered in this case that the relevant provisions of Designing Walsall policies are consistent with the NPPF.'

Consultations

Transportation – No objections

Environmental Health – No objections.

Environment Agency – No objections.

Public Participation Responses

Determining issues

- Design and Character of the Area
- Impact on the Amenities of the Surrounding Occupiers
- Highway Safety

Observations

Design and Character of the Area

The proposed extensions and roof would alter the style of the buildings appearance whilst being compatible with the neighbouring hipped roof bungalow. It is considered that overall the changes would be an improvement on the existing situation helping to provide a more attractive environment by bringing the cafe back into use (in accordance with key provision 1 of the NPPF) and which respects and enhances the existing identity of the area in accordance with the key provision 7 of the NPPF, ENV2 and ENV3 of the BCCS and DW3 and DW9 of Designing Walsall. The proposal is considered would have a positive impact on the character of the area in accordance with ENV32 of the UDP.

Impact on amenity of surrounding occupiers

Although the extension would be 3.3 metres closer to the bungalow, the existing scrap yard access would still be between the café running alongside the bungalow. For this reason the extension is considered would not result in any additional unacceptable adverse effect in terms of noise or smell in relation to the occupiers of the bungalow in accordance with GP2 and ENV10 of the UDP.

The bungalow has a side elevation secondary window to a habitable room. A condition can be imposed on the permission if granted to ensure that any proposed side elevation windows in the café, are obscurely glazed and bottom hinged to prevent any overlooking received by nearby property in accordance with GP2 of the UDP.

Highway Safety

The extensions would not significantly expand the capacity of the cafe, only increasing the seating area by a third. The extensions would result in reduced car parking capacity whilst improving the existing cafe facilities and appearance. Taking account of the existing unrestricted established lawful use of both the café, parking area and scrap yard, the proposed reduction in parking, is

considered to have little potential for any significant increase in HGV's accessing this site to use the cafe. The remaining parking space taking account of the increased size of the cafe is sufficient to accord with the Council's parking standards (UDP policies T7 and T13).

For the above reasons it is considered that the proposed development would not impact on the m6 junction 10 improvements any more than the existing use at this site already has would.

The reduced width of the access next to the bungalow due to the proposed side extension raises no highway safety concerns and would not unduly impact on the existing access arrangements in and out of the site.

Positive and Proactive working with the applicant

Amended plans have been received to update the layout of the extension on the block plan and no other amendments are required to fully support this proposal.

Recommendation: Grant Permission Subject to Conditions

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

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

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

Amended Location Plan & Block Plans (G001895/03c) deposited 10/02/15

Existing Plans (G001895/01) deposited 03/02/15

Proposed Plans (G001895/02c) deposited 03/02/15

Design and Access Statement deposited 03/02/15

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

3a: Notwithstanding the colour and type of bricks, render and roof tiles shall be submitted and agreed in writing by the Local Planning Authority.

3b: The approved details shall be fully implemented and retained thereafter.

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

4: Notwithstanding the submitted details the side elevation windows of the extension shall be obscurely glazed to Pilkington level 4 or equivalent and be hinged from the bottom, and be retained thereafter.

Reason: To safeguard neighbouring amenity and to comply with policy GP2 of Walsall's Unitary Development Plan.

5a. Prior to the installation of any external extraction system, details including the specification and elevation drawings shall be submitted to and approved in writing by the Local Planning Authority.

5b. The approved details shall be fully implemented and retained thereafter.

Reason: To ensure the satisfactory appearance, to safeguard neighbouring amenity and to comply with policies GP2 and ENV32 of Walsall's Unitary Development Plan.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 8.

Reason for bringing to committee: Sale of Council land

Application Number: 14/1777/FL
Application Type: Full application

Applicant: B E Wedge Holdings Ltd

Proposal: Proposed car park

Location: LAND BETWEEN LITTLE WOOD STREET AND MALT HOUSE LANE, WILLENHALL

Ward: Willenhall South

Case Officer: Alison Ives

Telephone Number: 01922 652604

Email: planningservices@walsall.gov.uk

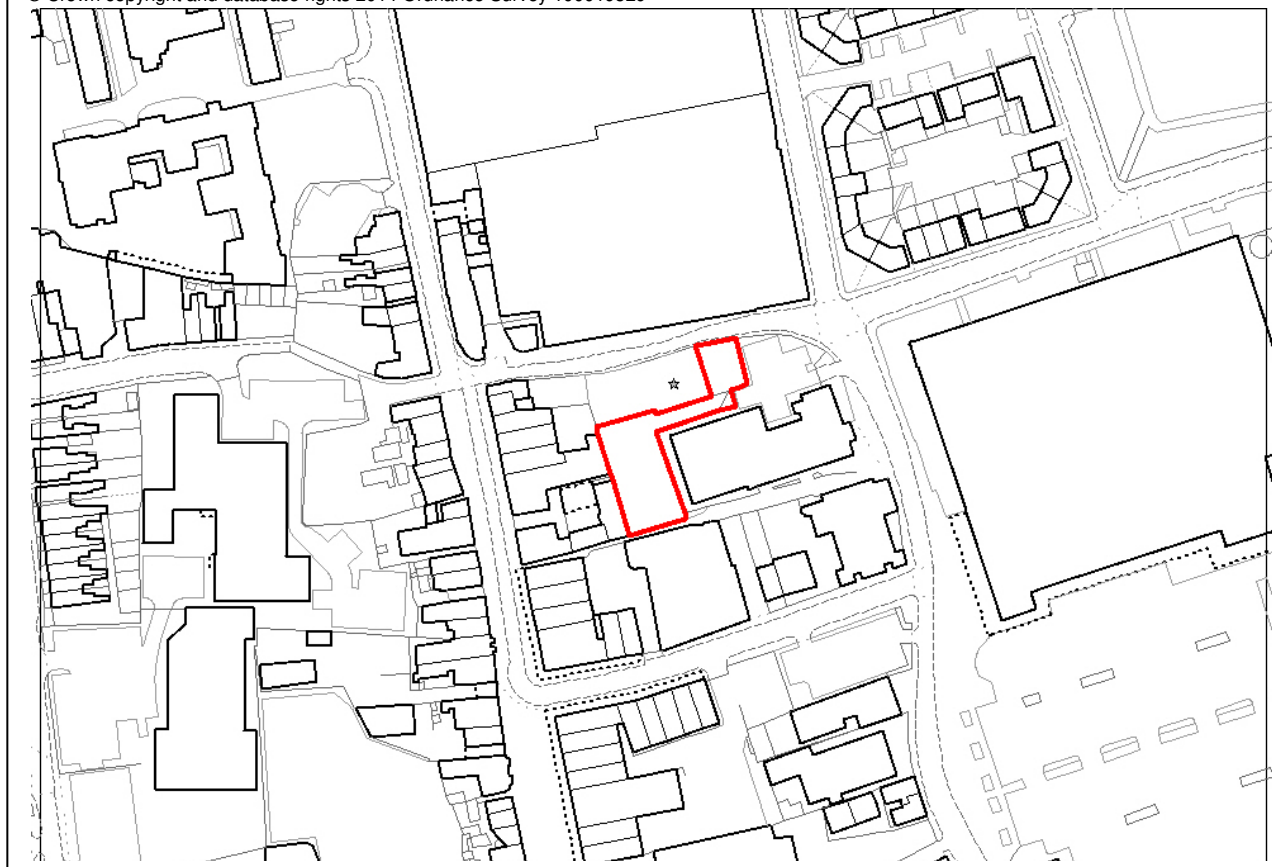
Agent: Roger Evans & Associates

Expired Date: 27/01/2015

Extension of Time Target Date: 27/02/2015

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The proposal is for a proposed car park on vacant land located between Little Wood Street and Malt House Lane, within Willenhall Conservation Area. There are the remains of a small toilet building on site. The land is presently owned by the Council. The proposed car park is for use by B E Wedge Holdings Limited who occupies premises immediately opposite the site in Little Wood Street and already has a small car park on the adjacent land. Parking currently occurs along the side of the industrial building.

Malt House Lane is a public right of way (Will 78) and runs parallel to the southern boundary of the site. There is a Job Centre surrounding two sides of the site and the rear of commercial premises in Stafford Street adjoins the western boundary. There are mature trees along the boundary with the Job Centre and at the front of the site facing Little Wood Street.

The proposed car park will accommodate 38 spaces when combined with the existing car park. There are 33 spaces accessed from the existing car park and 5 further spaces accessed from the additional land. Whilst some trees are retained in the corners trees along the boundary between the existing car park and Job Centre are to be removed to create the access to the enlarged car park land. Some new tree planting with permeable paving beneath is proposed in these areas.

The remains of the toilet block are to be demolished to accommodate parking.

The proposal includes provision of new green Weldmesh fencing with green metal posts along two boundaries facing Little Wood Street, a dwarf boundary wall along the frontage of the extended car park facing Little Wood Street and retention of existing fencing and palisade fencing along the boundary with the Job Centre.

The site is 894 square metres.

The Planning Statement – Describes the site and surrounding area. It explains that the proposal is to provide staff parking for employees of B E Wedge Galvanizing Limited located on the north side of Little Wood Street. The car park utilises existing accesses and will be fenced, surfaced and drained.

The Tree Survey – Identifies 20 trees surveyed of which 14 are proposed to be felled and replaced and 6 where retention is preferred and should be explored. Of all of these trees only one is category A (high quality and value), 5 category B trees, 7 are category C trees and 7 are category U (unlikely to be retained). Root protection areas are identified for those trees to be retained.

The Ground Investigation Report – Identifies the land uses, geology, hydrogeology and hydrology, flooding issues, designated environmentally sensitive sites, mining and natural hazards. It

Relevant Planning History

05/2276/FL/W2 – Change of use to car park – GSC 02/03/06.

16A Stafford Street

10/1440/FL – Conversion of workshop adjacent to public footpath - ground floor to workshop/retail (computer repairs), first floor to 2 bed dwelling, new shop front – GSC 10/01/11.

14/0040/FL - Conversion of ground floor from computer repairs workshop to 2 bed apartment – GSC 25/02/14.

Relevant Planning Policy Summary

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the

achievement of sustainable development, in economic, social and environmental terms, and it emphasises a *"presumption in favour of sustainable development"*.

All the **core planning principles** have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate:

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 64 states permission should be refused for development of poor design that fails to take account for improving the character and quality of an area and the way it functions.

Paragraph 109 seeks to protect and enhance the natural and local environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 131: In determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.

2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide a sustainable mix of modern, strategic high quality employment land and new residential communities well supported by community services and local shops built on brownfield sites close to existing public transport routes.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CSP4: A high quality of design of the built and natural environment is required.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV11: Consideration of proposals for external lighting.

ENV14: Development of Derelict and Previously-Developed Sites.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

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

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area.

ENV32: Development proposals should take account of the context and surroundings, particularly in a conservation area. The design should be well integrated with surrounding land uses and local character.

ENV33: Deals with landscape design and opportunities to create and enhance environmental quality.

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

S2: The Hierarchy of Centres

S3: Integration of Developments into Centres

T1: Seeks to improve access and help people get around.

T4: Identifies the highway network.

T7: Refers to car parking provision and states it should be well designed and sensitively integrated into the townscape. Except where there is an accepted need for dedicated provision, parking within or on the edge of centres should be generally available to serve the needs of the centre as a whole.

T10 (a): Refers to accessibility standards.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

WH3: Environmental Enhancement

WH4: Development / Investment Opportunities

WH9: Traffic Management

WH10: Parking

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

Policy DW1 Sustainability

Policy DW2 Safe and Welcoming Places

Policy DW3 Character

Policy DW4 Continuity

Policy DW5 Ease of Movement

Policy DW6 Legibility

Policy DW9 High Quality Public Realm

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

Consultations

Transportation – No objections subject to securing details of layout, access and operation of the car parking area. Conditions are recommended to secure these details. The access points on Little Wood Street are existing and are acceptable subject to minor changes.

Conservation – Screening to Malt House Lane is required. The loss of trees in this urban character area will not harm the conservation area as typically trees are sparse or planted formally within the street. It is recommended that better screening in conjunction with the railings along Malt House Lane is incorporated.

Local Access Forum (Walsall Ramblers) – No objections. The permeable paving and new tree planting along the boundary to Malt House Lane will handle any run-off generated by the increased parking area and prevent flooding onto the public right of way.

Natural Environment (Ecology) – No ecological issues other than the retention of trees on site. The best trees will be lost and those remaining may be too close to the parking areas and it is unlikely they will be retained.

Pollution Control – No specific requirements.

Tree Officer – The trees in the site are protected by Willenhall Conservation Area. There appear to be a good group of trees on site that provide much needed landscape value in the area which is largely devoid of tree cover. Some trees worthy of retention and replacement planting should be expected.

Public Participation Response

One letter of objection received which is summarised as follows:

- There are windows at the rear of shop premises in Stafford Street overlooking the site
- The proposal creates a fire risk as there is no exit for residents

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

Determining Issues

- Principle of a car park
- Loss of trees
- Impact on Willenhall Conservation Area
- Relationship to adjacent properties

Observations

Principle of a car park

The land is presently vacant and overgrown. The proposal to utilise the land for expansion of the car park for the industrial premises opposite in Little Wood Street will make more effective use of the land and may go some way to relieving parking congestion in the area caused by staff parking. The land is not allocated for any specific purpose and therefore its use as a car park to support the existing long established business and local employer is considered appropriate.

Loss of trees

There is no specific Tree Preservation Order on the trees throughout the site but they are protected as they fall within Willenhall Conservation Area. A tree survey has been supplied. The Tree Officer and Ecologist do not support the removal of the trees as they consider this will harm the character of the area.

The proposal is to remove the majority of trees along the boundary with the Job Centre. Without removal of the trees there would be no access to the land at the rear which extends to Malt House Lane. Malt House Lane is a public right of way with no vehicular access. The land would therefore remain undeveloped and detract from the character of the area. The existing trees are set back from the public frontage in Little Wood Street and are considered not to be prominent within the area. The conservation officer considers that it is more typical to have street trees in an urban conservation area. Some of the trees are to be retained and new tree planting is proposed nearest the Malt House Lane frontage which is welcomed.

On balance, the proposal to create a car park for staff of the existing long established business B E Wedge which is a significant local employer and would relieve parking congestion on the edge of the building in Little Wood Street are considered to outweigh the loss of trees.

Impact on Willenhall Conservation Area

The land is presently unused and overgrown which detracts from the conservation area. The utilisation of the land as an extension of the present car parking area will not have a significant

impact on the appearance of the conservation area as it tidies up the land. The proposed new dwarf wall and fencing facing Little Wood Street will also improve the appearance of the site. Retention of trees, albeit limited, and new tree planting will also help enhance the area. The displacement of some of the parking along the side of the industrial building will also improve the character of the area.

The new dwarf wall and fencing facing Little Wood Street is considered acceptable in visual terms. The loss of the small toilet building will not have a significant impact on the character or appearance of the conservation area. The conservation officer is satisfied that the proposals will not have a significant adverse impact on the conservation area but requests further planting incorporated behind the railings along Malt House Lane. It is proposed to plant two new trees along this boundary which will help address this request.

On balance there is no significant impact on Willenhall Conservation Area.

Relationship to adjacent properties

The land is surrounded by the Job Centre with its boundary fencing, the public right of way in Malt House Lane and the rear elevation of buildings in Stafford Street. The existing boundary treatment is to remain around the Job Centre and Malt House Lane so there will be no significant impact on these adjoining sites. Although trees are to be removed adjacent to the Job Centre boundary this will not have a significant impact on outlook or privacy for the offices.

The objector is concerned that there are windows of premises in Stafford Street overlooking the site and the use for a car park would block the fire exit from the premises. The rear elevation of the Stafford Street properties is currently an extensive brick facade although there is a permission to convert the building to flats which includes provision of habitable room windows at ground and first floor facing the site. The permission, 14/0040/FL, identified part of the current application site as garden land for the proposed flats and the certificate of ownership indicated that the land belonged to that applicant which is not the case. Although there are no conditions on permission 14/0040/FL to require implementation of the garden condition 5 requires implementation of the permission in accordance with the approved plans. In order to do this the applicant for 14/0040/FL would require the Council's consent as landowner to utilise the land as garden land for the flats. Alternatively if the applicant wanted to implement the permission without the garden then this would require a separate planning permission.

In light of the above it is considered that the existing permission 14/0040/FL should not prejudice the determination of the current application. There could potentially be two bedroom windows and a secondary lounge window in the ground floor facade of the building overlooking the site. The proposal for car parking does not include any new boundary treatment along this boundary that would obscure the windows. The parking is for staff of B E Wedge only rather than a public car park which limits the amount of comings and goings as staff would park up for their shift and are unlikely to move throughout the day. In the circumstances it is considered the proposals would not have a significant adverse impact on the amenities of potential future occupiers. Also bearing in mind the proposed flats are in a town centre the expected levels of noise and disturbance is not the same as that expected in a purely residential area.

In terms of the fire exit gate between the Stafford Street buildings which leads onto the site, although there is no formal right of access over the land, the proposed use as a car park does not prevent it being used as a fire exit for pedestrians as there are no buildings proposed on the site.

For the above reasons it is considered that the proposals will not have any significant impact on residential amenities of potential future occupiers sufficient to warrant refusal of the application. There are no significant adverse impacts on other adjoining premises.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information and amended plans have been submitted to enable full support to be given to the scheme.

Recommendation: Grant Permission 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 92 of the Town and Country Planning Act, 1990.

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

- Ordnance Survey Plan Boundaries Amended (476-00-01B) received 25/11/14
- Amended Layout Trees & Fencing (476-00-15) received 05/02/15
- Planning Statement prepared by Roger Evans Associates received 25/11/14
- Tree Survey prepared by Cedarwood Tree Care received 05/02/15
- Ground Investigation prepared by GroundSure EnviroInsight (GWD-1805725) received 10/12/14

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

3a. Prior to the car park coming fully into use, it shall be fully consolidated, hard surfaced and drained in such a way that no surface water from the site discharges onto the public highway and the parking spaces clearly demarcated on the ground.

3b. The car park shall at no time be used for any other purpose other than for private parking ancillary to the BE Wedge Holdings Ltd site.

Reason: To define the use of the car park and to ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2 and T7.

4. At no time shall vehicular access to the car park be gained via Malt House Lane.

Reason: To minimise vehicular traffic along Malt House Lane which is a narrow, predominantly pedestrian route between the main shopping areas, in order to remove potential pedestrian/vehicle conflicts, in the interests of highway safety.

5. Prior to the car park first coming into use, the required alterations to the eastern existing vehicular footway crossings in Little Wood Street to align with the new car park entrance including the reinstatement back to full kerb height any redundant dropped kerbs, shall be fully implemented to a specification to be first agreed in writing by the local planning authority and to the satisfaction of the Highway Authority. All works within the public highway shall be in accordance all statutory requirements.

Reason: To ensure the satisfactory operation of the car park access points in accordance with UDP Policy GP2 and in the interests of highway safety.

6. Prior to the car park coming into use the proposed new boundary treatments identified on the approved drawing 476-00-15 shall be fully implemented and thereafter maintained in accordance with the approved details.

Reason: To safeguard the visual amenities of the area.

7. The retained trees identified on the approved plan 476-00-15 shall be protected and maintained throughout the lifetime of the development.

Reason: To safeguard the visual amenities of the area.

8. Prior to the car park coming into use full details of the proposed new tree planting shall be submitted to and approved in writing by the local planning authority and fully implemented in accordance with the approved details and maintained thereafter. Any tree 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.

Notes to Applicant (Highways)

1. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the alterations to the access points within the public highway.

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



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 9.

Reason for bringing to committee: Delicate Judgement

Application Number: 15/0138/FL

Application Type: Regulation 3 Consent

Applicant: Walsall Council

Proposal: Temporary change of use for up to 2 years for open storage comprising 4 large steel containers (20ft x 8ft), 5 small steel containers (10ft x 8ft), 20 '1100' bins, erection of lighting column and creation of pedestrian access gate at Lower Hall Lane for use by the Council's Market Service.

Location: FORMER MOTORCYCLE PARK, NEWPORT STREET/LOWER HALL LANE, WALSALL

Ward: St. Matthews

Case Officer: Mike Brereton

Telephone Number: 01922 658021

Email: planningservices@walsall.gov.uk

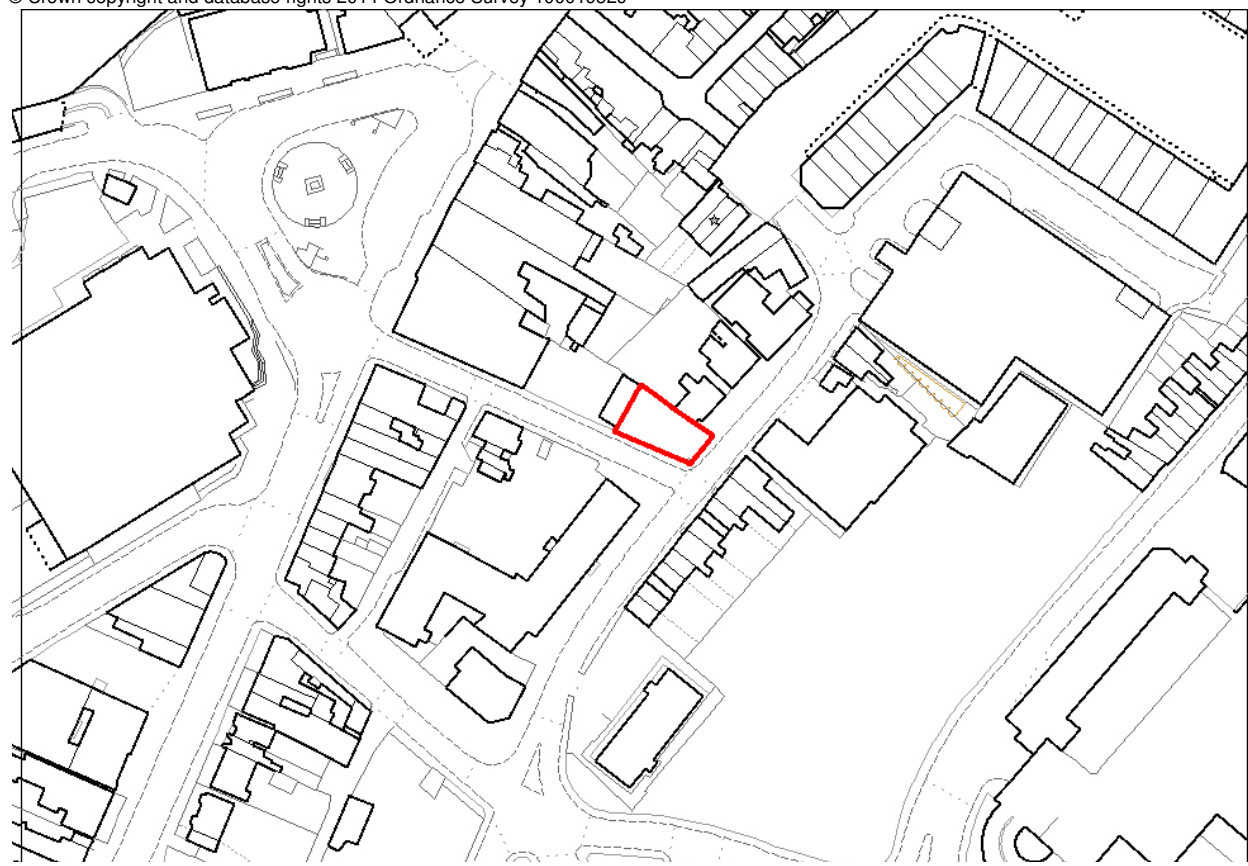
Agent:

Expired Date: 26/03/2015

Extension of Time Target Date:

Recommendation Summary: Grant with conditions, subject to no new information raising new material issues

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Application and Site Details

The application site is cleared and vacant, approximately 261m² in size formerly used as a motorcycle park and benefited from temporary permission for storage of market goods in 2005 (05/1662/FL/W1). The site lies within the Bridge Street Conservation Area with Church Hill Conservation Area and Grade II Listed Buildings directly opposite along Lower Hall Lane to east. Government Offices at Lower Hall Lane (occupied by the Pension Service) exist across the road to south of the site along with a privately owned commercial building to west (No.12 Newport Street) and offices currently occupied by Age Concern (No.50 Lower Hall Lane) to north. 2.1m high railings and gates are present on the site.

This application proposes temporary 2 year storage for market purposes comprising 4 large steel containers (20ft x 8ft), 5 small steel containers (10ft x 8ft), 20 '1100' bins, erection of 8m high lighting column and creation of pedestrian access gate at Lower Hall Lane. The submitted Design and Access Statement explains that the existing containers need to be removed from their current location at Lower Hall Lane car park by 31st March 2015 to allow the recently permitted 8,700m² retail development (13/1421/FL) to progress. Members of this planning committee on 20/08/2014 resolved to approve the re-location of containers to 57-58 Lower Hall Lane (14/0926/FL) but Regeneration officers are now recommending that detailed design work is undertaken and planning sought for the permanent market storage solution at that site and the storage containers should instead be temporarily relocated to this current application site at corner of Newport Street.

The previous temporary permission expired in 2006 but one small container and market equipment is currently present on the site without planning permission. Regeneration Officers have advised this is likely to have been placed on the site in around 2012-13 by the Council's Markets Service who, at that time, did not appreciate that further planning consent would be required. The Markets Service has since been restructured and now comes under Development and Delivery, and as such would therefore not allow a breach to occur again.

The consultation period for this application does not expire until 06/03/2015 but is being presented to members due to the time sensitive nature of the proposal and members are recommended to consider this application subject to no other material considerations being raised.

Relevant Planning History

05/1662/FL/W1 – Temporary 1 year storage of steel containers and erection of security fencing and gates. Granted Planning Permission Subject to Conditions 27/10/2005.

Legislation

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

Section 66(1) General duty as respects listed buildings in exercise of planning functions: In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72(1) General duty as respects conservation areas in exercise of planning functions: In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

National Planning Policy

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are that planning should:

- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
 - take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
 - contribute to conserving and enhancing the natural environment and reducing pollution.
- Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value; and
 - conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

Key provisions of the NPPF relevant in this case:

23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

58. Policies should set out the quality of development that will be expected of an area.

133 and 134. Set out the balance of harm to designated heritage assets.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The most relevant Spatial Objectives are:

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.

5. A network of vibrant and attractive town, district and local centres

6. A high quality environment

The above are supported by the following relevant policies:

CSP4 – develops the need for high quality place making and design.

CEN1 - The Strategic Centres will provide the main focus for higher order sub-regional retail, office, leisure, cultural and service activities.

CEN2 – sets out the Hierarchy of Centres.

CEN3 – Strategic Centres provide the focus for comparison shopping.

ENV1, ENV2 and ENV3 - set out the criteria for nature conservation, the historic environment and design quality.

ENV5 - seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage.

Walsall’s Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

GP2: The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land wherever this is technically feasible.

ENV29: Development in conservation areas.

ENV32: (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles

- Policy DW1 Sustainability
- Policy DW2 Safe and Welcoming Places
- Policy DW3 Character
- Policy DW9 High Quality Public Realm
- Policy DW10 Sustainable Environment

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

Consultations

Town Centre Manager – No objection.

Conservation Officer – Considers this proposal results in less harm to heritage assets than previous application at 57, 57a, 57b and 58 Lower Hall Lane but recommends inclusion of condition for improved boundary treatment to provide better screening of the steel containers.

Transportation (Highways) – No objection subject to inclusion of conditions regarding drainage.

English Heritage – Confirmed no statutory response necessary for a Grade II listed asset.

Walsall Civic Society – To be updated at Planning Committee.

Market Traders Association – To be updated at Planning Committee.

Public Lighting – No objection.

Tree Preservation Officer – No objection.

Police – Recommended installation of alarm system to containers and CCTV system for security.

Friends of The Earth - To be updated at Planning Committee.

Public Participation Responses

To be updated at Planning Committee.

Determining issues

- Impact on Heritage Assets
- Principle of Temporary Use
- Design

Observations

Impact on Heritage Assets

The proposal does not result in the loss of a heritage asset but the site is within the Bridge Street Conservation Area and directly opposite the Church Hill Conservation Area and Grade II Listed Buildings along Lower Hall Lane to east. The proposed use of the site for temporary open storage (B8) is considered would have an impact on the setting of these heritage assets and as such the NPPF requires Local Planning Authorities to consider the level of harm to heritage assets brought about by the proposal. Whilst open storage would not be an appropriate long term use of the site it is considered in this case to be 'less than substantial harm' to the Listed Buildings and Conservation Areas as the proposal only affects the setting of these heritage assets and the proposal is of a temporary nature. The NPPF in paragraph 134 states:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use"

The Council's Conservation Officer considers this proposal results in less harm to heritage assets than the previous approval at 57, 57a, 57b and 58 Lower Hall Lane which included demolition of these properties resulting in a significant impact on the Conservation Area due to the complete loss of buildings that help to make up the character of the area. Recent case law reinforces the position set out in legislation (S66 and S72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990) that special regard must be given to the impact on heritage assets and significant weight must be given to such assets in these instances. This proposal, through relocation of the steel containers, will support the regeneration of the Walsall Market and support the delivery of the retail consent at Lower Hall Lane. This will assist in progressing the town centre retail growth target and accord with policy CEN3, Primary Shopping Area policies, Development Opportunity WA10 and Spatial Objectives 1 and 5 of the BCCS to create a vibrant and attractive town centre offer. It is considered, especially given the temporary nature of the proposal for two years that the public benefit of the proposal outweighs the short term harm to the setting of the Listed Buildings and Conservation Areas as set out in Paragraph 134 of the NPPF.

Principle of Temporary Use

The application site falls within the Primary Shopping Area in Walsall Town Centre where the focus should be on retail development and redevelopment schemes for the Digbeth area are particularly encouraged by Policy WA1 of the UDP. Furthermore, Policy CEN3 of the BCCS expects the strategic centre to accommodate ambitious growth in retail floorspace. It is considered that the proposed non-town centre use for B8 storage of steel containers and bins would not be consistent with the surrounding established town centre uses or suitable for a town centre site in a Conservation Area. It is noted that this site has previously been used for similar temporary market storage of the steel containers in 2005 and a balance needs to be taken between the re-use of the site for temporary storage in the Primary Shopping Area and the need to support the Walsall Market as an attractive, competitive and diverse retail offer in the town centre as required in

Section 2 of the NPPF. The site would be in use 7 days a week which is considered acceptable given the surrounding commercial uses.

Delicate judgement is necessary given the evidence supplied which states the relocation of steel containers from the current location at the Lower Hall Lane car park is necessary by 31/03/2015 to meet the contractual obligation reached to enable the retail re-development of that site to come forward. Also, this proposal will provide a temporary location for storage of market goods and equipment whilst a permanent storage solution is investigated by the Council.

Design

The submitted layout plan shows 5 steel containers would be located along the northern boundary of the site with the remaining 4 containers to the west. A condition would be included should members resolve to grant planning permission to ensure these containers are all painted Bottle Green (RAL 6007) and retained as such to provide their satisfactory appearance. Bins would be located in the north-west corner and along the southern boundary fronting Newport Street. Whilst the prominent view of bins is unfortunate the constraints of the site mean an alternative layout is unlikely to be achieved and the existing railings and low brick boundary wall will go some way to minimise this impact whilst still providing natural surveillance to the site and on balance is considered to be acceptable in this instance. The submitted statement explains these bins will be filled and emptied whilst moved off the site on a regular basis and should not present any issues of litter or smells whilst on site. The Conservation Officer recommends improved boundary treatment to provide better screening of the open storage use but it is considered that the existing railings, erected as part of the previous temporary permission for storage, is sufficient given the temporary nature of the proposal and the less prominent location of the application site in comparison to 57-58 Lower Hall Lane.

An additional 1.5m wide pedestrian gate is proposed to Lower Hall Lane to provide further access for market traders along with further railings in the north-west corner to secure the site and both would match the colour, height and style of existing railings. Furthermore, the gate would be inward opening in the interest of highways safety, self closing and includes key pad entry for security purposes. An 8m high lighting column with motion sensor is proposed but an on-site inspection by AMEY is necessary to determine whether the approximate location shown on the submitted layout plan is acceptable and the exact location and specification will be secured through inclusion of a condition. The Police recommend installation of an alarm system to the steel containers and availability of CCTV for security purposes. On balance the already improved security of this site with boundary fencing and secure gate over and above the current open location of containers on the street and temporary nature of the proposal is considered sufficient in this instance. Whilst on-site parking has not been provided the Highways Officer has advised Newport Street is a one-way street with no restriction on loading and is considered acceptable.

Recommendation: Grant with conditions, subject to no new information raising new material issues

1: The temporary open storage use hereby approved shall cease on the site and the land cleared prior to the expiration of 2 years from the date of this decision.

Reason: The permanent use of the site for open storage would be inappropriate in the Conservation Area.

2: The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Planning Application Form. Deposited 29/01/2015

- Location Plan. Deposited 29/01/2015
- Block Plan. Deposited 29/01/2015
- Design and Access Statement. Deposited 29/01/2015
- Std SL gate elevation (TR250_sl_ge_001). Deposited 06/02/2015
- Site Layout Plan (Amended). Deposited 06/02/2015

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3(a): Prior to bringing the site into operation, suitable drainage shall be installed to prevent waste and surface water from discharging onto the public highway or into any highway drain, full details of which shall be submitted to and approved by the Local Planning Authority prior to installation.

3(b): The drainage shall be kept in good working order during the period of the temporary use.

Reason: In the interests of highway safety.

4(a): Prior to bringing the site into operation, detailed plans including location of the proposed lighting column shall be submitted to and approved by the Local Planning Authority.

4(b): The lighting column shall be installed in accordance with the approved details and thereafter retained as such.

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

5: Prior to bringing the site into operation the shipping containers shall be painted Bottle Green (RAL Colour 6007) and thereafter retained as such.

Reason: To protect the character of the Bridge Street Conservation Area and accord with UDP policies ENV29 (Conservation Areas) and ENV32 (Design and Development Proposals) and BCCS Policy ENV2 (Historic Character and Local Distinctiveness).

6: Prior to bringing the site into operation the pedestrian gate as shown on plan 'Std SL gate elevation (TR250_sl_ge_001)' and additional fencing in north-west corner of the site as shown on plan 'Site Layout Plan (Amended)' shall use railings to match existing and be powder coated painted black to match the existing boundary fencing and thereafter retained as such.

Reason: To protect the character of the Bridge Street Conservation Area and accord with UDP policies ENV29 (Conservation Areas) and ENV32 (Design and Development Proposals) and BCCS Policy ENV2 (Historic Character and Local Distinctiveness).

7: The pedestrian gate as shown on plan 'Std SL gate elevation (TR250_sl_ge_001)' shall be inward opening only (not to open out over the public highway), be self-closing and key code operated.

Reason: In the interest of safety and security.

8: The site shall be used for storage purposes in association with Walsall Council's Market Service and Market Traders and for no other purpose.

Reason: To define the permission.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 10.

Reason for bringing to committee: Significant Community Interest

Application Number: 14/1857/FL
Application Type: Full application

Applicant: Walsall Housing Group

Proposal: Demolition of existing multi-storey car park and construction of new surface car park.

Location: MULTI STOREY CAR PARK, LITTLE LONDON ACCESS ROAD, WALSALL, WS1 4DD

Ward: St. Matthews

Case Officer: Karon Hulse

Telephone Number: 01922 652614

Email: planningservices@walsall.gov.uk

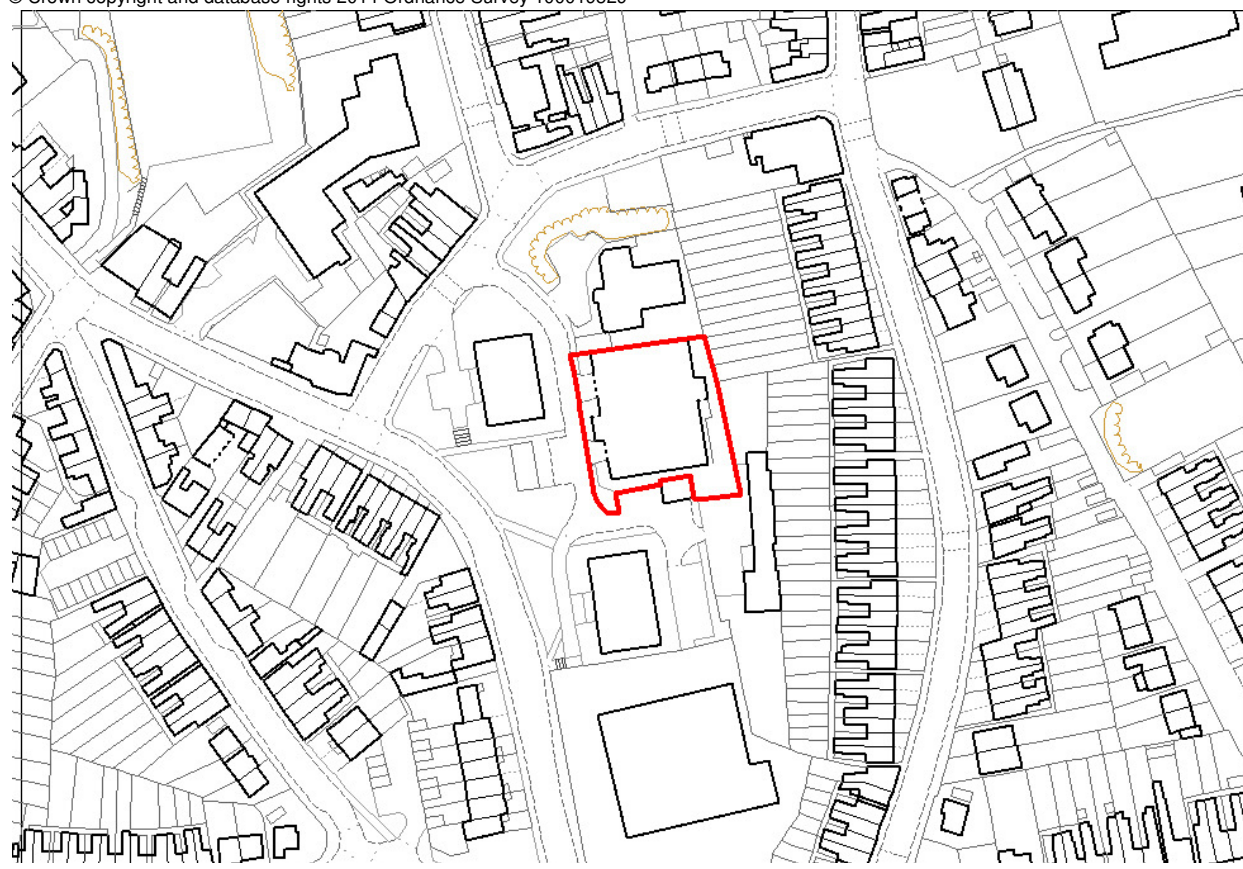
Agent: Armstrong Burton Architects

Expired Date: 09/02/2015

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application seeks to replace the existing 96 space multi-storey block of lock-up garages with a new 40 space surface car park located on the Little London Access road, Walsall. Demolition of the garage block has previously been approved by a prior notification application. Following demolition it is proposed to finish the site in tarmacadam, creating two tiers each laid out to provide two rows of ten car parking spaces (total of 40 spaces).

The garage block is currently closed and has been for several years due to antisocial behaviour and security problems.

The block is built of facing brickwork and concrete and is on sloping land, so that it has 4 storeys at the lower end, and three at the higher end.

The block is located on the cul de sac which is not adopted and also serves the adjacent tower blocks of flats, Wood House and Little London House, as well as a doctors surgery and a church.

The doctors surgery which is in separate ownership is separated from the north side of the garage block by a small gap of under 1m. On the east side is a landscaped strip ranging from 4.5m to 7m wide and giving separation from the rear fences of back gardens to houses in Sandwell Street. On the south side is a detached electricity sub-station and an evangelical church. Car parking takes place on parking bays off the cul de sac and also within the doctors surgery and the church.

A planning statement submitted states that the garage block is in poor condition owing to its age and vandalism and due problems of historic anti-social behaviour only the lower two levels have been used in the past.

The application is further accompanied by

- Daytime bat survey prepared by Middlemarch Environmental received 8th December, 2014
- Preliminary Ecological Assessment prepared by Middlemarch Environmental received 8th December, 2014
- Method Statement prepared by City Demolition

Relevant Planning History

14/0139/PD – Prior Notification: Demolition of multi storey ramped access lock-up style garages (adjacent to Wood House and Little London House). Approved subject to full application for the laying out of the site for surface car parking. 24/3/14.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF) www.gov.uk

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Local Policy

Black Country Core Strategy

- CSP4: Place Making
- ENV3: Design Quality

Unitary Development Plan - http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

- GP2: Environmental Protection
- ENV10: Pollution
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13?

Supplementary Planning Document

Designing Walsall

- Policy DW1 Sustainability
- Policy DW2 Safe and Welcoming Places
- Policy DW5 Ease of Movement

Other relevant legislation

The Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Part 31, Class A permits any building operation consisting of the demolition of a building subject to a determination by the Local Planning Authority as to whether the prior approval of the authority is required for the method of demolition and any proposed restoration of the site.

Regard is had to the Court of Appeal Decision (Case No: C1/2010/1224) – Save vs SoS for CLG, Lancaster City Council and Mitchells of Lancaster (Brewers) Ltd. Which confirmed... what? Remember... if you quote case law, you will need to offer a very short synopsis to explain its relevance...

Circular 10/95 – Planning controls over demolition

Under certain criteria a developer must apply to the local planning authority for a determination of whether their prior approval will be required to the proposed method of demolition and any proposed restoration of the site.

Circular 02/99 and Environmental Impact Assessment Regulations 2007 (as amended and updated by the Baker case).

European Council Directive 85/337/EC (“the Directive”) applies to the environmental effects of those public and private projects which are likely to have significant effects on the environment. For the purposes of the Directive “project” means:

- the execution of construction works or of other installations or schemes,

- other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources.... (Article 1.2).

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Consultation Responses

Transportation – no objections

Public Participation Response

24 representations received consist of a standard letter, signed by individual occupiers.

8 individual letters from members of the Guru Nanak Sikh Temple

A petition with 48 signatures headed by the same letter as the 24 letters received which raises the following objections to the demolition of the garages.

- WHG do not maintain the existing car park ... deliberately allowing the car park area to fall into disrepair and ruin.
- Parking reduced from 69 spaces to 44 spaces.
- Cars in West Bromwich Street has tripled...residents have to park considerable distances away.
- Woodhouse and Little London there are 128 flats/ dwellings.
- WMBC has double yellow lined roads where there were spaces available to residents of West Bromwich Street and Little London.
- WMBC has recently put double yellow lines outside my business premises.
- Because of the above it is affecting my business and trade in the local vicinity.

Determining Issues

- Development following demolition
- Loss of car parking
- Method of demolition
- Comments on the representations

Observations

Development following demolition

The principle of demolition of this building has previously been agreed by the prior notification process confirming the demolition is permitted development as set out in the national legislation. The building can be demolished without any further permission from the council.

Following demolition it is proposed to finish the site in tarmac creating two tiers each laid out to provide two tiers each consisting of two rows of ten car parking spaces (total of 40 spaces). The spaces will be formally marked out with landscaping strips providing additional planting and trees around the two tiers.

The replacement with a surface car park will bring benefits to local occupiers and provide much needed off street parking in this area which has not been available for some time. The car parking will have new lighting and will be overlooked by occupiers of the two tower blocks as well as the adjacent doctors surgery. There will be natural surveillance afforded to the car park to maximise its security.

Loss of car parking

The development looks to demolish the existing 96 bay multi-storey car park and replace it with a 40 bay surface level car park. The applicant has stated that residents would only use the ground floor level due to fear of theft and anti-social behaviour and it was recommended for demolition in 2005 but was not undertaken at that time. The proposal will provide a modern well lit surface level car park which is more likely to be used by residents of the 130 flats. 2011 census data suggests that 64% of households in the immediate area including the flats do not own a car and this equates to around 50 households. The car park will provide 40 spaces and there are a further 13 spaces available elsewhere around the flats.

The proposed demolition and reuse of the site would be consistent with policy guidance in the NPPF para 32 by encouraging the reuse of previously developed land, and supporting economic development.

Method of demolition

A demolition method statement has been provided, briefly outlining the works involved.

Regarding the proximity of the doctors surgery, the demolition proposes to retain existing car park structures to ensure the stability of the doctors surgery is maintained, all existing foundations are proposed to be retained

It is expected that during the demolition residents, doctors surgery and the church will be temporarily exposed to issues of noise, dust and displacement of parking. Given the short term nature of the works and that they already have permission to undertake the demolition, it is considered insufficient to justify a reason for refusal for noise and dust to neighbours.

The demolition and site clearance will be down to floor slab level with all debris being segregated for clean wood, mixed wood and general rubbish. The use of standpipes/hoses and various dust busters and water suppression will be employed at all times during the works to reduce dust etc. All demolition materials are to be removed offsite to various recycling stations.

The site will be secured with 2 metre heras fencing, access / egress will be via Little London Street which will be controlled at all times

Comments on the representations

WHG do not maintain the existing car park ... deliberately allowing the car park area to fall into disrepair and ruin - the safety and security of persons using the garage block is paramount, in respect of this building it has been the subject of antisocial behaviour and a number of incidents regarding security. WHG closed the car park to protect users of the car park. Replacing the car park block with a surface car parking will benefit the personal safety of users of the car park.

Parking reduced from 96 spaces to 44 spaces. - currently the existing spaces are not used, reintroducing useable car parking will benefit local occupiers

Cars in West Bromwich Street has tripled...residents have to park considerable distances away – this application will provide parking for local residents who may be parking on West Bromwich Street, it will therefore help to alleviate any parking issues on the local highway network

Woodhouse and Little London there are 128 flats/ dwellings - providing useable parking rather than that which currently exists and is not used clearly has benefits for local occupiers

WMBC has double yellow lined roads where there was spaces available to residents of West Bromwich Street and Little London – highways officers confirm that the double yellow lines have been imposed to improve both pedestrian and vehicular safety and alleviate congestion.

WMBC has recently put double yellow lines outside my business premises – again, double yellow lines have been imposed to improve both pedestrian and vehicular safety and alleviate congestion. Double yellow lines in front of the shop allow for that space to be kept clear and allows for loading and unloading to the shop.

Because of the above it is affecting my business and trade in the local vicinity – the double yellow lines are provided for pedestrian and vehicular safety purposes particularly as this is on the approach to a left hand bend where forward views are limited. The business operator will need to take up their concerns with the Traffic Management team to see if there is scope to review the measures.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

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

- Location Plan (0917/P01) received 21/12/10
- Proposed Site Plan (0917/P05 Rev A) received 04/03/11
- Proposed First Floor Plan (0917/P06) received 13/12/10
- Proposed Second Floor Plan (0917/P07) received 13/12/10
- Proposed Block 1 Elevations & Sections (0917/P09) received 13/12/10
- Proposed Block 2 Elevations & Sections (0917/P10)
- Proposed Block 3 Elevations (0917/P11) received 13/12/10
- Proposed Boundary Treatment to Substation (0917/P14 Rev A) received 04/03/11
- Proposed Site Sections (0917/P12) received 13/12/10
- Existing Site Plan (0917/P02) received 13/12/10
- Existing Elevations (0917/P04) received 13/12/10
- Existing Site Sections (0917/P03) received 13/12/10
- Design & Access Statement prepared by Pegasus Planning Group received 13/12/10
- Planning Statement prepared by Pegasus Planning Group received 13/12/10
- Bat Survey Report prepared by Ridgeway Ecology dated 14th July 2009 received 13/12/10

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3a. Prior to the car park first coming into use, it shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground. The bays allocated for disabled users shall be marked out in accordance with DfT Inclusive Mobility guidance.

3b. The car park shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2 and T7.

4. The proposed pedestrian dropped kerbs on either side of the car park access points shall be revised so that each dropped kerb aligns with the one opposite and shall include appropriate tactile paving.

Reason: In accordance with DfT Inclusive Mobility design guidance.

5a. The development hereby permitted shall not begin until drainage plans for the disposal of surface water have been submitted to and approved in writing by the Local Planning Authority.

5b. The scheme shall be implemented and retained in accordance with the approved details before the development is first brought into use.

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

6a. Prior to the commencement of any development on site details of measures to control dust, flying debris, and drag-out from the site shall be submitted to and approved in writing by the Local Planning Authority

6b. The agreed measures shall be implemented and maintained throughout the duration of demolition operations and construction activities.

Reason: To safeguard the amenities of nearby residents.

7a. The approved landscaping shall be implemented within 12 months of the completion of the development.

7b. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants 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 and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005 and policies NE5 and NE9 of Walsall Council SPD, Conserving Walsall's Natural Environment.

8. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00; and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To safeguard the amenities of nearby residents.

9. No ground fires shall be permitted on the demolition site.

Reason: To safeguard the amenities of nearby residents.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 11.

Reason for bringing to committee: Contrary to policy

Application Number: 14/1228/FL
Application Type: Full application

Case Officer: Karon Hulse
Telephone Number: 01922 652614
Email: planningservices@walsall.gov.uk
Agent: Intergrated Design

Applicant: KMS Properties

Proposal: Construction of 6 no. four bedroom, two and a half storey houses and 1 no. 2 bedroom dormer bungalow with new access drive.

Location: LAND ADJACENT, 35 ROWLAND STREET, WALSALL,

Ward: Pleck

Expired Date: 16/10/2014

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application seeks consent for the erection of two rows of terraced two and half storey high houses in blocks of four and two on land adjacent to no 35 Rowland Street plus a single bungalow at the rear of 121 Pargeter Street. A new access road into the site is a continuation of Rowlands Street and will also provided access for the bungalow at the rear between the two sets of terraced houses.

Similar applications have previously been approved in 2007 which have now lapsed. Also a recent application early 2014 redesigned the new road to run along the rear of houses on Pargeter Street, this was refused on the grounds of poor design and security of rear gardens along Pargeter Street.

The application site will utilise a large area of land which was previously used as a dog rescue centre. The application site is currently overgrown consisting of self set bushes, brambles and trees with mature (TPO) trees outside the site boundary on the neighbouring nursing home site. It is roughly rectangular in shape with its length stretching into the site, a small triangular parcel of land at the rear of 121 Pargeter street is also included in the site boundary.

Access to the site is from the end of Rowland Street where there is an existing vehicular turning head.

The land levels fall from Rowland Street towards Edward Street by approximately 2 to 3 mts and Pargeter Street by a further 1 mt.

The proposed development for 6 x 4 bed houses in a single terrace will be 2.5 storey in height utilising the roof space to provide bedrooms three and four. The ground floor provides separate lounge with a combined kitchen / dinner.

Rear amenity areas range between 55 metres including off street parking area to 58.7 sq mts with each garden being 10.9 mts in length.

In addition to the row of terraced properties it includes the erection of a small simple 1.5 storey bungalow in brick with a tiled roof, with dormer windows on the front.

The dwellings per hectare density of the application site is 40 dwellings per hectare whereas other similar plots of housing around the area range between 38 and 87 DPH, it is considered that the application site proposal reflects the surrounding area

Officers have been unable to gain access to the whole site as it is very overgrown and run down buildings as such an assessment is based on external observations at the site, the submitted drawings, aerial photography and previous history.

Relevant Planning History

14/0340/FL - 5 new 2.5 storey dwellings. Refused for the following reasons:

- out of character with frontages overlooking existing rear gardens in Pargeter Street,
- new access drive expose rear gardens creating security issues,
- the scale, height and overall massing will result in one building... does not integrate or co-ordinate into the existing surroundings and area and would dominate views from the rear of Pargeter Street.
- proposed parking on the new access drive is remote and subject to security issues, no natural surveillance,
- the proposed bin storage is remote, unlikely to be used and out of character with the area
- provision of large areas of hard surfacing

In addition to the above the following history is relevant :

07/1642/FL/W2 - 5 x 4 bedroom, 2.5 storey terraced row of houses approved in 2007.

Previous to that an outline application (residential development) to develop the site of 35 Rowland Street and the associated land involving the demolition of no 35 was approved in 1972 (P35690).

In 1977, an outline application for residential development of 35/38 Rowland Street for the erection of 8 houses and 12 three storey flats was refused as it was considered to be detrimental to the amenity of the area by reason of the loss of numerous trees from the site and the consequent impact of the development on the area (BC7417).

In 1978, a further outline application was considered. This involved the development of the land adjacent to 35-38 Rowland Street & land to the rear of Pargeter Street. This development for 16 new dwellings provided for the retention of the majority of the trees and was approved (BC8239).

05/2313/FL/W2 Erection of 6 x 3 storey dwellings Refuse for the following reason:

The development is unacceptable for the following reasons:-

- a. The proposal does not comply with Walsall Council Residential Development Standards space around dwellings. Furthermore, due to the land being on a higher plane than properties on Pargeter Street and Edward Street, and the development being three stories in height, it will have a detrimental effect on the amenity and privacy of these surrounding residential properties.
- b. In addition, bin storage facilities and an adequate turning facility within the site to allow for fire vehicles to leave in a forward gear have been not provided.

This has resulted in overdevelopment of the site and a scheme which would not be properly integrated into the surrounding townscape. The development is therefore contrary to policies GP2, 3.1, 3.6, H3, H10, ENV 32, and Residential Development Standards"

6/0723/FL/W2 Erection of 5 x 3 storey dwellings WITHDRAWN 30th June 2006

06/1327/FL/W2 Erection of 5 x 3 storey dwellings Grant Subject to Conditions 22nd September 2006

TPO no 5 1978 covers the western boundary of the site.

Bungalow site (R/O 121 Pargeter Street)

07/1784/FL/W2 - Erection of Dormer Bungalow. Granted 13/12/2007

The site adjoining 38 Rowland Street:

02/2192/FL/W2 Construction g 6 no 2 bed flats Refused 31/3/03 (Allowed at Representation Hearings.

03/1557/FL/W2 After Representation Hearing: Proposed Construction g 6 no 2 bed flats
APPROVED 21/11/03

04/0168/OL/W2 Outline: change of use of garden land to residential development (same site boundary as the current proposal) Grant Subject to Conditions 21st April 2004

06/0825/FL/W2 Construction of 8 x bed care home for young adults with learning disabilities
WITHDRAWN 23rd June 2006

Relevant Policies

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate, Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Paragraph 186 Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan making should be seamless, translating plans into high quality development on the ground.

Paragraph 187 Local planning authorities should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CSP4: A high quality of design of the built and natural environment is required.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

GP2: Seeks to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character.

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

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

T1: Seeks to improve access and help people get around

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision - Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

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;

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

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

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

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

Consultation Replies

Transportation – no objections subject to conditions

The Coal Authority – no objection subject to condition

Pollution Control (Contaminated Land/Scientific Team) – no objections

Police –should achieve Secure by Design standards

Fire service – no objections subject to domestic sprinkler system in the proposed bungalow.

Regeneration (Ecology) – no objections

Regeneration (Landscaping) – objects on the grounds of bleak looking development

Regeneration (Trees) – objects on loss of trees

Public Participation Responses

One representation from the occupier of no. 35 Rowland Street objecting on the grounds of effect on sunlight, privacy, traffic and security

Determining Issues

- Principle of the Development/Policy
- Design, Layout and Security
- Character of the area
- Trees
- Transportation
- Local Finance Considerations

Observations

Principle of the development/Policy

The principle of residential remains acceptable subject to all other matters being satisfactory.

The site is situated within a well established residential area, characterised by a mix of detached, semi detached and terraced houses and bungalows with a mix of ages, types and styles and set in a variety of plot sizes, within walking distance of a local centre (350 metres Birchills local centre) where there are local convenience shops. The site is considered to be in a sustainable location consistent with guidance in the NPPF and in particular policies in paragraphs 18 to 219, BCCS policies CSP1, CSP3, TRAN1, TRAN5 and ENV3 and UDP policies GP2, H3, ENV32 and T13, in terms of transport and reuse of previously developed land.

The National Planning Policy Framework suggests that Local planning Authorities may make an allowance for windfall sites although it should not include residential gardens (para 48). This site does not form part of any residential gardens having previously been used as a dog rescue centre.

Both national and local policy guidance require efficient use of land, the provision of residential properties on this site is considered an efficient use of this windfall site.

The councils housing land supply as at April 2012 (at the end date for the 2011/12 AMR) remains sufficient for 8 to 9 years using the indicative targets set out in the BCCS. This supply is the result of planning permissions that have already been granted but not implemented rather than any housing supply policies. The supply requirement is contained in policy HOU1 of the BCCS: this sets a minimum figure for the amount of housing land that needs to be provided rather than a maximum.

Policy CSP2 of the BCCS sets out the Council's policy towards development in areas outside the Growth Network such as this. It states that such areas will provide, amongst other matters, "a mix of good quality residential areas" and "a constant supply of small-scale development opportunities". This therefore provides support for the application. The dwellings per hectare density of the application site is 40 dwellings per hectare whereas other similar plots of housing around the area range between 38 and 87 DPH, it is considered that the application site proposal reflects the surrounding area. On balance the application site is considered to be in accordance with BCCS Policy ENV3

Design, Layout and Security

The previous two approvals both granted consent for a row of two and half storey terrace of five houses. The applications differ in the fact that one faced towards the rear of properties on Pargeter Street with the rear of the dwellings facing into the site facing the band of trees which are protected. The other was handed i.e. frontage facing towards the trees with the rear garden areas sharing the boundary with properties in Pargeter Street.

It was considered that the later was considered to be the most appropriate for the site as it would maintain a level of security for existing properties in Pargeter Street.

The application also includes the siting of the bungalow in the rear garden area of no 121 Pargeter Street with its access via the new access drive off Rowlands Street.

The development will use the changing ground levels to provide more interest, splitting the terrace to accommodate the levels and providing parking in front of the houses on a shared surface will provide more natural surveillance and better relationship with existing buildings around the site.

Policy HOU1 of the Black Country Core Strategy suggests a target for the amount of new housing on previously developed land allowing for a percentage to be provided elsewhere i.e. "residential intensification". The proposed use (residential) corresponds with the residential use surrounding the site, this together with the sustainable location and nature of the site make it ideally suited for residential development.

The previous application which was refused on grounds that it did not optimise the sites potential, the revised layout now being proposed is considered optimise the potential of the site to accommodate development and the use of the levels to step the development down towards Edwards Street will provide a strong street frontage. The buildings are broken up by the new access drive through to the rear bungalow and the ridge line steps down.

The bungalow which is a small and simple one and half storey building with rooms in the roof space, is different to the surrounding Victorian properties and the new properties off Rowland Street. In this secluded location it is considered that this style will merge with the surrounding development in a discrete way.

The bungalow is lower in height than surrounding buildings which mainly consist of two storey Victorian dwellings. There are side facing secondary kitchen windows in the elevation facing the properties on Pargeter Street, 17 metres away, a condition requiring these to be obscure glazed is recommended, to ensure a satisfactory relationship.

There are 2 side facing inglenook windows either side of the fire place in the elevation facing the proposed properties off Rowland Street. These are secondary windows. There is a minimum distance of 13m from the closest of these properties to the side of the proposed bungalow which would be across a roadway, it is considered satisfactory and accords with Design Walsall SPD policies DW1, DW2, DW3 and DW 10 – new development should make a positive contribution to creating a sustainable

The car parking to the bungalow is located 2m away from the rear boundary of 115 and 119 Pargeter Street (at its closest). The gardens of these properties are 17m long. It is considered there is adequate separation to minimise any possible disturbance from the use of the proposed parking spaces.

The erection of this dwelling would improve the security of the neighbours as their rear gardens will remain enclosed and not opened up as in the previously refused application.

The Designing Walsall SPD prescribes the provision of a rear private amenity garden space of 12 metres in length and a minimum area of 68 square metres. The application site is an unconventional shape which does not allow for standard garden dimensions. A private amenity area measuring 53 sq m approx. has been provided for the bungalow. This private amenity land on to the rear boundary of no. 121 Pargeter Street. There is also a smaller piece of land (a "front" garden) on the opposite side of the bungalow, adjoining the proposed Rowland Street development, which provides a further area of garden space with the retention of the existing 2m high fence and row of conifer trees which are located in the adjoining land.

The surrounding area comprises mainly Victorian terraced dwellings, some with longer than the average modern gardens. The new houses off Rowland Street have a minimum garden length of 10.9mts. Therefore, taking into account the character of the area it is considered that the proposed garden amenity area is satisfactory and the previous refusal reasons such as character, security and scale have been sufficiently overcome by this amended scheme.

Character of the area/Trees

There is an existing belt of trees along the western boundary of the site which are the subject of Tree Preservation Order (TPO) 5/1978. The Group G2 comprises 3 sycamores, 1 elm and 1 hawthorn. There is a 2m high close board fence along this boundary, and the trees are on the opposite side of the fence outside of the application site on the adjacent land.

There was a condition on the original outline permission requiring development to have a clearance of 10m from the boundary to protect the trees are in order, avoiding damage to the trees, excessive shading and leading to planning applications from future residents for their felling or pruning. This current layout has been developed and provides the clearance necessary. However, the Arboricultural Officer objects to the proposal in its current form on the grounds of insufficient detail and potential tree loss.

The new access road will run along this boundary with parking in front of the houses. They will be at least 30 metres away from the rear elevation of houses on Pargeter Street. It is considered that in this instance, notwithstanding the comments of the arboculturist, balancing the protection of the trees and the delivery of a housing scheme reusing a vacant and derelict site, that the impact on the trees can be protected by appropriate safeguarding conditions to overly impact on the life of the trees.

There is a row of mature leylandii (conifer) trees along the eastern boundary of the application site (rear of Pargeter Street) which are also outside the application site. Some of these will need to be removed to form the access into the site. These trees are not in a preservation order and do not warrant protection in this instance. Conifers are not normally considered to be worthy of preservation as they are easy to grow and certain types are extremely vigorous. The remainder will be unaffected.

Notwithstanding the arbocultural officers objection, it is considered that in this instance and subject to appropriate conditions, the development reflects previously approved schemes which was considered would not impact detrimentally on the trees and as such recommend approval for this development.

Whilst the proposed scheme introduces built development at the rear of existing properties, it offers an opportunity to use a site which has been vacant for sometime and has become unkempt, overgrown and appears to be attracting some antisocial behaviour as the outbuildings have been subject to vandalism. It will provide a type and scale of house that will be welcomed.

Access and Parking

Whilst three parking spaces for each house will be required to comply with the UDP policy T13 requirements, this is considered to be a reasonably sustainable location with Birchills Local Centre being less than 500 metres away and regular buses routes running along Bentley Lane.

The access road and parking areas will all be private and utilise shared surfaces there is the argument that the site is in a reasonably sustainable location, the Highway Authority considers the revision acceptable.

Access for the fire service is acceptable based on the bungalow being equipped with a domestic sprinkler system, this can be conditioned to be provided prior to occupation.

The proposals also include the provision of off street parking for the existing house at no. 35. This will clearly be a benefit and will remove the reliance of parking on street in Rowland's Street.

It is considered that the previous reasons for refusal in terms of the parking, bin storage being remote and subject to security issues and provision of large areas of hard surfacing have been addressed by this proposed amended scheme.

Local Finance Considerations

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

This application proposes 7 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011- 2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average – each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

Recommendation: Grant Permission Subject to Conditions

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

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

2. This development shall not be carried out other than in conformity with the following approved plans and documents received on 10th November 2008: -

- Proposed elevations and ground floor plans AL/710/01A received 11/12/14
- Proposed Site Plan AL/710/04A received 11/12/14/14

- Proposed first and second floor plans AL/710/02 received 20/8/14
- Phase 1 Geo-Environmental Site Assessment Report received 26/8/14

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

3a. Prior to any works commencing on the site drainage plans for the disposal of surface water and foul sewerage and all existing and proposed underground services and sewers shall be submitted to and approved in writing by the Local Planning Authority.

3b. No service runs shall be within the extent of tree canopies.

3c. The approved details shall be fully implemented and thereafter retained.

Reason: To safeguard the trees included in the TPO on the adjoining site and to ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

4a. Prior to any works commencing on the site a plan indicating the design and location of protective guards or fencing to protect all trees included in the Tree Preservation Order adjacent to the site shall be submitted to and approved in writing by the Local Planning Authority.

4b. The approved fencing shall be erected before any site preparation, or construction work, is undertaken, and shall be retained until the development is finished, and all other equipment and installations have been removed from the site. The land so enclosed shall be kept clear of all contractor's material and machinery at all times and no fires shall be lit under the canopy spread of these trees.

Reason: To safeguard the trees included in the TPO on the adjoining site.

5a. Prior to any works commencing on the site details relating to surfacing and construction of driveways which are under tree canopies subject to TPO's shall be submitted to and approved in writing by the Local Planning Authority.

5b. The accessways, vehicle parking and manoeuvring areas shall be surfaced in tarmacadam or alternative impervious hardwearing material and where the roadways/parking areas are within the tree protection area these will be constructed using a no dig construction.

5c. The areas shall thereafter be retained and used for no other purpose. The parking spaces shall have been clearly marked out.

Reason: To safeguard the trees included in the TPO on the adjoining site, ensure the satisfactory provision of off-street parking, the satisfactory appearance of and functioning of the development.

6a. Prior to commencement of any development on site details of parking and turning facilities for site operatives within the application site shall be submitted to and approved in writing by the Local Planning Authority.

6b. The approved details shall be fully implemented and retained during the construction period.

Reason: In order to discourage indiscriminate on street parking by site operatives

7a. This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been submitted to and approved in writing by the Local Planning Authority.

7b. The development shall be fully implemented in accordance with the approved schedule of materials and retained thereafter.

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

8a. Prior to the development being carried out details of a Domestic sprinkler system to be installed within each residential unit shall be submitted to and approved in writing.

8b. The agreed details shall be implemented prior to any occupation of the dwellings.

Reason: to ensure the satisfactory residential environment of future occupiers.

9a. No development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the Local Planning Authority. The submitted scheme shall include any internal site divisions.

9b. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

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

10a. No development shall be carried out until full details of hard and soft landscaping works shall be submitted and approved in writing by the local planning authority to include the following:

- correct botanical names
- numbers/planting densities for each block of planting proposed
- size supplied of all proposed shrubs at time of planting
- details of proposed turf/seeded areas
- topsoil and mulching depths and specifications
- details of landscaping establishment/maintenance proposals to be undertaken during the standard maintenance period
- details of future management of the landscape scheme
- ground preparation measures to be adopted
- existing and proposed levels
- Management plan

10b. The approved landscaping shall be implemented within 12 months of the completion of the development.

10c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants 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 and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005 and policies NE5 and NE9 of Walsall Council SPD, Conserving Walsall's Natural Environment.

11a. Before this development is occupied an external lighting scheme for the new access drive, manoeuvring areas and car parking shall be submitted to and approved in writing by the Local Planning Authority

11b. The approved scheme shall be installed in accordance with the approved details and thereafter retained.

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

12a. Prior to the commencement of development details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will meet Secure By Design specification.

12b. The approved details shall be fully implemented prior to first occupation of any house and thereafter retained

NB. Please refer to "Note For Applicant" for further information.

Reason: To ensure the safety of future occupants.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no development of any kind, other than as shown on the approved plans, within the spread of any tree included in the Tree Preservation Order on the site.

Reason: To safeguard the trees included in the TPO on the adjoining site.

14. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on or adjacent to the site and there shall be no storage of materials, driving of vehicles or lighting of fires beneath tree canopies.

Reason: To safeguard the trees included in the TPO on the adjoining site.

15. No construction demolition or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) in connection with the development shall take place on any Sunday, Bank or public holiday* and otherwise such works shall only take place between the hours of 0700 and 1800 weekday, and 0800 to 1400 Saturdays. No plant, machinery or equipment associated with such works shall be started up or be operational on the site outside of these permitted hours.

(Bank or public holidays for this purpose shall be: Christmas Day; Boxing Day; New Years Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

Reason: To safeguard the amenity of the area.

NFA - West Midlands Police: The Police Architectural Liaison Officer has been consulted on the application and has made the following comments:

1. The developer should be aware of Secure By Design specifications which will significantly increase the security of the building (doors and windows). Information can be found at http://www.securebydesign.com/pdfs/SBD_New_Homes_2010.pdf

2. All door sets both external and internal should comply to PAS 24 standards. Due to the ever increasing number of 'lock snapping' burglaries both locally and nationally, it is recommended that where euro profile cylinders are to be used only door sets rated to PAS 24 containing Euro profile cylinders to Secure by Design **and** Sold Secure Diamond standard that meet TS007- 3 star rating should be used e.g. ASB Anti Snap Euro Cylinder.

It is recommended that where thumb turn locks are to be installed consideration should be given to the use of the 'BY Pass' method of entry by offenders. There are thumb locks on the market that **cannot** be 'by passed', that have been tested in PAS 24 doorsets.

3. All ground floor and accessible windows should comply to BS7950 or WCL4 standards. This should improve the standard of security to the more vulnerable ground floor windows.

4. All ground floor, accessible windows and doors should contain at least one pane of 6.8mm laminated glass.

5. All ground floor front windows should have an area of defensible space across their width. This should be made up of densely planted shrubs, selected to be suitable for the environment they are to be planted in. This will provide a buffer area between the windows and other public or private space, making it more difficult for offenders to access such windows.

Where plants / shrubs are to be used in front of windows or around parking spaces the plants should be such that they grow to no more than 1m in height when mature. Plants and shrubs should also suit the environment they are to be located in terms of soil and light.

6. Perimeter and Boundary fencing should be at least 2.1m in height, the fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m fencing can include 300mm trellis topping in order to offer protection of the vulnerable rear of the properties.

Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next in order to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components.

7. Rear access alley ways should be avoided at all costs as they provide sheltered routes to the rear of properties for offenders. A majority of offenders have stated they will use such alleyways when committing crimes if they exist.(see Secure By Design New Homes 2014). If rear access alley ways are unavoidable all of the fencing along the alley way area should be robust in construction and at a height of 2.4m, with 2.4m gates into each garden served by the rear alleyway, the gates should be key lockable from both sides. The access point to the rear alleyway itself needs to be gated to the same specifications, with a self closing mechanism incorporated to maintain the security of the gate, the gate should be sited as near to the front building line as possible.

9. Due to the national increase in metal thefts where possible lead.

10. The buildings should be suitably fitted with an intruder alarm.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 12.

Reason for bringing to committee: Significant community interest

Application Number: 15/0042/FL
Application Type: Full application

Case Officer: Karon Hulse
Telephone Number: 01922 652614
Email: planningservices@walsall.gov.uk
Agent: Mistry Design Services

Applicant: Mr Karpal Singh

Proposal: Two storey side extension with new canopies to front and side with two storey rear in to a single storey rear extension.

Location: 12 FEATHERSTON ROAD, WALSALL, B74 3JN

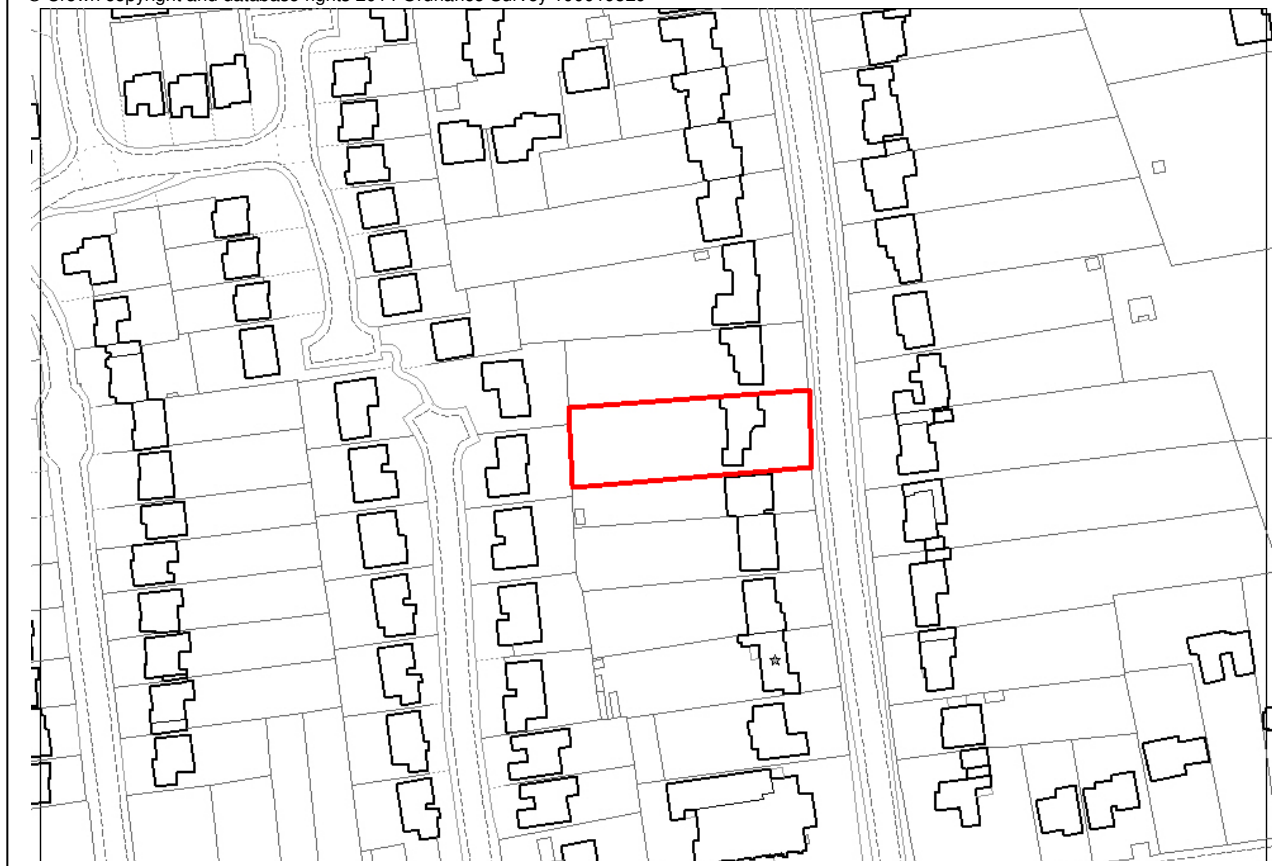
Ward: Streetly

Expired Date: 09/03/2015

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application seeks consent for a two storey rear extension, partial two storey side and front extension, front porch canopy and flat roof canopy to front of the existing garage to no. 12 Featherston Road, Streetly

Two storey side and front extension - this will wrap around the south eastern corner of the house adjacent to no 10 Featherston Road. It will be set 2.5 metres away from the boundary with no.10 and will infill an area of the site which is currently open and forms part of the drive and parking to the house. It will also include a new front porch with the installation of a feature stained glass window above it and a car port along the boundary with no 10.

Two storey rear extension – this will be central to the building being set in 6.5 metres from the southern boundary (no.10) and 4.2 mts from the northern boundary (no.14). the ground floor rear extension will infill the area north of the existing rear extension

The extensions will to re-configure the layout of both the ground and first floor levels of this flat roofed detached house and add extensions to increase the living area at ground floor to provide a large family kitchen and a separate guest lounge / dining area with 6 bedrooms on the first floor (3 with en-suite bathrooms).

The proposed kitchen extension would infill part of the area between the existing two wings with a patio area and steps leading down to the garden.

The proposals maintain the flat roof at first floor which has an existing parapet wall 300mm high all around the house. Any drainage of the roof is down the side and the rear. The application includes a roof lantern which has low pitch with no side walls.

The application house is an 'Art Deco' design and is unique in the street as the only house with a flat roof. The neighbouring houses are of approximately the same era (1930's) but they all have pitched roofs which vary in shape. Number 25 originally had a flat roof but planning permission was granted in 1980 for shallow pitched roofs to be added.

The canopy in front of the existing garage will project 4.3 metre from the front elevation of the garage and sit on two pillars. This will run along the shared boundary with no. 14. It will be open sided along that boundary.

Number 14 lies forward of the ground floor part of the application house by approximately 5 metres and 1.5 metres forward of the first floor part of 12. Number 14 is lower in level and has a gap of approximately 3 metres to the side. There are patio doors to the lounge at ground floor level with a bedroom window built above.

Number 14 lies to the north of number 12. There is a large Cedar tree in the rear garden of number 14 which is very close to the existing side wall of number 12.

Number 10 lies to the south of the application house and is higher in level. The rear two storey part of the house lies approximately 1.0 metre forward of the two storey part of the application house. There is a gap of approximately 3.5 metres between the houses and number 10 has a blank two storey side wall alongside the existing study at number 12.

No windows are proposed in either of the side elevations at either ground or first floor level.

There is a large Cedar tree in the rear garden of number 14 which is very close to the existing side wall of number 12.

The rear garden of the application house is approximately 40 metres long to the boundary with numbers 12 and 14 Foley Church Close.

Relevant Planning History

BC26139P - Ground floor bedroom with WC. Granted subject to Conditions May 1989.

BC55011P - Pitched roof on existing dwelling. Granted subject to Conditions July 1998.

04/0699/FL/E2 - Demolition of existing property and erection of 2 no. 5 bedroom detached dwellings. Refused May 2004 on the grounds of cramped appearance and impact on neighbours.

04/2210/FL/H4 - New double garage, conversion of existing single garage, new first floor en-suite/dressing room and new pitched roof. Withdrawn December 2004.

05/0071/FL/H4 - New double garage, conversion of existing single garage and new first floor en-suite/dressing room. Granted subject to Conditions 24/03/05.

05/1210/FL/H4 - New pitched roof onto existing flat roof dwelling. Refused 05/08/08 on the grounds that the addition of the pitched roofs would not be compatible with the original design of the house and the increase in height of the parapet wall to prevent overhanging onto number 14, would be out of keeping with the character of the street. Also the difference in eaves height between 12 and 14, which is incorrectly shown on the submitted plan, means that the pitched roof would appear over-dominant next to number 14.

09/1024/FL - First floor side extension, single storey rear extension and new pitched roof. Granted subject to Conditions 23/10/09.

11/0800/FL - Two storey side and rear extension, single storey rear extension and new hipped roof. Refused 01/09/11 on the grounds that the scale and design of the proposed extensions with a two storey front gable section and a steeply pitched roof would not be compatible with the original Art Deco design of the house; the height, mass and close proximity to the boundary of the first floor extension and new pitched roof next to number 14 when added to the existing difference in land level between the houses and the orientation to the south of number 14 is considered would have an overbearing impact and cause a loss of light to the rear of number 14 which would be detrimental to the amenity of the occupiers of 14. Furthermore the proposed ground floor rear extension would project 10.8 metres beyond the rear of 14, breaching the 45 degree code and leading to an overbearing impact to the rear of number 14 which is considered would unduly affect the living conditions of the occupiers of 14 and the application has failed to include information in relation to the impact the extensive construction works required on the boundary with number 14 may have on the Cedar tree in the rear garden of 14.

An appeal against the above application decision was further dismissed.

13/0212/FL - Two storey side and rear extension, single storey rear extension and new hipped roof. Refused 26/4/13 for reasons of the modern contemporary design of the proposed extension would completely alter the design and character of the existing house... not integrate with the surrounding properties and would be out of keeping with the character of this part of Featherston Road...addition of gable roofs either side of the central projection increases the mass of the roof and the box gutter design to the roof next to number 14 is a contrived design ... detrimental impact on the appearance of the house ... mixture of roof shapes proposed on the front elevation would be at odds with the proposed main roof shape. Furthermore, insufficient information provided to demonstrate the Cedar tree in rear of 14 will not be detrimentally affected.

Relevant Policies

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Contribute to conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*”

To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

Walsall’s Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV18: Existing Woodlands, Trees and Hedgerows

The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows. Development will not be permitted if it would damage or destroy trees or woodlands protected by Tree Preservation Orders, in a Conservation Area or identified as Ancient Woodland. Supplementary Planning Document ‘*Conserving Walsall’s Natural Heritage*’ provides more detailed advice on the implementation of this policy.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
 - The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed buildings / structures.
 - The materials proposed for buildings, external spaces and means of enclosure.
 - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

T7: Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit
4 bedroom houses and above 3 spaces per unit

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address.

For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).
- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq m of useable space per dwelling where communal provision is provided.
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

- Provision or retention of boundary walls or fencing at a minimum of 1.8m high for the first 4m from the rear of houses or adjacent to areas of public open space or between other land uses to safeguard the amenity of neighbours.

Conserving Walsall's Natural Environment

Provides guidance on development which may adversely affect trees, important species and habitats.

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

It is considered in this case that the relevant provisions of Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

Consultation Replies

Transportation – No objection.

Regeneration (Ecology Officer) – The house is rendered up to roof level leaving no opportunities for roosting bats. Therefore there would be no ecological reasons for refusing the application.

Regeneration (Tree Officer) – “I have significant concerns over the proposed extension to the front of the existing dwelling as it will have an indirect detrimental impact on the long-term health, condition and stability of the protected Pine tree on the Featherstone Road frontage. The proposed extension to the front will occupy a significant amount of, what is currently, parking space. This will create the need for additional parking to the front of the site, which will encroach into the root protection area of the tree.

The large Pine tree on the frontage of Featherstone Road is protected by TPO 2/2004. It is a maturing tree of good shape, form and condition, is highly prominent in the locality, and contributes significantly to the amenity, aesthetic and landscape value of the tree. It is located in an area of soft landscaping to the front of the property, with evidence of substantial roots close to the surface of the ground. The extension to the front of the property will increase the pressure for car parking, which can only be created in the soft landscaped area where the tree sits. Given the extent of the root system, the scope for this is limited, particularly as the ground slopes up towards the public footpath at a point 3m from it.

To summarise, the increase in the number of bedrooms, the required number of parking spaces, the reduction in the size of the frontage area, and the need to utilise the soft landscaped space for hard landscaping, will have a serious detrimental effect on the long-term health condition and stability of the tree through root severance and disturbance. I therefore recommend that the application is refused for the following reasons:

- The application has not provided sufficient information to demonstrate the protected Pine tree to the front will not be detrimentally affected. This is contrary to Policies ENV18 of the Walsall UDP 2005, and NE7 of the Supplementary Planning Document 'Conserving Walsall's Natural Heritage.'
- The proposal is likely to have a detrimental effect on the long-term health, condition, and stability of the tree, and affect the amenity, aesthetic and landscape value of the locality.”

Public Participation Responses

6 letters of representation have been received from numbers 7, 10, 14 and 20(2) Featherston Road and 12 Foley Church Close objecting on the following grounds;

- Adverse impact on my living conditions, amenity and the enjoyment of my rear garden, due to the scale and proximity of the proposed development.
- Rear extension is larger than previous applications... ground floor extension protrudes a further 1m than the previous application.
- Rear extension projects 13m beyond side of 14 Featherston Road... negative impact on property... not in line with existing dwelling or neighbouring dwellings... inconsistent built form within neighbourhood.
- large rear extension out of scale with existing house...dominate the appearance of the property
- Existing ground floor protrudes beyond 45 degree code by 0.5m, proposed additional extension protrudes further 7.0m thus resulting in a breach of 7.5m.
- Loss of light and outlook to the rear of property and patio area being overshadowed and dominated.
- detrimental impact on the right of light in our lounge and dining room
- Detrimental impact on our visual amenity from ground floor windows and terrace.
- Overbearing and dominating nature of extension emphasised by difference in levels, our property siting lower.
- proposals will change windows, doors and exterior design features of the property to have a more modern appearance
- front extension will eradicate art-deco geometric and angular shape
- will extend 2m past 14 Featherston Road.... canopy is unnecessary extension which does not respect art-deco style and not in keeping with Featherston Road
- Featherston Road is low density ... diversity of large family houses.
- Proposed extensions will destroy its architectural significance.
- Result in a large property, over-extended house...out of character with pleasant mixed traditional development of the area and road.
- vehicles permanently parked on the front 'lawn'
- Windows not in keeping with the building's 1930s art deco style... the window bars should be narrow and mainly horizontal with wide glass panels as the original metal framed Crittall windows had been before being replaced with UPVC. The corner windows in particular would look better with curved glass going round the corner.
- front extension take away light from our side windows
- Additional side windows are shown which are not acceptable as these look over our property and patio and are an invasion of our privacy.
- running his second hand car business from his property
- no maintenance to the property or garden
- garden was collapsing into his due to the derelict nature of his fence
- Addition of bedrooms and a guest lounge and guest dining room, change of use to Hotel!

Determining Issues

- Design of Extensions and Character of Area
- Amenity of Nearby Residents
- Bats and Trees
- Parking
- Comments on objections

Observations

Design of Extension and Character of Area

The proposed extensions will be in-keeping with the character of this very distinctive house and as such will retain its individuality in the road whilst be in keeping with the 1930's character of this particular period of architecture.

The existing house is currently a little run down, the proposed extensions will reinstate this example of Art Deco architecture. The scale and design of the proposed extensions will not be excessive and will complement the existing house. Whilst some elements such as the windows are not purists the applicant is proposing a replacement that will replicate what would be in an Art Deco house namely Crital windows. This is not in any heritage or special area and as such the replacements are considered acceptable.

UDP Policy GP2 states that the Council will expect all developments to make a positive contribution to the quality of the environment and.....will not permit development which would have an unacceptable adverse impact on the environment and it is considered that is would be the case in this instance.

On balance, the proposal is considered to be of sufficient design quality, articulation and visual interest to be supported and allow an individually styled house to retain its position without having any detrimental impact on the surrounding character of the area or street scene. The proposed design and character of the extension is therefore in accordance with Policies GP2 and ENV32 of Walsall Unitary Development Plan and the Supplementary Planning Document 'Designing Walsall' and Paragraphs 56 and 58 of the National Planning Policy Framework (NPPF).

Impact on Amenity of Nearby Residents

The proposed extensions to the side and front adjacent to no 10, which will wrap around the south east corner of the existing house, will be 2.6 metres in from the side boundary with a further 0.8 metres in-between the boundary and the side facing windows of no.10. Those windows are at ground floor level, there is a 2 metre high wooden fence and therefore light to those secondary windows is already effected, the siting of the two storey front and side extension set in from that boundary and being north of it is unlikely to have any additional impact. The position of the proposed car port also along that boundary will improve the existing position by removing a currently sloping pitched roof car port with a flat roof therefore there will be less impact in dominance terms.

On balance the proposed two storey extension and car port nearest to number 10, which will not project beyond number 10 at either the front or rear and will be to the north of no. 10, it is considered that there would be little impact on the amenity of the occupiers of 10 with regards to shading or loss of light from the proposal. It is therefore in accordance with policies GP2 and ENV32 of Walsall Unitary Development Plan and the Supplementary Planning Document 'Designing Walsall' and Paragraphs 56 and 58 of the National Planning Policy Framework (NPPF).

Following the previous refusal, this application now proposes a ground floor and first floor rear extension which will be set in from the boundary with no.14 by 4.2 metres above the new ground floor rear extension. The rear ground floor extension will project 7.7 metres out from the existing rear elevation in the middle of the site and occupy what is currently the raise patio area. Whilst this will be set in from that boundary with no 14 it will breach the 45 degree code when measured from the quarter point of the ground floor lounge doors belonging to number 14. However, this boundary is a mature well screened boundary and the existing large cedar tree will restrict views of the proposed ground floor extension.

The first floor extension above will project out 3.9 metres from the existing elevation, this will accord with the guidelines set out by the 45 degree code.

There are no proposed extensions directly adjoining the boundary with no. 14.

On balance it is considered that the rear ground floor extension will not have an overbearing impact to the rear of number 14 and which would unduly affect the living conditions of the occupiers of 14.

The proposed extensions will not result in significant loss of amenity and accords with the Council's numerical standards in Appendix D Designing Walsall.

A separate planning application would be required to change the use of the house to a hotel and the neighbouring properties would be consulted if one were made.

Impact on Bats and Trees

The Council's ecology officer has visited the site and considers that there are no opportunities for roosting bats because the house is rendered up to the roof.

The Council's Tree Officer is concerned regarding the impact on the long-term health, condition and stability of the protected Pine tree on the Featherstone Road frontage and in particular any excavations into the soft landscaped area which may be required to create hard standing for cars to park under the canopy of the protected tree. He recommends that the application should be amended to redesign the frontage, reduce the front extension to allow construction of hard standing for vehicle parking. However, the agent has submitted an illustrative drawing which indicates parking for potentially 7 vehicles which is well in excess of the adopted UDP requirement and doesn't utilise the area under the TPO tree.

On balance, the proposed front extensions are considered acceptable on the basis that the proposed projection of the front extension will have less impact than previous front proposals, the proposed canopy to the north side of the house will be erected on columns which can be constructed without any impact on the tree roots and will be outside the root protection zone by 1.5mts and the proposals of the previous refusal did not include any reasons for refusal on the grounds of any front extensions and potential impact on the TPO tree to the front.

Parking

The proposal would require 3 parking spaces to accord with UDP policy T13 for a house with 4 or more bedrooms and is the maximum amount that can be requested. There is already sufficient off-road parking provision at the property to meet Council's requirements for a house with 4 or more bedrooms and the application

Comments on objections

- *The size of the proposed house would change the character of the road* - This art deco house already exists and sits comfortably within the street scene which is made up of a variety of styles and character houses. Whilst it is different in style to other houses in the street scene it is an individually styled detached property with lots of character.
- *Windows are not in keeping with 1930s art deco style, the window bars should be narrow and mainly horizontal with wide glass panels as the original metal framed Crittal windows had been before being replaced with UPVC. The corner windows in particular would look better with curved glass going round the corner. It is a distinctive, Art Deco inspired house that contributes to the interest and enjoyment of the area... proposed extensions will destroy its architectural significance* - The extensions have been specifically designed to be in keeping with the existing style and character of the property i.e. Art Deco. It is

acknowledged that the windows are not purist but it will replicate the essence of what would have originally been Crital windows. It is considered that the extended house will continue to offer interest within the street scene and the area.

- *The canopy in front of the garage is in front of the current building line and out of sympathy with the design* - Canopies are features which have been historically included on art deco properties where they add visual interest to a simple box shape.
- *Featherston Road is an old, low density road that has an interesting diversity of large but not grand family houses. The new plans include building another storey on the present ground floor extension of No 14 and then building another extension next to it. This will turn a house that already has a wide frontage and a high square footage into one that is much wider and more congested - and that will undermine the character of the road* - The plot sizes within the immediate area are very similar in size and shape and for the majority the houses occupier the full width of the plot. This application will be no different in this respect.
- *Removal of the collection of different vehicles permanently parked on the front 'lawn' it would be an asset to the neighbourhood and not an eyesore ...running second hand car business from the property* - If the council considers that the site is detrimental to the environment then it can take the necessary action. In this instance the parking of vehicles on the front does not constitute an environmental nuisance. The issue of operating a business from the property has been investigated and to date there is no evidence to support this claim.
- *The front extension will take away our light from our side windows...side windows are not acceptable...look over our property and patio...invasion of our privacy.* There is no right to light, due consideration of the proposed extensions is dealt with in the above sections.
- *Rear extension is too large and extends beyond the existing extension* – the proposed extensions have been dealt with in the sections above.
- *no maintenance to the property or garden... derelict van parked on front lawn...become a permanent building site* – maintenance of properties is not a matter that is under the control of Planning Legislation unless it becomes so that it is detrimental at which time the council can take
- *Our garden was collapsing into his due to state of fence... refused to repair or replace* – unfortunately maintenance of boundaries is a civil matter and works on or close to the boundaries with the neighbouring properties would be covered by separate legislation
- *Addition of bedrooms and a guest lounge and guest dining room...change of use to a Hotel!* – any change of use to a hotel would require planning permission.
- *Proposal extends beyond the building line* – building lines on the front of properties are a notational guide and do not restrict extensions being proposed to the front... determination of such proposals is based on impact on the environment including appearance and any potential impact on residential amenity

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

Recommendation: Grant Permission 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: This development shall not be carried out other than in conformity with the following approved plans: -

- Location Plan received 12/1/15
- Block Plan received 12/1/15
- Proposed Plans and Elevations 201438/2B received 12/1/15
- Existing Plans and Elevations 201438/1 received 12/1/15

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

3a. Prior to the commencement of any development on site a schedule of facing materials to be used in external walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. This shall include proposed materials and finishes to be used in replacement windows and doors.

3b. The development shall be completed in accordance with the approved details and retained as such.

Reason: To ensure the materials harmonise with the essence and character of this Art Deco building and to comply with policy ENV32 of Walsall's Unitary Development Plan.

4a. Prior to any works commencing on the site a plan providing off street parking for four vehicles shall be submitted to and approved in writing by the Local Planning Authority. The details shall be site specific, include the finished surface treatment, details of changes in ground level and specify the method of construction of the driveway within the root protection area of T1 Pine.

4b. The accessway, vehicle parking and manoeuvring area shall be surfaced in a porous material and where the roadway/parking area is within the root protection area of T1 Pine, it shall be constructed using a no-dig method of construction. (See Condition 4a).

4c. The areas shall thereafter be retained and used for no other purpose.

Reason: To safeguard T1 Pine included in the TPO and the trees on the adjoining site, ensure the satisfactory provision of off-street parking, the satisfactory appearance of and functioning of the development.

5a. Prior to any works commencing on the site a plan indicating the design and location of protective guards or fencing to protect T1 Pine included in the Tree Preservation Order shall be submitted to and approved in writing by the Local Planning Authority.

5b. The approved fencing shall be erected following the completion of any arboricultural works but before any site preparation or construction work is undertaken, and shall be retained until the development is finished, and all other equipment and installations have been removed from the site. The land so enclosed shall be kept clear of all contractor's material and machinery at all times and no fires shall be lit under the canopy spread of this tree.

Reason: To safeguard T1 Pine included in the TPO and preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or succeeding Orders, the proposed dwelling shall not be extended without the prior approval of a planning application.

Reason: To safeguard the amenities of the occupiers of adjoining premises, ensure the satisfactory appearance of the development and to safeguard the trees and or hedges on the site.

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

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

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



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 13.

Reason for bringing to committee: Significant Community Interest

Application Number: 14/1906/FL
Application Type: Full application

Applicant: Mr D. Singh

Proposal: Proposed single storey ground floor and first floor rear extension.

Location: 19 TETLEY AVENUE, WALSALL, WS4 2HE

Ward: St. Matthews

Case Officer: Stuart Crossen

Telephone Number: 01922 652608

Email: planningservices@walsall.gov.uk

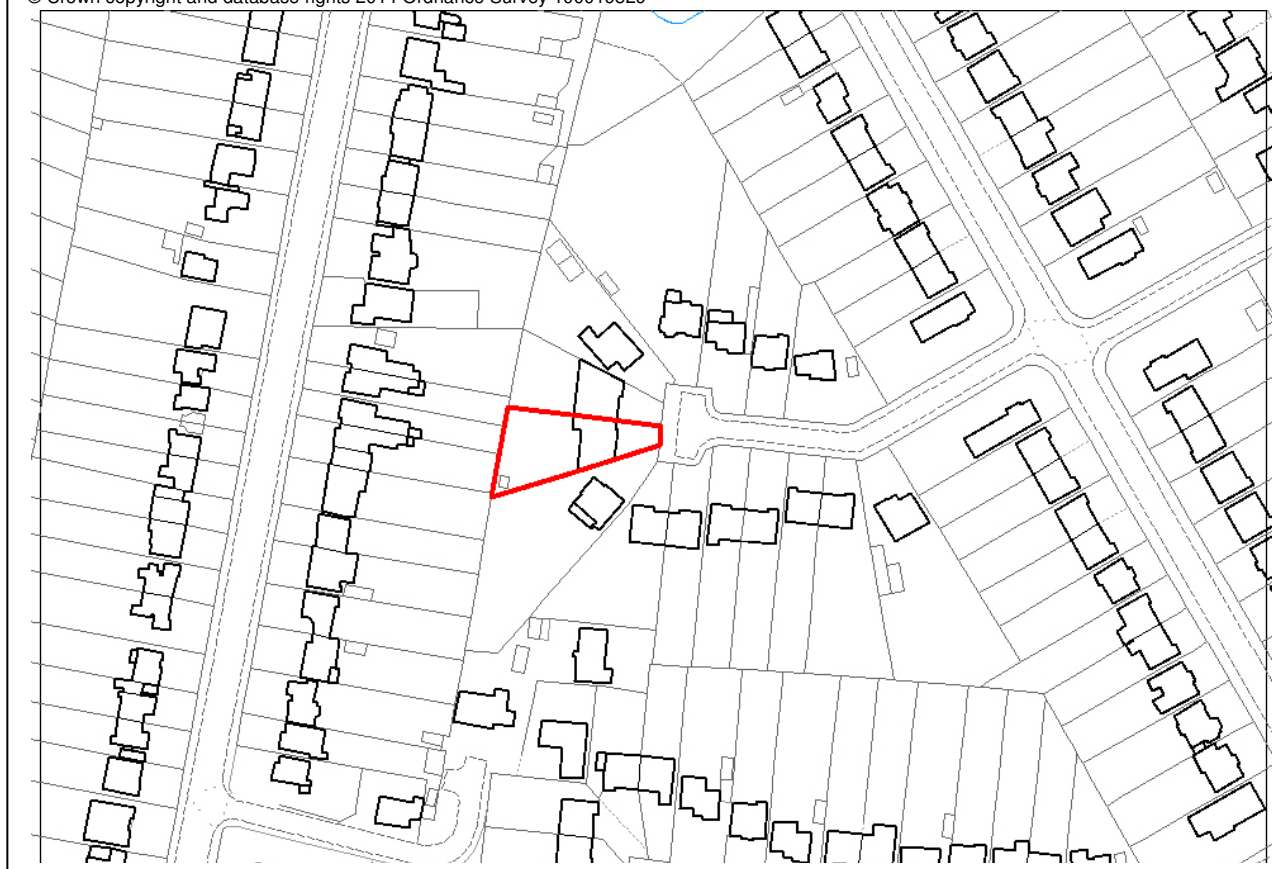
Agent: Sigma Home Solutions Ltd

Expired Date: 23/02/2015

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The application proposes a two storey rear extension and single storey rear extension at a traditional styled semi-detached house to provide a wet room, second lounge and enlarged kitchen on the ground floor and provide a fifth bedroom on the first floor.

The two storey part would extend from an existing flat roof two storey side extension the same height and extending back in line with the original rear elevation with rear facing bedroom windows.

The single storey part would have a mono-pitched roof replacing an existing single storey flat roof rear extension but would extend the width of the plot measuring 2.8 metres deep, 2.8 metres high to the eaves and 3.4 metres high to the highest point. No side elevation windows are proposed.

The front elevation of number 17 faces towards the existing two storey side extension of the application house. The two side elevation windows of number 17 which would face towards the side of the proposed two storey extension are not main habitable room windows. The rear of number 17 faces away from the shared boundary to the application house. There is a detached garage belonging to number 17 between this house and the application house. The boundary is defined by a 1.8 metre high fence.

The attached house number 14 has a single storey 3 metre deep rear extension and the boundary is defined by established planting and fencing.

Relevant Planning History

The side extension has been in place for over ten years and may have been constructed using historic permitted development rights.

Planning Policy

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Contribute to conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*"

To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
 - The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed buildings / structures.
 - The materials proposed for buildings, external spaces and means of enclosure.
 - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

T7: Car Parking

An adequate level of car parking to meet operational needs shall be provided whilst not exceeding any maximum parking standards that are specified. All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).

Consultation Replies

None

Public Participation Responses

The occupier of number 14 has objected on the following grounds:

- Would block light
- Intrude onto their property (The proposal is within the redline ownership of the applicant)

The occupier of number 9 has objected on the following grounds:

- Would increase the dwelling to 5 bedrooms
- The extension would be out of keeping with the original house
- The house has not been modernised and is in disrepair (not a determining issue of this application)
- The house is available to rent (not a determining issue of this application)
- Potential for 9 people to live there
- Multi-occupancy would ruin the ethos of the road
- Not enough parking provision

The occupier of number 17 has objected on the following grounds:

- The extension would be out of keeping with the original house
- Access would have to be attained to undertake the works from their land and there fence would have to be removed (not a determining issue of this application)
- The flat roof of the house is leaking and is in a poor state. (not a determining issue of this application)
- The house is available to rent is not for a single family and the proposal would maximise the rental value (not a determining issue of this application)
- Not enough parking provision
- The existing extension overhangs their boundary (not a determining issue of this application)

The occupier of number 11 has objected on the following grounds:

- The existing extension is out of keeping with the neighbouring houses
- Not enough parking provision
- The house would be for multiple-occupancy (not a determining issue of this application)

The occupier of number 13 has objected on the following grounds:

- The existing extension is out of keeping with the neighbouring houses
- The rent is high indicating that the house would be for multiple-occupancy (not a determining issue of this application)
- Not enough parking provision

The occupier of number 8 has objected on the following grounds:

- Overdevelopment
- Would overshadow number 17
- The existing extension is out of keeping with the neighbouring houses

- The rent is high indicating that the house would be for multiple-occupancy (not a determining issue of this application)
- Not enough parking provision

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Observations

Design of Extension and Character of Area

The two storey part would be the same and to the rear of an existing flat roof side extension and as such would not alter the existing visual appearance or have any significant detrimental impact on existing local distinctiveness or existing design quality, would be compatible with the existing character of the area in accordance with key provision 7 of the NPPF, ENV1, ENV2 and ENV3 of the BCCS and UDP policies GP2 and ENV32.

Objections have been raised about the existing flat roof extension would does not integrate with the original house. It would be unreasonable to refuse this proposal because of an existing extension which does not require planning permission.

The character of the area is defined by housing. Any of these houses without planning permission could be converted into a house of multiple occupancy using permitted development rights granted by the Government and the owner's intentions to do this or not would not a material consideration of this application which is only for an extension.

The proposal in the context of the existing extensions and the proposed removal of the existing single storey rear extension would not result in significant additions which can be considered overdevelopment, provided the site can accommodate the required parking which is discussed elsewhere in this report.

Amenity of Nearby Residents

The two storey part would not project beyond the rear elevation of neighbouring houses, number 17 has no main habitable side elevation windows. For these reasons this part of the proposal would not result in overlooking having little if any unacceptable adverse impact on the environment in accordance with policy GP2 of the UDP.

The single storey part replaces an existing extension near to number 14 and would project approximately in line with an existing single storey rear extension at number 14. The single storey part would also not project beyond the garage at number 17. For these reasons the single storey part of the proposal would result in little if any unacceptable adverse impact on the environment in accordance with policy GP2 of the UDP.

The extensions meet the numerical standards set out in Designing Walsall Appendix D.

Parking

The application house has space for 4 parking spaces which is already in excess of the Council's parking requirements (policies T7 and T13 of the UDP) for a house with 4 or more bedrooms and for this reason the provision satisfies these standards. A condition can be attached to ensure that the current parking levels are retained. However additional parking cannot be supported (as requested through neighbour consultation) as it would be contrary to UDP policies T7 and T13 because it would exceed the maximum standards.

Positive and Proactive working with the applicant

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

Recommendation: Grant Permission 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: This development shall not be carried out other than in conformity with the following approved plans: -

- Location Plan (Wal057-001) deposited 29/12/14
- Existing and Proposed Block Plan (Wal057-002) deposited 29/12/14
- Existing Elevations (Wal057-004) deposited 29/12/14
- Existing Floor Plans (Wal057-003) deposited 29/12/14
- Proposed Elevations (Wal057-006) deposited 29/12/14
- Proposed Floor Plans (Wal057-005) deposited 29/12/14

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: The walls and tiled roof of the extensions shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

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

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the parking provision on the front driveway as exists at the time of this application and the proposed garage parking shall be retained as such and used for no other purpose.

Reason: To provide satisfactory parking provision and to comply with policies T7 and T13 of Walsall's Unitary Development Plan.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 14.

Reason for bringing to committee: Significant Community Interest

Application Number: 14/1896/FL
Application Type: Full application

Case Officer: Jenny Townsend
Telephone Number: 01922 652610
Email: planningservices@walsall.gov.uk
Agent: BSP Design

Applicant: Mr Amarjit Singh

Proposal: Part two, part first floor side extension and replacement sloping roof at ground floor to existing garages (which are to be converted to habitable rooms).

Location: 107 COPPICE FARM WAY, WILLENHALL, WV12 5YQ

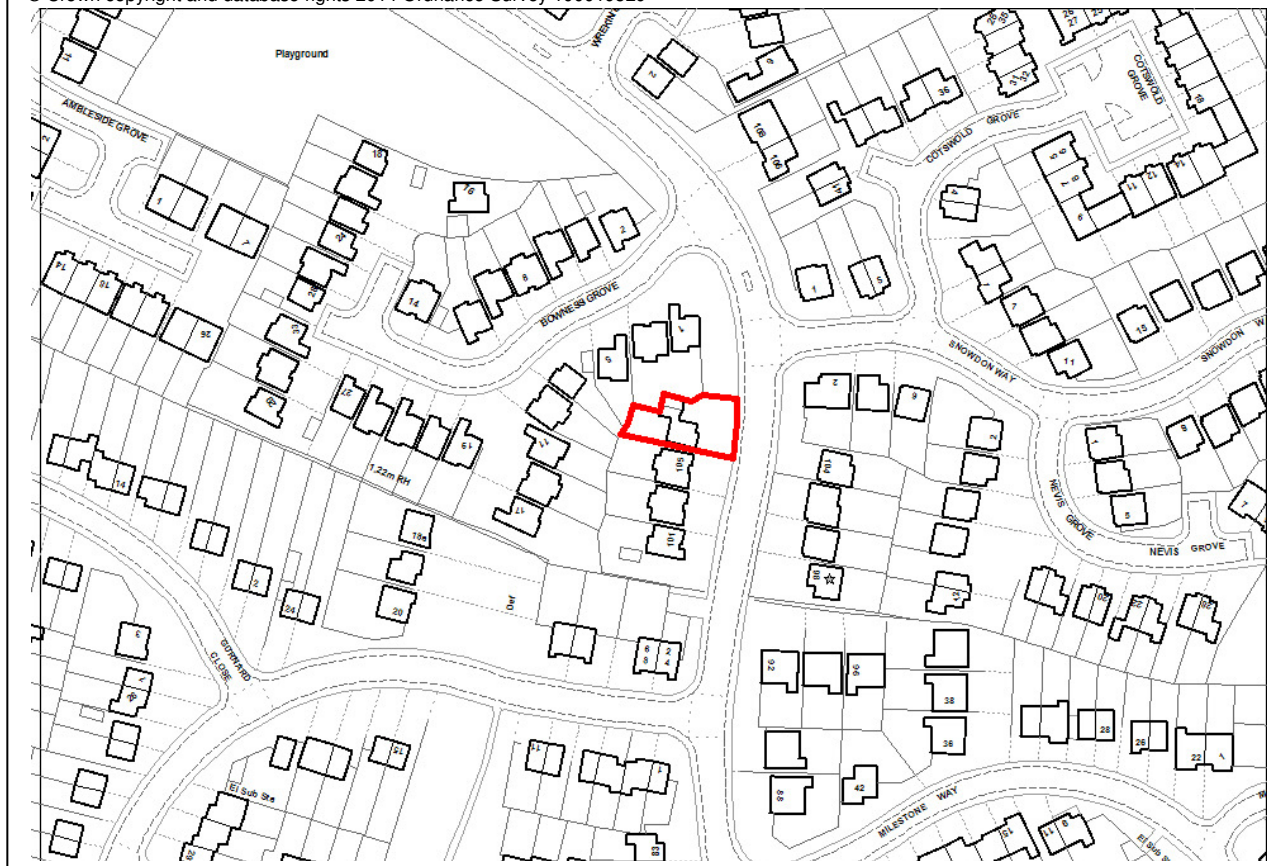
Ward: Willenhall North

Expired Date: 12/02/2015

Extension of Time Target Date:

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This is a revised application for a two storey extension to the side of a modern detached house that would add two new bedrooms with en-suite shower rooms (one at ground and one at first floor level) and enlarge an existing bedroom and add an en-suite shower room. The number of bedrooms would be increased from 3 to 5. The plans show the existing layout reconfigured at ground and first floor level with the existing double garages being converted to create a lounge and the main first floor bathroom incorporated into one of the existing bedrooms. The proposed extension has been reduced in width and only one window is proposed on the rear at first floor level.

A narrow new window is proposed in the original rear wall of the garages to serve the new lounge and two velux windows are proposed in the rear roofslope. Whilst the original planning permission for the estate development has permitted development restrictions this does not apply to rear facing or velux windows so this part of the proposal would not require planning permission from the Local Planning Authority and does not form part of the proposal.

The application house is a modern plain design with a front gable projection, a main gable roof and a pair of garages with a matching gable roof to the right-hand side set back from the front of the house. The application house is at the end of a line of 4 detached houses which are similar in style but wider at two storey than the application house, although none have double garages. The 4 houses on the opposite side of the road are also wider than the two storey part of the application house. Bowness Grove is a cul-de-sac off Coppice Farm Way which curves around to the west and the houses in Bowness Grove numbers 1,3,5,7 and 9 back onto the rear garden of the application house.

The proposed extension would be set back 0.9 metres from the front gable of the house, in line at the rear with the existing two storey part of the house and have a gable roof the same height as the existing roof. The existing two storey part of the house is 6.2 metres wide and the reduced width of the extension would be 4 metres wide.

Two windows are proposed at first floor level in the side elevation facing the rear of numbers 1 and 3 Bowness Grove that would both serve en-suite shower rooms. On the rear elevation an obscurely glazed window to the enlarged bedroom is proposed which would face down the rear garden.

On the front elevation there are windows to the ground floor and first floor bedrooms which would face across Coppice Farm Way towards number 104.

The existing tarmac driveway would provide 3 off road parking spaces.

Number 1 Bowness Grove faces the side of the application house and has a conservatory on the rear. Number 3 Bowness Grove has recently added a ground floor extension approximately 4 metres deep from the rear wall of the house that has velux windows in each of the three roof slopes.

Relevant Policies

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

National Planning Policy Framework (NPPF) www.gov.uk

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Local Policy

Black Country Core Strategy

- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- Appendix D

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

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Relevant Planning History

BC49282P Outline: Residential Development. Granted subject to conditions 01/12/97.

BC52658P Erection of 17 no. Bungalows and 34 no. Detached dwellings. Approves reserved matters 06/01/99.

14/1114/FL Two storey side extension and internal alterations. Refused 02/10/14 on the grounds that the scale and mass of the proposed extension would not be in keeping with the existing house or the character of the area and the height of the side wall facing the rear of number 1 Bowness Grove and the lack of separation is considered would have an overbearing impact which would be detrimental to the amenity of the occupiers of this house., and the separation between the rear windows of the extension and the windows and doors in the rear of number 3 Bowness Grove would be less than the 24 metres separation required by policy between habitable room windows and the angle between the first floor windows is considered would lead to overlooking and a loss of privacy for the occupiers of both houses.

Consultation Replies

Transportation – No objection subject to a condition relating to parking.

Representations

Five letters of objection and a presentation (three and the presentation from the same address) objecting to the proposal on the grounds of:

Loss of privacy as garden would be directly overlooked;
Overshadowing/loss of daylight, sunlight and outlook;
Increase in property size;
Layout and density of buildings;
Design and would not fit in with theme created when houses were built;
Noise and disturbance;
Infringement on the Privacy and Human Rights Act 1998;
Loss of existing pitched roof would remove the restricted view from existing rear first floor windows;
New proposal doesn't overcome previous refusal reasons;
Children wouldn't be able to play in garden because of fear of being watched within such close proximity;
Although window is obscured, they could be opened allowing direct views to the rear garden and into the children's bedrooms;
How long before the obscure glazing is removed;
House will look strange as extension is too large and if OK for a property of that size to be located there then would have been built like that by the builders;
Overbearing impact on rear of their house;
Scale and mass is overpowering and together with extension added at number 3 would 'pen' them in;
Doubles size of house and not in keeping with rest of properties;
Close proximity of converted garage to their decking means conversion is inappropriate;
Proposed skylights will allow their children a view into the house when they use their trampoline which they do not consider to be morally correct;
Bush/tree adjacent to the garage will be damaged during the build.

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Observations

Design of Extension and Character of Area

The design of the extension would be compatible with the plain design of the existing house. The reduced width of the extension, at 4 metres and set back from the main front gable is considered would be subservient to the existing house and a resulting width similar to the other 3 houses in the line on this side of the road and the houses opposite.

The 1.5 metres reduction in the width of the proposed extension overcomes part of the previous reasons for refusal as the extension is now considered in proportion with the original house and the neighbouring properties on Coppice Farm Way.

Amenity of Nearby Residents

The proposed extension would not project beyond the existing two storey part of the house at either the front or rear. The side wall of the extension would be approximately 12 metres from the rear of the conservatory belonging to number 1 Bowness Grove and approximately 14 metres from the first floor habitable room windows in the rear of number 1. Whilst the ground floor separation

would be 1.0 metre less than policy (13 metres separation between habitable room windows and walls over 3 metres high) in this instance, taking into account that the conservatory belonging to number 1 is also an addition to the original house, on balance this modest shortfall is considered would not unduly harm the living conditions of the occupiers of number 1 sufficient to warrant a refusal for this reason alone.

The extension would be to the south of number 1 but as it would lie against the outline of the existing two storey house, it is considered that there would be little additional shading or loss of light to the rear of number 1 as a result of the extension.

The two windows proposed in the side elevation would serve non habitable rooms and be obscurely glazed. A condition is recommended for the windows to have high level top openings only in line with permitted development allowances for first floor windows. This would prevent overlooking to the rear gardens of the houses in Bowness Grove from these windows.

The separation between the rear windows of the extension and the windows and doors in the extension at number 3 Bowness Grove would be approximately 10 metres at ground floor and 17.5 metres to the first floor habitable room windows. The angle between the first floor windows is considered sufficient to allow a regular view between them however the new window in the extension would be positioned only 0.2 metres from the original part of the application house and would be a secondary window to the enlarged room. A condition for the window to be obscurely glazed and fixed so that it would be non opening has been added and this is considered would prevent any increase to the existing overlooking potential between the windows and to the rear gardens of the neighbouring houses and visa versa and would preserve the existing level of privacy for both the neighbours and the applicants. It must be noted that there is already overlooking between the rear windows and to the rear gardens of the houses due to the layout of the development and on balance, taking into account the above it is considered that the proposed extension would not significantly worsen the existing situation.

The acute angle between the rear first floor windows of number 5 Bowness Grove and the new rear first floor window would be very acute and whilst it is acknowledged that the separation would be less than 24 metres, the acute angle, obscure glazing and fixed nature of the new window is considered would not worsen the existing situation with regards to overlooking to the rear garden of number 5 sufficient to warrant a refusal for this reason alone.

The separation between the rear windows of the extension and the rear windows of numbers 7 and 9 Bowness Grove would comply with policy to prevent impact on the amenity of the occupiers of these houses and the application house.

The new windows in the front of the extension would face across Coppice Farm Way towards the front of number 104. This would comply with policy as the front windows of the houses do not enjoy the same level of privacy as windows on the rear because of the road between them.

The reduction in width of the extension, repositioning and reduction to a single first floor window on rear, obscure glazing and condition for this window to be fixed is considered on balance and in this context overcomes the previous reasons for refusal.

Parking

The development looks to extend the property including removing the existing double garage and adding an additional bedroom from 3 bedroom to 4. There is sufficient frontage parking space retained to accommodate 3 vehicles which accords with UDP T13 parking policy for a 4 bedroom dwelling. A condition to retain the frontage for parking only is recommended.

Positive and Proactive working with the applicant

Approve

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

Recommendation: Grant Permission 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: This development shall not be carried out other than in conformity with the following approved plans: -

Location and block plan drawing 2104_127 deposited 18 December 2014;
Existing elevations and floor layout plans drawing 2104_127 deposited 18 December 2014;
Proposed elevations and floor layout plans drawing 2104_127 Rev A deposited 18 December 2014.

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: Before the development is brought into use, the rear first floor window to the enlarged bedroom and the two side first floor windows shall be obscurely glazed to at least Pilkington Privacy Level 4 and once installed shall be retained as such thereafter. The side windows are to be top opening only (at least 1.7 metres above the floor level of the room) and the rear window shall be fixed (as there is an existing window in the room which could be use as a means of escape).

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

4: The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

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

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

6: The frontage parking hard standing area shall thereafter be retained and used for no other purpose.

Reason: To ensure sufficient off street parking is retained in accordance with UDP Policy GP2, T7 and T13.

Notes for Applicant

Referral note

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface

mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at: www.groundstability.com



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 15.

Reason for bringing to committee: Called in by Councillor Russell due to Community Interest in Support

Application Number: 14/1895/FL

Application Type: Full application

Applicant: Soho Solutions

Proposal: Proposed loft conversion to form 1 no. 1 person 1 bed flat.

Location: 1-3 West Bromwich Road, Walsall, WS1 3HS

Ward: St. Matthews

Case Officer: Stuart Crossen

Telephone Number: 01922 652608

Email: planningservices@walsall.gov.uk

Agent: Reade Buray Associates

Expired Date: 10/02/2015

Extension of Time Target Date:

Recommendation Summary: Refuse

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Application and Site Details

This application is to include a flat roof dormer in the front roof slope of 1-3 West Bromwich Road to provide a 1 bedroom flat, increasing the total number of flats to 3. This application follows previous permission granted the last of which (14/0006/MA) was to increase the roof pitch of a rear two storey extension in line with the main roof a metre higher than the original permission for this extension (13/0671/FL).

The site visit has confirmed that previous planning permission permissions are already part implemented. These previous permissions allowed for the following changes to the property:

- New shop fronts,
- A covered walkway to the side of no. 3 West Bromwich Road
- The installation of a filtered odour extraction system to be concealed within an existing chimney stack.
- A new access to the first floor flat provided from Vincent Street.
- The proposed roller shutters would be housed behind the new fascia signs.
- Sub divide an existing large four bedroom first floor flat into two smaller self contained two, two bedroom flats,
- For the subdivision of a ground floor single large unit into two smaller units and for a change of use from the existing vacant dance studio D1 (Non-Residential institutions) to A1 use (Shop) in one unit and A3 use (Restaurants and cafes) in the other at no. 1-3 West Bromwich Road,
- The erection of a ground floor side extension to provide a utility / meter room and disabled toilet for use by the approved restaurant unit,
- The fascia signage to be erected above the two shop fronts will continue around and along the new side extension facing onto Vincent Street to provide continuity in the appearance of the building,
- At first floor it is proposed to extend the rear wing width ways in both directions towards no 5 West Bromwich Road and towards Vincent Street,

The site is surrounded by existing two storey houses, small shops and convenience store with on-street parking. The site is at the junction of West Bromwich Road, West Bromwich Street, Vincent Street and Sandwell Street which is controlled by a traffic roundabout. Opposite the site are two retail shops, one convenience store and one home furnishing (blinds) shop. Number 8, West Bromwich Street on the opposite side and further down is an existing fish and chip shop takeaway (closes at midnight each day).

This application replicates the fume extraction equipment and chimney stack.

Caldmore Local Centre is 350 metres away to the northwest, along West Bromwich Road.

Relevant Planning History

BC57862P – Change of Use from shop & living accommodation to dance studio & living accommodation. Refuse 14/8/2001

BC58648P – Change of use of premises for shop and residential to dance studio and residential. Refuse 21/2/2002

02/0785/FL/W6 – After Representations Hearing: Change of Use of premises for shop and residential to dance studio and residential. Granted 8/6/2002

12/1002/FL - Change of use from D1 to A1 (retail) and A3 (restaurant/cafe) use class. Granted Subject to Conditions 23/10/12

13/0671/FL for Single storey infill extension, single storey side extension, first floor rear extension.
Granted Subject to Conditions 25/07/13

14/0006/MA for Non Material Amendment to planning application 13/0671/FL to alter roof pitch.
Granted Subject to Conditions 29/01/14

Relevant Planning Policy Summary

National Planning Policy

National Planning Policy Framework (NPPF)

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

6: Delivering a wide choice of high quality homes

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. states permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of the area and the way it functions.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*”. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.

5. A network of vibrant and attractive town, district and local centres

6. A high quality environment

The above are supported by the following policies:

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

Walsall’s Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says “*due weight should be given to relevant policies in existing*

plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

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

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)

(b) Residential Development (Use Class C3)

I. The walking distance should be no more than 400 metres to a bus stop

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

4 bed houses and above – 3 spaces per unit

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

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

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

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

Consultations

Transportation – No objections.

Pollution Control – No objections.

Fire Officer – No objections.

Public Participation Responses

None

Determining issues

- Design and character of the area
- Highway safety

Observations

Design and character of the area

The building is on a prominent corner in an area of traditional Victorian houses with sloping roof designs. The proposed flat roof dormer design and choice of materials would result in an alien feature at odds with the existing house, representing poor quality design which fails to properly take account of the context, surroundings and identity which defines the local character of the area (contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58 and 64, the Black Country Core Strategy policy ENV2 and Walsall's saved Unitary Development Plan, in particular policy ENV32, and the Supplementary Planning Document, Designing Walsall DW3 and DW10), in a prominent location at the junction with Sandwell Street, Vincent Street and West Bromwich Road and as such would have a significant detrimental impact on the character of the area.

Parking, Access and highway safety

The development would create a 1 bedroom flat on the second floor above the existing shops and first floor flats. The site is in a predominantly terraced style residential area where typically dwellings are reliant on on-street parking. The addition of a 1 bedroom flat at this locality is unlikely to have severe transportation implications and no objection is raised by Transportation Officers. UDP policy T10 states that the parking policy requirements under T13 should be seen as neither maximum nor minimum but typical and hence it could be considered that a flat with no parking in this locality accords with the policy. The location is also within 400 metres of a bus stop which accords with policy T12 of the UDP

Recommendation: Refuse

The building is on a prominent corner in an area of traditional Victorian houses with sloping roof designs. The proposed flat roof dormer design and choice of materials would result in an alien feature at odds with the existing house, representing poor quality design which fails to properly take account of the context, surroundings, and identity which defines the local character of the area, in a prominent location at the junction with Sandwell Street, Vincent Street and West Bromwich Road and as such would have a significant detrimental impact on the character of the area contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58 and 64, the Black Country Core Strategy policy ENV2 and Walsall's saved Unitary Development Plan, in particular policy ENV32, and the Supplementary Planning Document, Designing Walsall DW3 and DW10.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 16.

Reason for bringing to committee: Councillor Andrew has called this application before planning committee because he supports the application despite conflict with the development plan and due to significant community interest.

Application Number: 14/1882/FL
Application Type: Full application

Case Officer: Helen Smith
Telephone Number: 01922 652606
Email: planningservices@walsall.gov.uk
Agent:

Applicant: All Drain Solutions (Midlands) Ltd
Proposal: Change of use of residential driveway for the storage of trailer unit associated with a business use.

Location: 53 AVIEMORE CRESCENT, GREAT BARR, BIRMINGHAM, B43 7QA

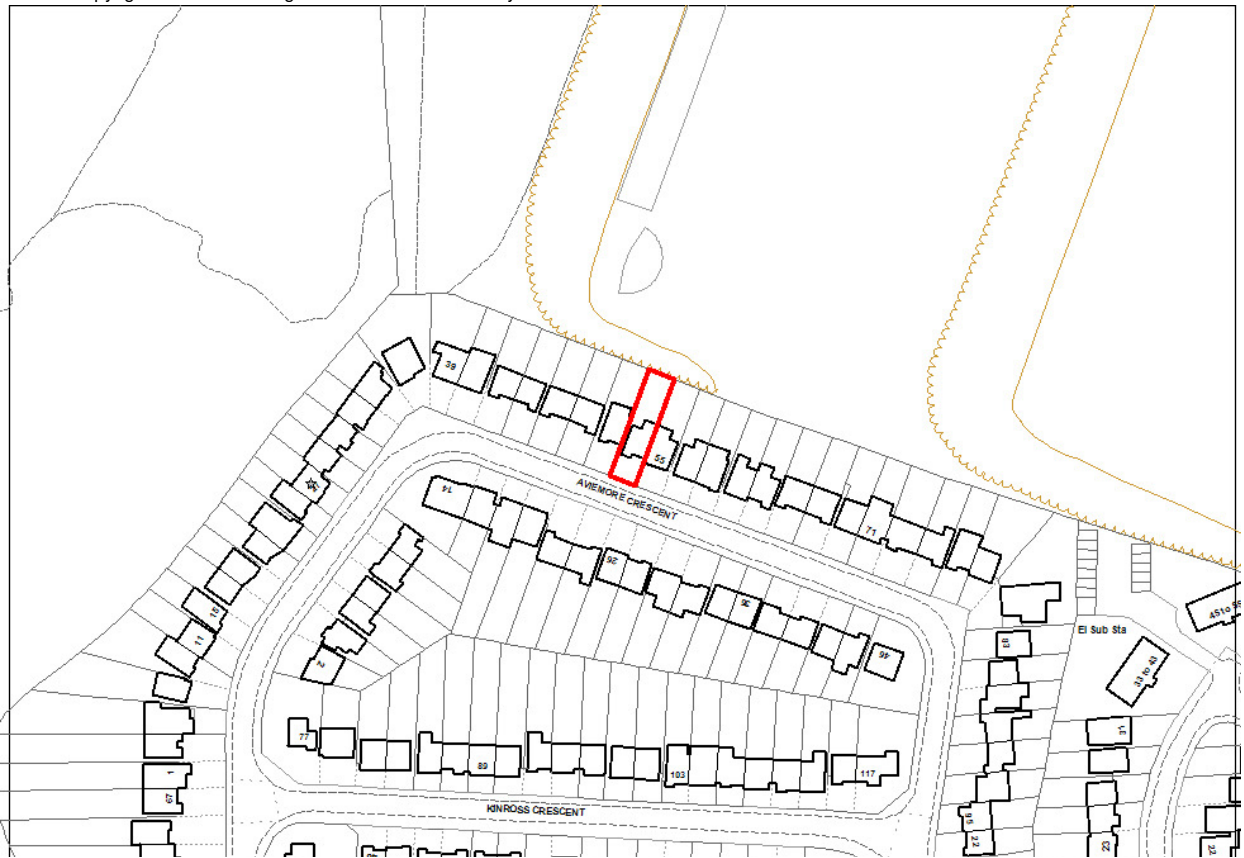
Ward: Pheasey Park Farm

Expired Date: 11/02/2015

Extension of Time Target Date: 13/03/2015

Recommendation Summary: Refuse

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Application and Site Details

This application has been made following an enquiry to the Council and subsequent investigation by the Planning Enforcement Team.

This is a semi-detached house with a single storey front extension and a hard-surface frontage which is used for parking.

The surrounding area is residential in character and Aviemore Crescent consists of pairs of semi-detached houses and detached houses of similar design.

This application is for the change of use of the residential driveway for the storage of a yellow high pressure jetting trailer unit which has an industrial character. When the unit not in use it is covered by a heavy duty light grey tarpaulin. A sign written van is parked on the highway and a family car is parked on the drive.

The applicant operates a 24 hour drainage emergency service and preventative drain maintenance service from 53 Aviemore Crescent which is also a family home. Whilst this application relates to storage of the jetting unit it is considered for completeness the business and any other impacts on the residential character of the dwelling house should be reviewed as part of the planning process.

The existing garage was extended and converted into a home office for the business with a separate study area to the rear of the former garage for a school child. The business area includes a computer, desk, a shared printer, fax, office telephone and various filing cabinets/cupboards to store documents such as health and safety files and insurances. The remainder of the house and rear garden retains a residential character.

The applicant has confirmed that other than the van and jetting unit a wheel barrow and old drainage rods, which are no longer in use and due to be discarded, are stored at the property in connection with the business.

It is stated that any business materials are collected directly from their suppliers and stored either on site or in vehicles with any unused materials returned back to their suppliers who raise a credit note. Unwanted materials are disposed of in an arranged waste skip and removed from the site. No dangerous chemicals are used or stored at the application house.

The jetting unit is generally away from the house during normal working hours Monday to Friday between 07:30 hours to 17:30 hours but as the operation is 24 hours the applicant has advised that the jetting trailer unit needs to be available at all times. The unit is stored on the private driveway at the front of the house when not in use.

The applicant has confirmed that he has 4 direct employees (including himself) and staff visit the house on odd occasions i.e. to deliver or collect paperwork and petty cash.

A second jetting unit is fitted within another vehicle which is parked outside an employee's home address and is used by two employees. The jetting trailer unit parked at the application property is used by the applicant who picks up an employee (a relative who also makes social calls to the application house) on the way to a job. Equipment will usually be swapped between the two business crews by arrangement on site rather than at the home address.

The applicant's partner provides clerical assistance for the business and all jobs are communicated between staff by mobile telephone where staff can also view clients' orders and instructions via the internet. Both vehicles have fuel cards and can be re-fuelled without the need to visit the house.

Planning Policies

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible.

Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework System, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to*

give full weight to relevant policies". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advised that "...due weight should be given to relevant policies....according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight they may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on the 24 July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

CSP4: Place Making

ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development but will be particularly significant in the following locations:-
 - On a visually prominent site.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
 - The appearance of the proposed development.
 - Community safety and security.
 - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
 - The effect on the local character of the area.
 - The proposed vehicular and pedestrian circulation patterns.

T7: Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit
4 bedroom houses and above 3 spaces per unit

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area.

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

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Relevant Planning History

06/1304/FL/H12 - Front extension to include conversion of garage into study and porch - granted subject to conditions 14/9/06

Consultation Replies

Transportation – No objections

Representations

The occupiers of no. 26 Aviemore Crescent have confirmed they have no objections and consider the proposal would be better as they live opposite no. 53 and always have to be aware of the trailer unit when reversing off their drive.

Determining Issues

- Character of Dwelling House and Impact on Neighbouring Residents
- Parking

Observations

Character of Dwelling House and Impact on Neighbouring Residents

The key test when considering planning permission for a business from home is whether the overall character of a dwelling changes as a result of the business.

The concern is that the business is a 24 hour operation and the jetting trailer unit needs to be available for use at any time which includes overnight, weekends and bank holidays. It is considered that hitching or unhitching the trailer during unsociable hours is likely to cause disturbance to neighbours particularly the adjacent properties. Furthermore, as employees do visit

the house at times it is considered that these increased activities to a private house are unusual in a residential area.

UDP Policy GP2 states that the Council will expect all developments to make a positive contribution to the quality of the environment and.....will not permit development which would have an unacceptable adverse impact on the environment and it is considered that it would be the case in this instance.

Consequently, it is considered that overall character of the dwelling house has changed and the business operating from this house and the storage of the industrial trailer has a detrimental impact on the amenity of neighbouring residents. Whilst every case is assessed on its own planning merits this doesn't preclude other residents, in this street, from coming forward with similar proposals which would impact on the character of the surrounding area. This development fails to respond sensitively to the site and its setting and is considered fails to accord with the aims of Policy DW3 of Designing Walsall SPD.

The Council's aim is to grow businesses in the right locations. It is considered that the impact of this business operating from this house, on the overall character of the house and local character of the area as referred to in UDP Policy ENV32 is likely to grow over time and this proposal is recommended for refusal.

Parking

The Highways Authority considers there is sufficient space on the existing hard-surfaced frontage to accommodate two vehicles to meet the requirements of UDP Policy T13 and the jetting trailer unit. The proposal is considered would not have severe transportation implications.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant and in this instance are unable to support the proposal

Recommendation: Refuse

1. The storage of the jetting trailer unit when combined with the existing 24 hour drainage clearance business based at this house is considered changes the overall residential character of the house and street. The increased vehicle movements when families in the area can expect a reasonable level of amenity, will unduly impact on the amenities of neighbouring residents particularly as the scale of the business is likely to increase over time. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, and Designing Walsall SPD.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 17.

Reason for bringing to committee: Councillor Sohal supports this application and has called this application before planning committee due to significant community interest.

Application Number: 15/0010/FL

Application Type: Full application

Applicant: Mr Rajeev Sharma

Proposal: Second storey side and single storey rear extension

Location: 27 CHARLEMONT ROAD, WALSALL, WS5 3NG

Ward: Paddock

Case Officer: Helen Smith

Telephone Number: 01922 652606

Email: planningservices@walsall.gov.uk

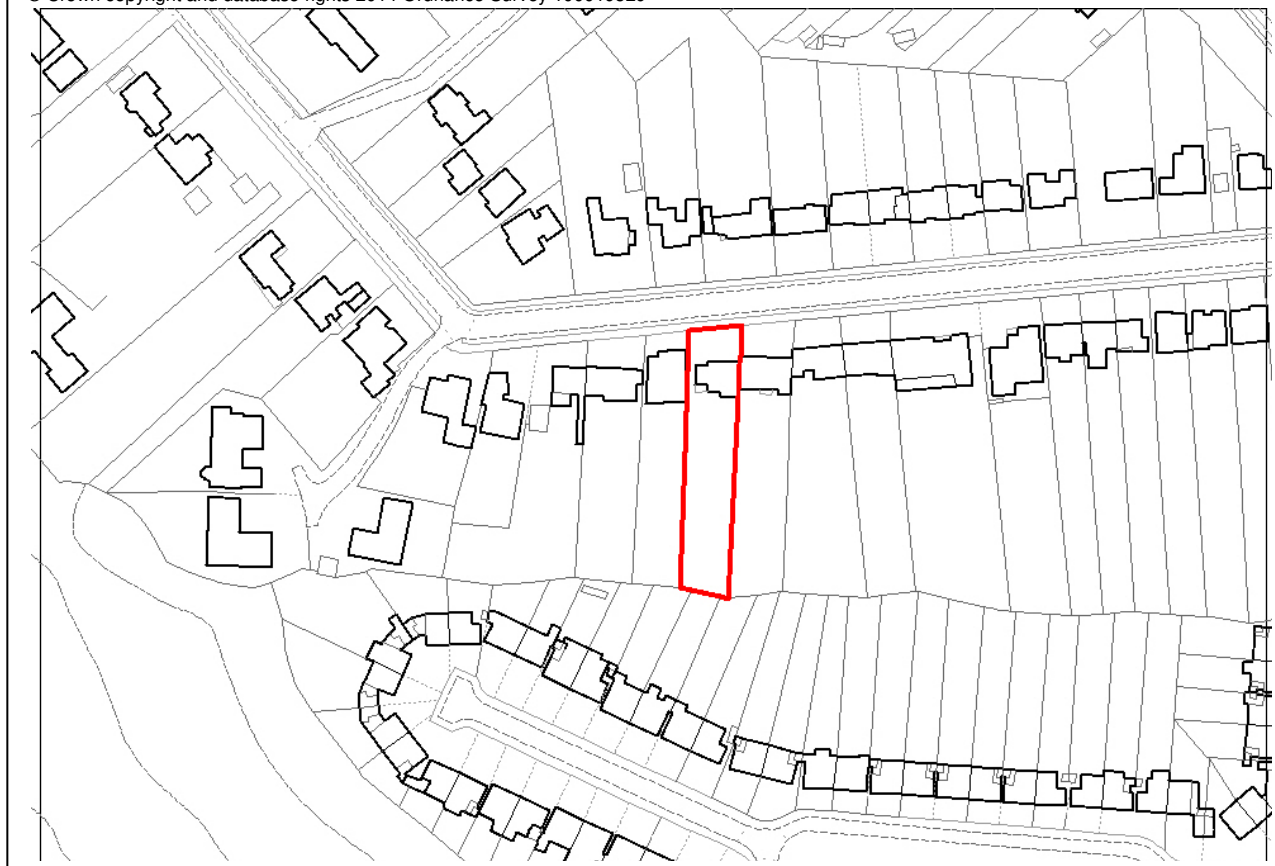
Agent: Mr Bal Virdee

Expired Date: 10/03/2015

Extension of Time Target Date:

Recommendation Summary: Refuse

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Application and Site Details

This application is a third re-submission following the refusal of two recent previous planning applications which would have closed the first floor gap between two detached houses. The earlier delegated report assessed the merits of the proposed scheme and this report will focus upon whether the previous refusal reasons have been overcome.

The street has a residential character with a mix of detached houses and bungalows of individual design plus first floor gaps, between these properties, of varying width.

The application house is a detached property with a garage to the side which has a flat roof with a false pitch roof to the front. The existing house has a first floor front gable feature with lower eaves height on the roof slope adjacent to house no. 25. The rear garden of no. 27 has a lower ground level than the house.

This proposed first floor side extension would be built up the side boundary with no. 25 to provide a 4th bedroom with en suite/walk in wardrobe facilities. The side extension ridge would be 1 metre lower than the existing roof (previously 0.15 metres lower) with a cat slide roof design to the front. This extension would be 3.4 metres wide and would be built next to the side elevation of no. 25.

The proposed single storey rear extension would extend 4.6 metres across the full width of the application house and would have a 3.4 metres high flat roof including two lantern roof extensions. The corner of the extension next to no. 25 has been angled to maintain a 45° line from the neighbouring habitable room window.

This proposal would be built next to the rear boundary with no. 25 and would be 1.3 metres from the side elevation of no. 29.

The plans include a new 1.8 metres deep patio area to the rear with steps down into the garden plus a 1.8 metres high metal guard rail with climbing plants to provide a privacy screen 0.8 metres from the rear garden of no. 29 because of the difference in ground levels.

No. 25 has a cat-slide roof with a front dormer window adjacent to the side boundary with no. 27 which serves a non-habitable room. There are front and rear facing habitable room windows in no. 25 adjacent to the application house. The rear elevation of no. 25 is positioned 0.5 metres further back than the existing two storey rear elevation of no. 27.

The two storey rear elevation of no. 29 is 2.2 metres further back than the rear elevation of no. 27 and there is a 1 metre deep single storey rear extension with a balcony above near to the shared boundary with no. 29. The ground level to the rear of no. 29 is approximately 1 metre lower than the application house.

There is a recessed habitable room window in the side elevation of no. 29 opposite the two storey side elevation of the application house.

There is mature planting, plus walling and timber fencing, along the shared side boundaries with no's 25 and 27. The rear garden of no. 27 is 53 metres in length.

A bat and bird survey by S. Christopher Smith dated 21/1/14 has been provided in support of this proposal.

Relevant Planning History

14/0984/FL – Proposed first floor side extension, single storey rear extension – refused permission on 12/9/14 on the following grounds;

- 1. The design of the proposed first floor side extension fails to reflect the character of the existing dwelling by introducing new eaves and a front elevation higher than the adjacent part of the dwelling house. The proposal would add a jarring feature to the front elevation and represents poor design which would harm the character of the existing house and street.*
- 2. The first floor side extension would be built up to the side boundary with no. 25 and it is considered that the removal of the first floor gap between the two houses and the limited set back at first floor and ridge height would create a terracing effect out of keeping with the other houses in this part of the street to the detriment of the character of the area.*
- 3. Notwithstanding the information provided on the deposited plans the submission fails to include details of how overlooking of the rear private garden of no. 25 Charlemont Road from the proposed raised patio area would be addressed and this lack of information prevents this part of the proposal to be determined with any degree of certainty and is unacceptable.*

A planning appeal was declined as it was received by the Planning Inspectorate after the time limit for making appeals had expired.

13/1566/FL - Two storey side and single storey rear extensions - refused permission 7/2/14 on the following grounds;

- 1. The design of the proposed first floor side extension fails to reflect the character of the existing dwelling by introducing new eaves and a front elevation higher than the adjacent part of the dwelling house. The proposal would add a jarring feature to the front elevation and represents poor design which would harm the character of the existing house and street.*
- 2. The first floor side extension would be built up to the side boundary with no. 25 and it is considered that the removal of the first floor gap between the two houses, limited set back at first floor and the same ridge height as the existing application property would create a terracing effect out of keeping with the other houses in this part of the street.*
- 3. The proposed single storey rear extension would have an overbearing and unacceptable impact on the rear ground floor habitable room window at 25 Charlemont Road, because of its excessive length in relation to this property.*
- 4. The submission fails to include details of how overlooking of neighbours' rear private gardens from the proposed raised patio area would be addressed and this lack of information prevents this part of the proposal to be determined with any degree of certainty and is unacceptable.*

BC38956P – Lounge extension, study, storm porch, garage extension at front – granted permission 9/9/93. This proposal was amended to address the previous refusal reason (BC38325P) and the proposed first floor extension near to no. 25 was removed.

Planning application BC38325P was for a first floor side extension to the application house, built up to the side boundary with no. 25, and was refused planning permission in 1993 as it was considered that this proposal would have an unacceptable relationship in terms of design, appearance and close proximity with the adjacent property adversely affecting the amenities of the area and adjacent occupiers.

Planning Policy

National Planning Policy Framework (NPPF)

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Contribute to conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible.

Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
 - The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed buildings / structures.
 - The materials proposed for buildings, external spaces and means of enclosure.
 - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

T7: Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit
 4 bedroom houses and above 3 spaces per unit

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).
- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq m of useable space per dwelling where communal provision is provided.
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.
- Provision or retention of boundary walls or fencing at a minimum of 1.8m high for the first 4m from the rear of houses or adjacent to areas of public open space or between other land uses to safeguard the amenity of neighbours.

Conserving Walsall's Natural Environment

Provides guidance on development which may adversely affect trees, important species and habitats.

It is considered in this case that the relevant provisions of Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

Consultation Replies

Natural Environment Team, Ecology - No objections on ecological grounds subject to the inclusion of planning conditions in any permission granted.

Natural Environment Team, Trees – No objections

Public Participation Responses

A Neighbour has commented that the option of a bespoke metal guard rail with climbing plants (including evergreens) would be preferable if it was able to provide privacy for both parties.

Determining Issues

Whether the application has addressed the reasons for refusal of the previous application or raises any new issues in respect of the;

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Protected Species
- Trees
- Parking

Observations

Previous Refusal Reasons

1. The design of the proposed first floor side extension fails to reflect the character of the existing dwelling by introducing new eaves and a front elevation higher than the adjacent part of the dwelling house. The proposal would add a jarring feature to the front elevation and represents poor design which would harm the character of the existing house and street.

This current planning application has amended the previous refused design by introducing a 'cat slide' roof with a 1 metre lower ridge than the existing house, It is considered that this revision is a positive change to the proposed design and better reflects the character of the existing dwelling and gives the extension a subservient appearance.

The amended roof design would reflect the existing roof design of no. 25 and is considered to have overcome the previous first refusal reason.

2. The first floor side extension would be built up to the side boundary with no. 25 and it is considered that the removal of the first floor gap between the two houses, limited set back at first floor and the same ridge height as the existing application property would create a terracing effect out of keeping with the other houses in this part of the street.

The current planning application has amended the previous refused design is considered does not overcome the 2nd refusal reason as the proposal would result in the loss of the first floor gap

between the application house and no. 25, which is a characteristic feature of this street, to the detriment of the street scene and character of the area. UDP Policy GP2 states that the Council will expect all developments to make a positive contribution to the quality of the environment and.....will not permit development which would have an unacceptable adverse impact on the environment and it is considered that it would be the case in this instance.

In addition, the Council's Designing Walsall SPD Annex D requires the retention of a minimum 0.9m gap to the boundary to avoid the creation of terracing to existing developments as a result of side extensions. It is considered that the revised proposal has not overcome this refusal reason and is recommended for refusal.

3. Notwithstanding the information provided on the deposited plans the submission fails to include details of how overlooking of the rear private garden of no. 25 Charlemont Road from the proposed raised patio area would be addressed and this lack of information prevents this part of the proposal to be determined with any degree of certainty and is unacceptable.

The current application proposes a 1.8 metres high metal guard rail with climbing plants to provide a privacy screen 0.8 metres from the rear garden of no. 29. This is not considered to be sufficient to provide enough privacy for residents. Notwithstanding the details provided, a safeguarding condition can be imposed requiring a 1.8 metre high obscurely glazed vanity screen along the boundary of no 29 for a distance of 1.8 metres which would overcome the Council's concerns privacy to the neighbour whilst allowing light which would overcome the reason for refusal.

The same requirements would be included in a planning condition for a 1.8 metre high obscurely glazed vanity screen along the boundary of no. 25 for the depth of the proposed extended patio should the existing boundary planting die or be removed.

Other issues

Design of Extension and Character of Area

Whilst the proposed rear first floor flat roof is considered not to be a preferred design, there are a number of similar existing flat roof extensions to neighbouring properties. In this instance, it is considered that the design of this part of the proposal, reflects the existing character of the area.

Amenity of Nearby Residents

The proposed first floor extension would not extend forward of the front elevation of no. 25 which has an adjacent dormer window serving a non-habitable room. It is considered the first floor extension would not have an impact on the adjacent dormer window.

The rear elevations of both the application house and no's 25 and 29 face south and it is considered that this orientation would result in this proposal having a limited impact on neighbour's existing light and amenity.

The proposal complies with the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD, in respect of the ground floor rear habitable room window in no. 29.

The secondary side window in no. 29 is recessed into the side elevation of no. 29 facing the rear and located between the two houses. This window is adjacent to the existing two storey side elevation of no. 27 and it is considered the addition of a single storey rear extension with a flat roof would have little additional impact on the existing light available to this window which already has restricted levels of light as a result of its design.

Protected Species

A bat survey by S Christopher Smith dated 21 January 2014 was been received in support of the previous applications. Bat survey work has identified a low risk of bats within the site and there are ecological objections to this application providing planning conditions to conserve local bat populations in accordance with BCCS Policy ENV1, UDP Policy ENV23 and Conserving Walsall's Natural Environment SPD, are incorporated into any planning permission if all other aspects of the proposal are considered acceptable.

Trees

The Council's Tree Officer considers that the tree referred to as T1 on drawing no DWG is not significant and would not merit the protection of a Tree Preservation Order. It appears that the intention is to retain the tree but should the application, if approved, result in its loss it would not have a significant impact and consequently there are no arboricultural objections to the proposal.

Parking

The provision of a 4th bedroom would require three off-road parking spaces to meet the requirements of UDP Policy T13. The existing garage parking space would be retained and there is sufficient space on the existing frontage to accommodate two further vehicles.

Positive and Proactive working with the applicant

Advice has previously been provided to the agent about reducing the width of the proposed first floor extension to introducing a gap at first floor between the proposal and the side elevation of no. 25 Charlemont Road but this has been declined. Consequently it is considered this proposal has failed to address the previous refusal reasons and is recommended for refusal.

Recommendation: Refuse

1. The first floor side extension would be built up to the side boundary with no. 25 and it is considered that the removal of the first floor gap between the two houses and the limited set back at first floor and ridge height would create a terracing effect out of keeping with the other houses in this part of the street to the detriment of the character of the area. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 05/03/2015

Plans list item no: 18.

Reason for bringing to committee: Called in by Councillor Barker

Application Number: 15/0008/FL

Application Type: Full application

Applicant: Mr J Moore

Proposal: Ground floor rear extension

Location: 17 WAYSIDE GARDENS, WILLENHALL, WV12 4BW

Ward: Short Heath

Case Officer: Jenny Townsend

Telephone Number: 01922 652610

Email: planningservices@walsall.gov.uk

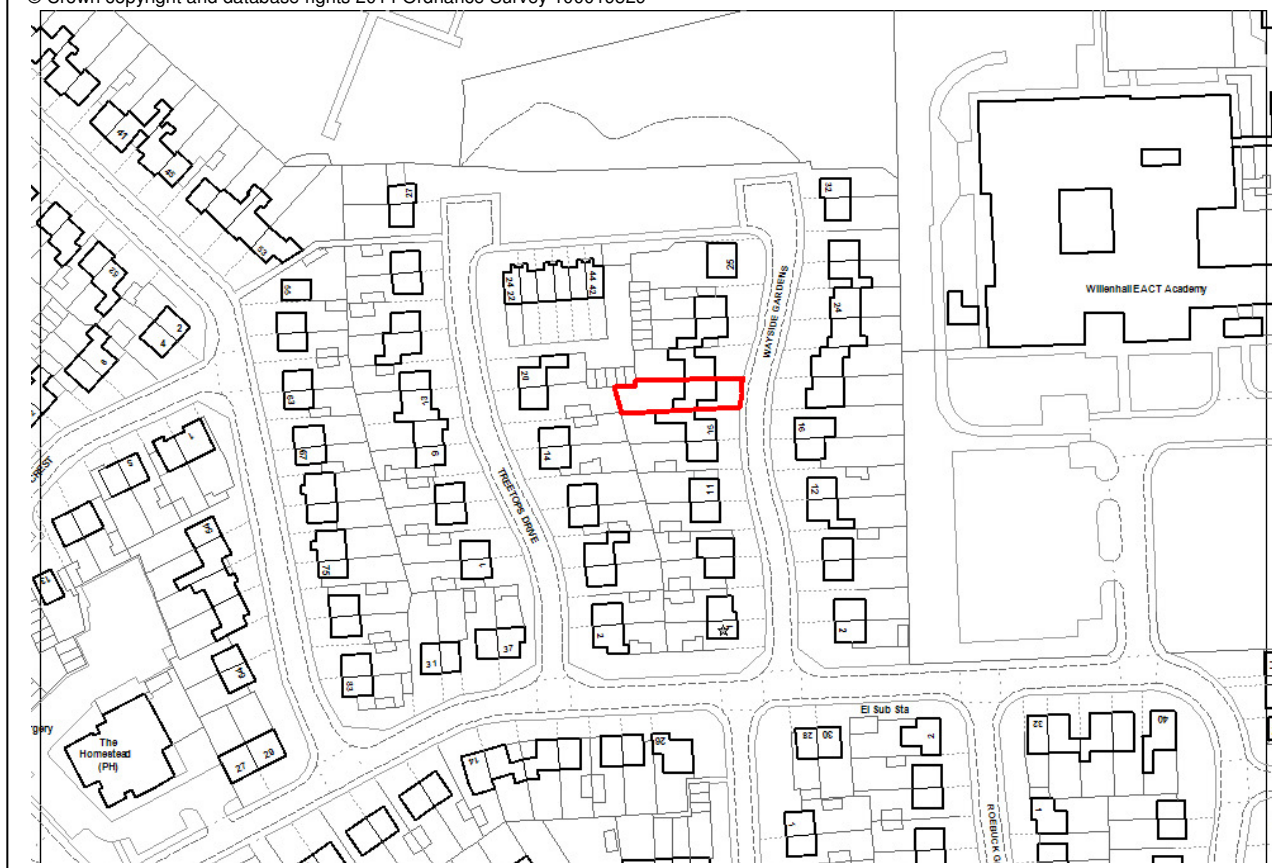
Agent: GT Designz

Expired Date: 19/03/2015

Extension of Time Target Date:

Recommendation Summary: Refuse

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Application and Site Details

The application proposes to add a single storey extension to provide a further bedroom with an assisted bathroom to the rear of an existing ground floor bedroom extension which has been added to the rear of a semi detached house.

The existing extension is adjacent the boundary with number 19, the house to the north and is approximately 6 metres long. The proposed extension would be attached to the rear of this and would be 6.6 metres long making a total length of 12.6 metres of development alongside the boundary between the houses. The proposed extension would be 2.8 metres wide and have a 2.7 metre high flat roof with a small parapet at the end which would be 2.8 metres high.

A window to the bathroom is proposed in the rear elevation and a door and window to the new bedroom would be in the side elevation facing across the garden towards the boundary with number 15 the house on the left.

Number 19 has a conservatory adjacent to the boundary which is approximately 2 metres back from the end of the existing extension and at the end of the garden there is the side wall of a garage block to houses in Treetops Drive which is approximately half the length of the rear boundary of the garden.

There is a garage belonging to number 15 on the opposite boundary which projects approximately 2 metres beyond the rear of the existing extension and a tall fence to the rest of the boundary.

Relevant Policies

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

National Planning Policy Framework (NPPF) www.gov.uk

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Local Policy

Black Country Core Strategy

- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- Appendix D

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

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Relevant Planning History

BC58282P Certificate of Lawfulness – Flat roof single storey bathroom and bedroom extension. Granted 19/11/01.

Consultation Replies

None.

Representations

Cllr Barker - Supports the application despite conflict with the Development Plan as he feels that this is the only viable option for the family concerned.

One letter from neighbour at number 19 stating they have no objections to the extension.

Determining Issues

- Amenity of Nearby Residents
- Parking

Observations

Amenity of Nearby Residents

The addition of the extension to the rear of the existing extension would result in a 2.7 metre high wall along the full length of the boundary and up to the side of the garage block which is across half of the rear boundary belonging to number 19. The height and length of the combined development together with the orientation to the south of number 19 is considered would have a detrimental impact on the outlook, light and amenity of the conservatory and rear garden of number 19 which would unduly affect the living conditions of the occupiers of 19.

It is noted that the current occupiers of number 19 have written to state they have no objections to the proposal however this would not outweigh the conflict to the policy to protect and preserve the amenity of neighbours.

Whilst the applicant believes that this is the best solution to delivering the assisted living accommodation, officers believe there is also opportunity to extend the dwelling on the southern side of the building abutting the garage belonging to number 15 and in doing so avoid any impact on either of the two neighbours.

The new rear window facing down the garden would serve a non habitable room and would have little impact on the privacy or amenity of the house to the rear as there is already screening on the boundary between the houses.

The window proposed in the side elevation facing across the garden would be over 4.5 metres from the boundary with number 15 which already has a tall fence that provides screening to protect the privacy of the occupiers of both houses. The garage belonging to number 15 which is directly alongside the boundary would also provide some screening and limit the potential for overlooking between the new window and the rear patio area belonging to number 15.

Parking

The proposal would increase the number of bedrooms but the existing front driveway and carport already provide 3 parking spaces which would accord with UDP policy for a house with 4 or more bedrooms and is the maximum amount that can be requested.

Positive and Proactive working with the applicant

Refuse

Officers have spoken with the applicant and advised that as the proposal is contrary to policy in this instance they are unable to support the application.

Recommendation: Refuse

1. The height and length of the combined development of the proposed extension, added to the rear of the existing extension directly alongside the boundary with number 19 Wayside Gardens, together with the orientation to the south of number 19 is considered would have a detrimental impact on the outlook, light and amenity of the conservatory and rear garden of number 19 which would unduly affect the living conditions of the occupiers of this dwelling. As such the proposal is contrary to the aims and objectives of the National Planning Policy Framework including paragraphs 56, 57, 58, and 64, Walsall's Saved Unitary Development Plan policies, in particular GP2 and ENV32 and the Supplementary Planning Document "Designing Walsall".