



## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 3<sup>rd</sup> September 2015

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## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

**Plans List Item Number: 1.**

**Reason for bringing to committee:** Major application

**Location:** WIENERBERGER LTD, SANDOWN WORKS, STUBBERS GREEN ROAD, ALDRIDGE, WEST MIDLANDS, WS9 8BL

**Proposal:** APPLICATION UNDER SECTION 73 FOR THE VARIATION OF CONDITION 14 OF PLANNING PERMISSION BA17797P, (AS AMENDED BY 08/1338/FL) TO ALLOW AN INCREASE IN THE LIMIT ON THE PERCENTAGE OF IMPORTED CLAYS USED IN THE PRODUCTION OF BRICKS AT THE BRICKWORKS FROM 65% TO 95%

**Application Number:** 15/0303/FL

**Case Officer:** Paul Hinton

**Applicant:** Wienerberger

**Ward:** Rushall-Shelfield

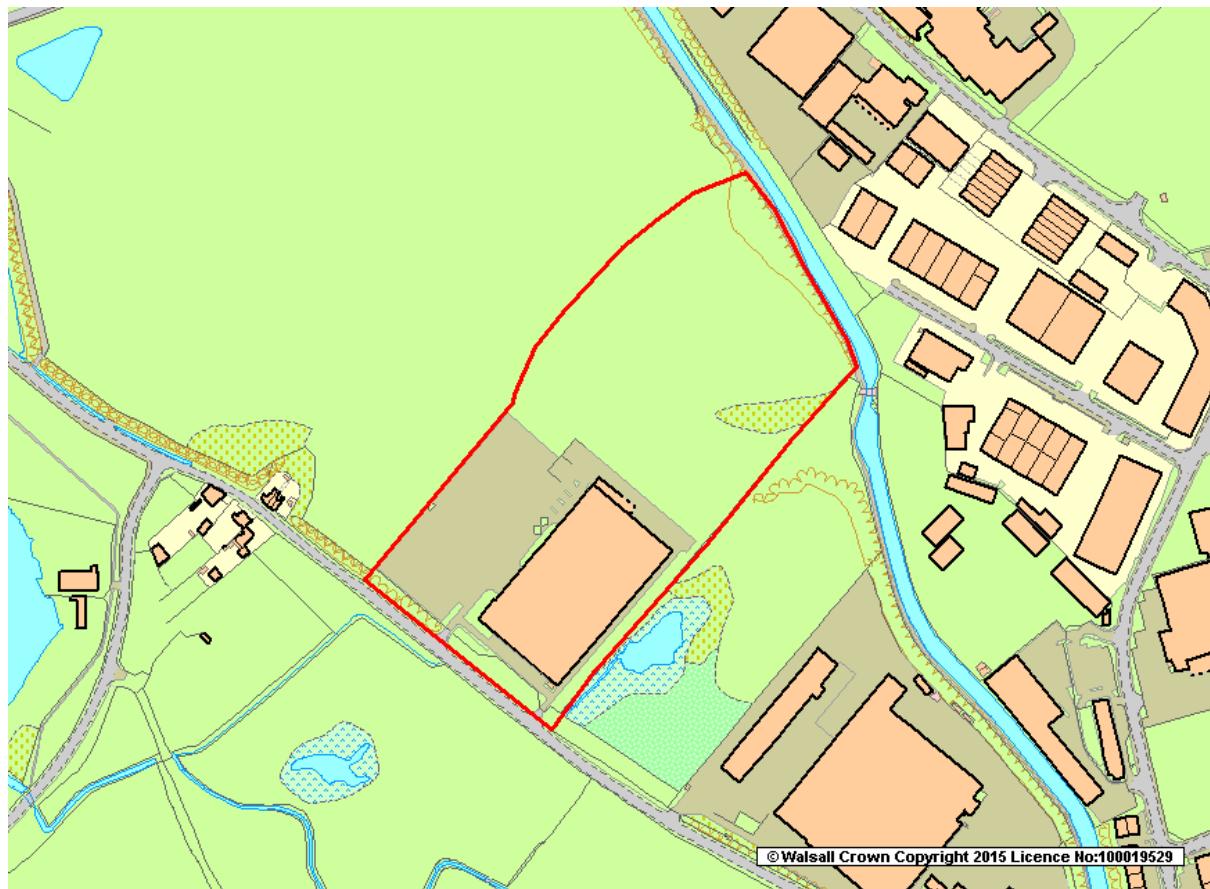
**Agent:** Carter Jonas

**Expired Date:** 01-Jun-2015

**Application Type:** Full Application

**Time Extension Expiry:** 10-Sep-2015

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Officers Report**

15/0303/FL – Wienerberger, **Sandown Works, Stubbers Green Road, Aldridge, WS9 8BL**

**Application under section 73 for the variation of condition 14 of planning permission BA17797P, (as amended by 08/1338/FL) to allow an increase in the limit on the percentage of imported clays used in the production of bricks at the brickworks from 65% to 95%**

### **Application and Site Details**

In 1986 planning permission was granted subject to conditions for the erection of brickworks within the Green Belt which was justified by its reliance on the clay being extracted from the neighbouring Sandown Quarry. Planning permission was originally subject to a condition requiring that the brickworks will only be operated in association with the adjoining clay extraction operations such that no more than 49% of clay used in the production of bricks each year shall be imported from elsewhere. In 2008 Planning Committee approved a variation to increase the limit on imported clays to 65%. The current application proposes to increase that further, seeking imports of up to 95% per annum.

This brickworks site, including brick and clay storage areas is located on the northern side of Stubbers Green Road adjacent to Sandown Quarry. The site is located within the Green Belt, with Stubbers Green Bog Site of Special Scientific Interest (SSSI) immediately to the south boundary and Stubbers Green Site of Importance for Nature Conservation across the road. Swan Pool and The Swag SSSI are 400m to the north.

Raw materials are screened and passed into a silo where clay is cut into a brick shape. They are then faced and set in position prior to loading into tunnel dryers and the tunnel kiln. After cooling the bricks are sorted, packed strapped and wrapped.

The application has been supported by a working plan showing five further phases of working within the quarry before the clay reserves have been exhausted. Prior to the final phase the quarry will be prepared for final restoration. A concept plan has been provided showing a potential restoration of the site to a water feature.

### ***Supporting Statement***

- Factory produces ranges of high quality facing and engineering bricks with a maximum annual production of around 73 million bricks.
- Product is distributed throughout the West Midlands and in the UK.
- Local workforce of 52 people employed directly at the works, and others in the haulage and sale business.
- Factory and its products are considered flagship in the industry.
- The Company are fully utilising their 65% of imported clays, representing approximately 90,000 tonnes of imported clays per year against the total maximum clay usage of around 210,000 tonnes per year.
- At current importation rates, approximately eight years remaining life is expected from the quarry
- Measures need to be taken to maintain production at the works and secure the site as a valuable employer and contributor to the local economy. Increased importation of raw materials would help maximise clay utilisation from existing quarry operations and provide further life for the factory.
- There would be an increase in lorry movements by 17, from 25 movements per day to 42 movements per day.
- There is no restriction on the number of vehicle movements travelling to/from the site per hour/day/week or year. As a result in terms of traffic movements to/from the site, the existing operation is limited only by the physical ability to produce, stockpile and distribute bricks from the works. The extant permission is unlimited in terms of hourly and

daily vehicle movements. Any increase in traffic associated with the proposal would not result in a significant adverse impact.

#### *Further supporting letter*

- Wienerberger take their responsibilities as operator of the quarry extremely seriously and explain that the Factory Manager supports the local community and environment through schools visits and commitments to improving areas such as the Swan Pool
- The application seeks to maximise the use of onsite clays to assist in securing the future of the factory and the jobs it provides in the local area.
- The variation looks in no way to change the working of the quarry in any detrimental way (such as lengthening the life of the site or the depth).
- The current planning permission runs until 2042. The increase in importation would still see all useable Eturia Marl reserves works from the site within the life of the planning permission.
- There is no proposal from Wienerberger to work clay from the site beyond 2042.
- If production at the factory were increased, it is conceivable that clay could be removed from the quarry at a faster rate leading to completion of quarrying sooner than 2042.
- Detailed restoration will be considered further down the line, but detailed proposals at this point are premature and details will be agreed with the Council around the completion of Phase 4 at the quarry – around 2037.
- Wienerberger keep an accounts provision for future restoration of all their quarries.
- Wienerberger have installed a new improved wheel wash system at the factory to address mud being tracked onto the main road.

#### **Relevant Planning History**

BA17797P – Erection of Brickworks. Granted subject to conditions. 25th September 1986.

BC40528P – Proposed schedule of conditions to be applied to old mining permission IDO 670 at Barnett and Beddows a, Sandown and Springfield Quarries. Granted 17th January 1996

BC57897P – Working plan for years 11-15 at Sandown Quarry, pursuant to the requirement of condition 7 of planning permission BC40528P. Granted subject to conditions 14th June 2000.

07/2665/ND/E6 - Screening opinion to ascertain if an Environmental Impact Assessment is required for variation of Condition 14 of BA17797P to increase the limit on imported clays to 65%. EIA not necessary 18/1/2008.

08/0973/FL - Widening of rear exit to highway and additional access to road to side of building. Granted subject to conditions. 11/9/2008.

08/1338/FL – Vary condition 14 of planning approval BA177979P to allow increase of limited on imported clays from 49% to 65%. Granted subject to conditions 4/11/2008.

09/1730/MI – Extraction of clay from beneath section of former railway line with importation of limited quantities inert fill materials (clay and overburden). Granted subject to conditions 8/6/2010.

#### **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:

- Build a strong and competitive economy
- Support sustainable development
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- 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.

**Key provisions** of the NPPF relevant in this case:

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

**1. Delivering sustainable development**

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**

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 or being put at unacceptable risk from, or being adversely affected by unacceptable levels of...air...or noise pollution. Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land.

118 Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats.

120 The effects (including cumulative) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution should be taken into account.

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.

142 Minerals are essential to support sustainable economic growth. Since minerals are finite natural resource and can only be worked where they are found it is important to make best use of them and secure their long-term conservation.

144 LPA's should give great weight to benefits of mineral extraction, including the economy. Provide for restoration and aftercare at the earliest opportunity.

146 Mineral planning authorities to plan for an adequate and steady supply of industrial minerals by:

- Co-operating with neighbours and more distant authorities to co-ordinate the planning of industrial minerals to ensure adequate provision is made to support their likely use in industrial and manufacturing processes.
- Providing a stock of permitted reserves to support existing plant and at least 25 years for brick clay.
- Taking account of the needs for provision of brick clay from a number of different sources to enable appropriate blends to be made.

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](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

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.
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:

CSP2: Green Belt boundaries will be maintained and protected from inappropriate development. Green Belts promote urban renaissance within the urban area and provide easy access to the countryside for urban residents where the landscape, nature conservation and agricultural land will be protected and enhanced where practical and possible.

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

CSP4: In place making an integrated multifunctional open space network will not only provide space for sport and recreation and help support a balanced ecological environment but help mitigate flood risk, provide space for wildlife and informal recreation for local people.

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.

EMP1: Seeks to protect jobs and support economic growth.

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.

ENV1: Seeks to safeguard nature conservation.

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

ENV3: Encourages high quality design that stimulates economic, social and environmental benefits.

ENV5: Seeks to minimise the probability and consequences of flood risk.

WM3: Sandown Quarry is identified as a location for Strategic Waste Management Infrastructure providing non-hazardous landfill.

MIN1: Refers to sustainable management of mineral resources by identifying locations containing viable resources where mineral extraction can take place during the plan period at levels that will support national and regional objectives, the local economy and regeneration, without compromising key environmental objectives. It also highlights issues which should be addressed in mineral applications to maximise the benefits and minimise the potential negative effects of mineral working and related activities. Important mineral related infrastructure will also be safeguarded.

MIN3: The Black Country will aim to provide a supply of Eturia Marl to each operational local brick and tile works in the Black Country for as long as possible, and will aim to provide a 25-year supply to each works where feasible. The pooling or sharing of resources between more than one works will be supported where this will help maintain supplies for longer, provided that that haulage of material will not have unacceptable effects on the local highway network or other users along the route. Importation of material may be permitted provided that this does not result in unacceptable impacts on the local highway network or on local communities.

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](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:

3.6: Development schemes should help to improve the environment of the borough

3.7: Protect people from unacceptable noise, pollution and other environmental problems

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: Identifies the Green Belt boundary.

ENV2: Seeks to control development in the Green Belt. The extraction of minerals can be appropriate development in the Green Belt provided that it is in accordance with relevant minerals and waste policies.

ENV3: Advises on detailed evaluation of proposals in the Green Belt including quality of new landscape schemes, impact on significant views, viewpoints and topographical features and implications on infrastructure.

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

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

ENV32: Proposals should take in to account the surrounding context particularly within or adjacent to the Green Belt including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

ENV40: The quality of all water resources will be protected.

JP8: Bad neighbour industries will be given careful consideration and should be capable of providing satisfactory screening and landscaping and must be subject to stringent operational control to minimise disturbance.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

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.

### **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;

### **Conserving Walsall's Natural Environment SPD**

NE1, NE2 & NE3: Refers to development with the potential to affect species, habitats or earth heritage features and states all relevant applications should be supported by an adequate impact assessment.

### **Employment Land Review**

Area 9: Aldridge North – Retain as local quality.

### **Consultations**

**Transportation** – no objection.

**Pollution Control** – have received complaints about mud being dragged out onto the site by vehicle tyres. The increase in incoming vehicle movements will impact upon ‘drag out’.

**Canal and Rivers Trust** – no objection subject to use of recommended conditions in regard to details of earthmoving and operational details, details of landscaping and boundary treatment to the northern boundary and areas for clay storage.

**Natural Environment: Ecology** – no objection. Comments whether the remaining clay resource be extracted more quickly so the restoration can be started and finished more quickly.

**Inland Waterways** – no objection.

**Natural England** – no objection.

**Environmental Health** – no objection.

**North Warwickshire Borough Council** – no objection.

**Shropshire Council** – the continued production of fireclay at Caughley sufficient to maintain output to brickworks in Walsall (and elsewhere) is currently dependent on completion of a S106 agreement to extend this site to deliver an additional 2 million tonnes of red firing clays, 3.5million tones of buff firing clays and 200,000 tonnes of low sulphur coal.

**Leicester County Council** – no objection.

**Staffordshire County Council** – no objection.

### **Public Participation Responses**

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

One letter received commenting that:

- Surroundings suffered from brick dust being blown over the area, covering private cars, window frames etc. and leaving dust in people’s mouths
- Attempts to damp down the dust is not satisfactory
- Local health authority have no answer to the problem either
- The prospect of increasing the capacity by 30% it would seem that a bad situation will only get worse.

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

### **Determining Issues**

- Compliance with Policy

- Impact upon the Green Belt
- Impact upon the SSSI and SLINC sites
- Impact upon highway safety
- Maintaining employment provision
- Impact upon surrounding occupiers
- Consideration of application through s73 of the Town and Country Planning Act (as amended)

## **Observations**

### **Compliance with Policy**

When the planning permission for the brickworks was approved it was intended that once reserves at the quarry had run out, the brickworks would cease operating. Based on the current rates the brickworks would need to close within the next eight years. The application seeks to prolong the life of the brickworks by increasing the amount of clay imports and maintaining employment provision.

At the time of the last application the applicants Wienerberger were tenants of the quarry, since this time they have now become owners of the quarry as well as the brickworks. Under BCCS policy WM3, it is anticipated that the quarry would become a landfill site (any such works would require further planning submissions to the council). The applicant explains that volumes of waste materials to landfill have been in decline nationally for some time and it is not anticipated that this situation will change in the remaining life of the quarry. A concept restoration plan has been provided showing the potential restoration of the site through low level restoration and a water feature. However if a volume of waste material was available locally with a need for landfill disposal Wienerberger would seek to explore that option in line with the original planning permission. The application does not propose increasing the void at the site or extracting any further clay than that already permitted.

The NPPF identifies that Mineral Planning Authorities should provide a stock of permitted reserves to support existing plant and at least 25 years for brick clay. At this site there are insufficient reserves to support the existing brickworks plant for 25 years. While there is clay in the immediate area, notably Ibstock across the road have a current planning submission to extend the quarry workings, the applicants do not have any commercial arrangements with any quarries in the Borough and therefore would need to increase the imports from outside the area. BCCS policy MIN1 says that important mineral related infrastructure will need to be safeguarded and MIN3 seeks for the Black Country to provide a supply of Eturia Marl to each operational local brick works for as long as possible with importation permitted provided it does not result in unacceptable impacts on the highway or local communities. These impact issues are considered elsewhere in this report. The Council has consulted with the Mineral Planning Authorities where the applicant states clay would be imported from and in addition other authorities in the immediate area have been consulted. None of those consulted have raised any concerns that the increased imports would impact upon the terms of the planning permissions for their mineral sites.

The increase in exports would be in compliance with the above policies as it would secure the future of the mineral related infrastructure for a period exceeding 25 years. The site has been identified as retained local quality within the Employment Land Review, and the proposal would continue that position.

In 1996 the conditions for the quarry were reviewed, securing that all winning and working of minerals shall cease not later than February 2042. The Review of Old Mineral Permission (ROMP) is a mechanism to review sites to make sure they are operating to modern conditions and to revise any operational issues such as time periods for restoration, e.g. to ensure sites that have quickly exhausted reserves are not left in a derelict state for a prolonged period. In this case the first review due in 2011 did not take place within the required time, this review cannot now be requested and the end date for mineral working until February 2042 continues.

The working plan submitted with this application set out five phases of working within the quarry until 2042. The applicant confirms that should minerals be exhausted before then earlier discussions in regard to restoration would take place. The proposed increase in imports would not alter the position that the quarry can operate until 2042 and would not delay restoration.

As amended in 2008, any approved changes to the condition should ensure the applicant continues to provide yearly monitoring figures to the Council to ensure compliance with the imports percentage and to enable the Council to be clear about the period when winning and working would cease and to bring forward early reclamation.

The applicants have confirmed that the proposal would not make any changes to the stocking area or any earthmoving works on site. Stocks will be built in the same way and of the same scale as presently permitted and there are no proposals to change this.

The working plan is a document required under the terms of the planning permission at the quarry to be submitted every 5 years to review the method, direction, depth, sequence and rate of mineral extraction. The document submitted provides the required information and is acceptable.

On balance the increased importation of minerals would not change the requirement for permitted mineral extraction to cease by 2042 and therefore would not further prolong the restoration of the site than that already permitted. The circumstances of the site are consistent with the relevant planning policies to establish increased imports to this important mineral infrastructure plant.

#### **Impact upon the Green Belt**

The variation of condition would increase vehicle movements but would not have any further impact upon the openness and purpose of the Green Belt in the immediate future. The issue to consider is whether the reduced reliance on clay from the quarry would cause long-term harm to the Green Belt by prolonging use of the brickworks and the longer period in which restoration of the quarry will take place. On the basis of the quarry being permitted to be worked until 2042 the variation of this condition would not override this principle condition regardless of extraction rates. The working plan demonstrates there is enough remaining clay within the quarry. The proposal would have no further impact upon the openness or purpose of the Green Belt.

#### **Impact upon the SSSI and SINC sites**

The application site is close to SSSI's Swan Pool and the Swag as well as being adjacent to Stubbers Green SINC. The proposal would have a minimal impact upon the SSSIs as lorry movements are away from this area, as shown on the submitted clay haulage route. The haulage route would take vehicles through Leighswood Industrial Estate. Natural England and Natural Environment do not object to the application and raise no concerns to any impact to the adjacent SINC.

Natural Environment comment that slowing extraction would prolong the period before restoration can start. As discussed above reliance is placed on the permitted 2042 cessation date.

#### **Impact upon highway safety**

Materials are currently sourced from Kimberly (Stoke), Kingsbury (Tamworth), Donnington (Coalville), Caughley (Telford) and Coleshill. The lorry routes utilised have been shown on the submitted haulage route plan, directing vehicles through Leighswood Industrial Estate avoiding the residential area of Shelfield and away from the SSSIs. In the future the likely supply is increasingly to be targeted from the Cannock/Cheslyn Hay area with lorries directed along the A5 and either through Brownhills or via Muckley Corner. All lorries exiting

the site are obliged to go through a wheel wash system and to turn left to travel through Leighswood Industrial Estate.

There would be an increase in lorry movements by 17, from 25 movements per day to 42 movements per day. There is no restriction on the number of vehicle movements travelling to/from the site per hour/day/week or year. As a result in terms of traffic movements to/from the site, the existing operation is limited only by the physical ability to produce, stockpile and distribute bricks from the works. The extant permission is unlimited in terms of hourly and daily vehicle movements. Transportation raise no objection as the development will not result in severe transportation implications.

Pollution Control have received complaints about drag out onto the site from vehicles, the increase in vehicle movements will impact upon drag out. The company have recently installed an additional wheel wash, the specification of which Pollution Control are currently satisfied in regard to preventing drag out onto Stubbers Green Road.

### **Maintaining employment provision**

The proposal would ensure that the 52 local workforce employed directly at the works, and others in the haulage and sale business could be retained for a further 27 years, rather than eight years at the current import rates. In addition the brick making process would continue to support the construction industry as it recovers from the economic slump and provide the construction materials that would have further economic and social benefits.

### **Impact upon surrounding occupiers**

One response has been received as part of consultation raising concerns that the surroundings have suffered from brick dust being blown over the area, covering private cars, window frames etc. and leaving dust in people's mouths, the attempts to damp down dust is not satisfactory, the local health authority have no answer to the problem either and the prospect of increasing the capacity by 30% would make a bad situation will only get worse. In response as noted in this report the current brickworks is unrestricted in terms of production, rather a restriction in regard to percentages of imports. Therefore the proposal makes no difference to the existing day-to-day operations of the site. These environmental factors are considered as part of the Environmental Permit at the Brickworks which Pollution Control monitor on a bi-yearly basis and the company are required to comply with the requirements of the permits. Pollution Control are aware of these concerns and are working with the applicants to address as part of an ongoing operational management issue.

### **Consideration of application through s73 of the Town and Country Planning Act (as amended)**

Section 73 is often used where circumstances affecting the development have changed, meaning that the conditions which were originally imposed need to be amended. When considering an application under section 73 the LPA can decide that planning permission for the development should be granted without particular conditions or subject to different conditions to those which were attached to the original permission. In this case the conditions of the original permission have been reviewed; those conditions which are no longer relevant, e.g. commencement condition, materials, tree guards and landscape due to the development being implemented and established are not required to be imposed on any permission. Most of the ongoing operational conditions as originally approved are considered to continue to be necessary and are recommended. Some conditions which are now not considered to meet the 'tests' are not recommended.

The Canal and Rivers Trust have raised no objection to the application subject to the use of additional conditions in regard to details of earthmoving and operational details, details of landscaping and boundary treatment to the northern boundary and areas for clay storage. The proposal makes no changes to the existing clay storage areas or landscaping. The only noticeable change would be increased vehicle movements delivering imported clay and less extraction per year. Therefore it is considered that these recommended conditions are not

necessary. The original approval includes conditions defining the extent of clay storage which is repeated here.

### **Positive and proactive working with the applicant**

Officers have liaised with the applicant's agent during the application process to ensure full information has been provided to enable full support to be given to the scheme.

### **Recommendation Summary: Grant Permission Subject to Conditions**

#### **Conditions**

1. This development shall not be carried out other than in conformity with the approved plans and documents approved under the terms of planning permission BA17797P, except as may be required by other conditions of this permission.

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted.

2. Noise levels emitted from operations carried out within the buildings (including external fixed plant and machinery) of the development hereby permitted, and measured at 1.0 metres from the nearest noise sensitive building shall not exceed:
  - a) Between the hours of 0700 and 1900 hours a Leq (1 hour) of 50 d.B.A. with an A weighted slow maximum of 55 d.B.A at any one time
  - b) Between the hours of 1900 and 2300 hours a Leq (1 hour) of 45 d.B.A. with an A weighted slow maximum of 50 d.B.A at any one time
  - c) Between the hours of 2300 and 0700 hours a Leq (1 hour) of 40 d.B.A. with an A weighted slow maximum of 45 d.B.A at any one time

Reason: To safeguard the amenity of surrounding occupiers

3. No bricks shall be stored on the site to a height greater than 5 metres.

Reason: To safeguard the amenity of the area.

4. The premises shall be used for brickworks purposes and for no other purposes within the Town and Country Planning Use Classes Order 1987 (as amended).

Reason: The site lies within an area within which Green Belt policies apply and as such any other use may conflict with Green Belt policies.

5. Any quarry plant and machinery storage and repair compounds shall only be on concreted areas draining to oil and grease interceptors, details of which shall have previously been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the drainage of the site does not contaminate adjoining land and watercourse and to safeguard the quality of groundwater in the area.

6. There shall be no storage of clay within a distance of 5 metres from the south eastern boundary of the site.

Reason: To ensure that surface drainage water is diverted away from the adjoining Site of Special Scientific Interest and therefore prevent its contamination by the precipitation of suspended clay particles.

7. Office development on the site shall be limited to that required in connection with the operation of the brickworks development hereby permitted and shall be occupied only for office purpose which are ancillary to the brickworks and for no other purpose.

Reason: The site lies within an area within which Green Belt policies apply and as such any other use may conflict with Green Belt policies.

8. The development hereby permitted shall only continue in association with the adjoining clay extraction operations such that no more than 95% of the clay used in the production of bricks each year shall be imported from elsewhere (i.e. sources other than Sandown Quarry). Confirmation of the tonnages of clay sourced from Sandown Quarry and imported from elsewhere (categorised by each source) annually (i.e. during the annual monitoring period 1st April-31st March) and the remaining clay reserves at Sandown Quarry at 31st March each year shall be submitted to the Mineral Planning Authority by the 1st May each year that the brickworks continues to operate.

Reason: To ensure that the brickworks, which are in the Green Belt and were permitted on the basis that the works remain ancillary to the adjoining quarry, only continue to operate in association with the quarry. Annual updates of clay supplies and usage and the extent of permitted clay reserves at Sandown Quarry are required to enable the Mineral Planning Authority to monitor compliance with the permission.

9. For the duration of the development hereby permitted facilities shall be provided, and thereafter maintained and utilised on site to prevent risk of mud being carried onto the public highway. Prior to implementation of any proposed changes to these measures details shall first be submitted for written approval by the Local Planning Authority.

Reason: To ensure that the development hereby permitted does not prejudice the flow of traffic or conditions of general safety along the adjoining highway.

10. Visibility splays of 9 metres by 95 metres shall be provided at the permitted points of entry to the site from Stubbers Green Road. No parking or other obstruction greater than 600mm in height shall be permitted within these splays.

Reason: In the interests of highway safety on Stubbers Green Road.







## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

**Plans List Item Number: 2.**

**Reason for bringing to committee:** Major application and Departure from the Development Plan

**Location:** LAND LYING TO THE WEST OF COLLEGE FARM, BOSTY LANE, ALDRIDGE, WALSALL

**Proposal:** CONSTRUCTION OF A SOLAR FARM COMPRISING GROUND-MOUNTED SOLAR PANELS FOR ELECTRICITY PRODUCTION (4,755KWP) ON LAND TO CONTINUE TO BE USED FOR AGRICULTURE, TOGETHER WITH ANCILLARY EQUIPMENT, DEER FENCING, PERMEABLE STONE ACCESS TRACKS AND LANDSCAPING AND BIODIVERSITY ENHANCEMENTS.

**Application Number:** 15/0628/FL

**Applicant:** Blue Planet Solar

**Agent:** Indigo Planning

**Application Type:** Full Application (Major)

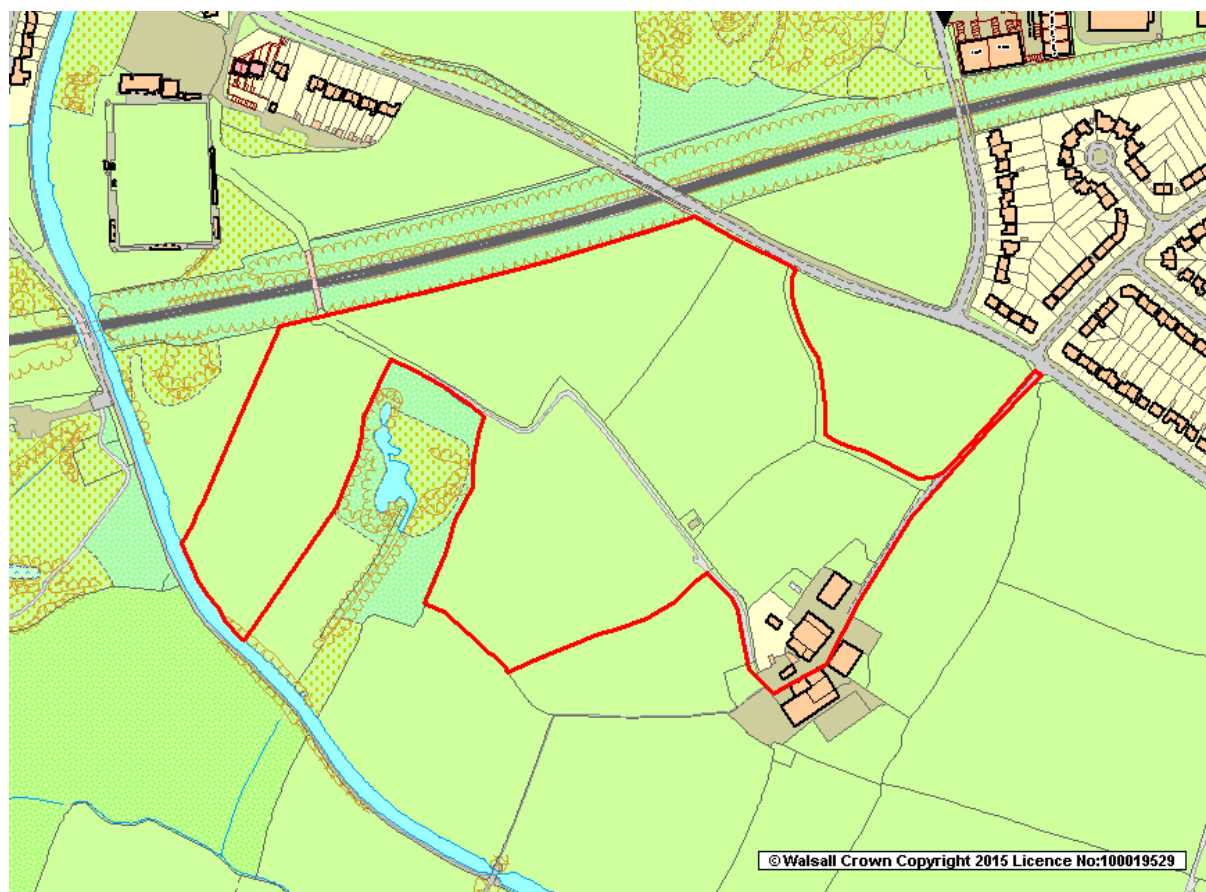
**Recommendation Summary:** Refuse

**Case Officer:** Alison Ives

**Ward:** St Matthews, Aldridge Central And South

**Expired Date:** 26-Aug-2015

**Time Extension Expiry:** 07-Sep-2015



## **Officers Report**

### **Application and Site Details**

The proposal is for the construction of a solar farm on land at College Farm Bosty Lane. The proposal comprises ground mounted solar panels for electricity production together with ancillary equipment, fencing, permeable stone access tracks and landscaping and biodiversity enhancements. The site area is 11.42 hectares of land and spans four fields.

**The land is currently farmland used for grazing cattle and horses and there are hedges and trees along the boundaries. The fields lie to the north west of the farm buildings and border Bosty Lane, Daw End Railway Cutting, Daw End Branch canal and other farmland.** Rushall Olympic Football Club lies to the north on the opposite side of the railway cutting. Other than the farm itself the nearest housing to the north is in Bosty Lane and to the east is Bosty Lane, Middlemore Lane West and Linley Wood Road and surrounding streets. Public Right of Way Aldridge 22 lies south of the farm.

**Daw End Railway Cutting is a Site of** Special Scientific Interest (SSSI), Daw End Branch canal is a Site of Local Importance for Nature Conservation (SLINC) and Park Lime Pits Site of Importance for Nature Conservation (SINC) lies between fields 1, 3 and 4.

**The proposed solar panels** cover four fields and are mounted on the ground in rows 2.5m apart. They are tilted at a 25 degree angle and are 680mm above ground level at the front and 1900mm above ground level at the rear. They are blue/black colouring treated with translucent anti-reflective protective coating to minimise glare. The total electricity production is 4.4 megawatts which powers the equivalent of approximately 970 homes per annum. The proposed solar farm is to be fenced with high tensile deer fencing and gates 2m high with a 100mm gap underneath to allow small wildlife to pass through the site. Each field will have a transformer station accessed by a gravel track. A compound area is also indicated to the east of field 3 and a Western Power Distribution substation including switch room located at the edge of field 2 on Bosty Lane. The transformer stations are 5.1m X 2.9m with flat roofs 3.1m high and the substation is 5.4m X 4.9m with a pitched roof 4.6m high and customer metering room attached (1.6m X 1.2m X 3m).

Existing hedgerows are to be retained and managed to a height of 3m throughout the site and the perimeter. A double row hedgerow will be planted along the boundary of field 4 where visible from the canal. Any disturbed grassland will be re-seeded, plant diversity enhanced with wildflower seed mix. Long term grassland management will comprise light sheep grazing to promote diversity or infrequent mowing to develop a denser sward for barn owl foraging. Provision of bird nesting and bat boxes around the site and enhancements to Jack Holes SINC will enhance biodiversity.

Construction will take approximately 10 weeks. The operational life is 25 years after which the panels will be dismantled and removed from the land.

The Planning Statement – Identifies that the solar farm is a temporary use and that the site will remain in use for agriculture. It explains the need for the development and factors influencing site selection, describes the site and surrounding areas, describes the proposals, proposed environmental effects, an assessment against national and local policies and government advice and weighs up the harm and whether very special circumstances exist to justify the development in the Green Belt.

The **Ecological Assessment Scoping Report** – Defines the scope of the ecological issues to be covered in the ecology report including an assessment of designated sites, habitats and vascular plants, breeding birds, barn owl, great crested newt, bats, crayfish, reptiles, badgers and soils.

The Ecology Report – Summarises that neither the construction nor operation of the proposed solar farm has any significant adverse ecological effects. Assuming precautionary surveys for the Barn Owl (and breeding birds if necessary) is adopted and any mitigation measures taken there would be no risk of infringing wildlife legislation. The proposed biodiversity enhancement measures include habitat creation (wildflower grassland, hedgerows and barn owl foraging habitats) and management which would yield significant enhancements at the site and at a local level. The new and enhanced habitats would strengthen wildlife networks within the site thus contributing to the wider ones in the local area.

The Flood Risk and Drainage Assessment – Explains the entire development site is within Flood Zone 1. The risk of flooding to and from the site is considered “very low”. Only small scale areas of surface water flooding may occur. Surface water run-off rates are not considered to increase post development although some compaction of soils during construction may reduce infiltration and increase run-off but the managed pasture will mitigate this potential post installation. Creation of a swale in each field will detain run-off. The proposed development will not create an increased risk of flooding the site or surrounding area.

The Heritage Statement – Concludes that the proposal will not have a direct impact on any known designated or undesignated heritage assets. There will be a physical impact on archaeological deposits on the site, if present, from service trenches, piling and other construction activity. The potential of the site to contain archaeological deposits is considered to be low to moderate for the prehistoric and low for all other periods. The rural character around nearby sites and monuments will remain the same. Following mitigation the development will result in a medium adverse impact on the setting of Jack Hole and negligible adverse impact for Lime Pits undesignated heritage assets therefore less than substantial harm. There will be a low adverse impact on Daw End Branch canal which is of regional importance. Any harm should be weighed against the public benefit of the proposals.

- The Landscape & Visual Impact Appraisal - Describes the nature of the proposed development, establishes a landscape and visual baseline, landscape character classifications and value and susceptibility. It defines the magnitude of the landscape effects and overall level of landscape effects, visual amenity value, receptor susceptibility, magnitude of visual effects and overall level of visual effects.
- The Agricultural Land Classification Survey – concludes that having inspected the land and considered soil texture, farming practice and soil structure against the criteria of assessment for grades in the MAFF guidelines, the land is grade 3b. This is moderate quality agricultural land capable of producing moderate yields of a narrow range of crops, principally cereals and grass or lower yields of a wider range of crops or high yields of grass which can be grazed or harvested over most of the year.
- Relevant Planning History
- 15/0222/SCRE – Screening Opinion as to whether an Environmental Statement is required for erection of ground mounted solar panels and ancillary structures (solar farm) - Environmental Assessment not required 05/03/15.
- 11/0802/FL - Erection of a EWT 500KW wind turbine on a 40 metre high monopole mast (total height 67m) together with installation of ancillary equipment & works –Appeal Dismissed 21/02/13.
- 10/1333/ND - Screening opinion relating to the installation of a single wind turbine – Environmental Assessment not required 04/11/10.

- 03/0115/PT/E3 - 15 metre timber monopole with three antenna, three dishes and ground based equipment cabinets – Prior notification details approved 24/02/03.
- 02/2234/PT/E3 - 15m monopole and associated antennae, dishes and ground level equipment – Prior notification details refused 22/01/03
- There are older applications relating to extensions to the dwelling, erection of agricultural buildings and change of use of agricultural buildings to livery for horses and a ménage.
- 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:
  - 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 17 supports the transition to a low carbon future in a changing climate and encourages the use of renewable resources for example, by the development of renewable energy.*

- 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 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
  - *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 79 highlights that the essential characteristics of Green Belts are their openness and their permanence.
- Paragraph 80 defines the five purposes of the Green Belt:
  - to check the unrestricted sprawl of large built-up areas;
  - to prevent neighbouring towns merging into one another;

- to assist in safeguarding *the* countryside from encroachment;
  - to preserve the setting and special character of historic towns; and
  - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- Paragraph 81 seeks to retain and enhance landscapes, visual amenity and Biodiversity in Green Belts.
  - Paragraph 87 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
  - Paragraph 88 specifies that ‘very special circumstances’ will not exist *unless* the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
  - Paragraph 91 states that when located in the Green Belt, elements *of* many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
  - Paragraph 97 requires a positive strategy to promote energy from renewable and low carbon sources. Also to design policies to *maximise* renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts

Paragraph 98 states that when determining applications LPA’s should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

**Paragraph 103 when** determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 109 refers to protecting and enhancing valued landscapes, geological conservation interests and soils;

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 112 local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

Paragraph 113 requires policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.

Paragraph 117 local planning authorities should identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them and areas identified by local partnerships for habitat restoration or creation. They should

promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations.

Paragraph 118 aims to conserve and enhance biodiversity and 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 and mitigate and reduce to a minimum other impacts.

Paragraph 133 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.

**Paragraph 135 the effect** of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

**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](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 above are supported by the following policies:

CSP2: A strong Green Belt to promote urban renaissance within the urban area and provide easy access to the countryside for urban residents where the landscape, nature conservation and agricultural land will be protected and enhanced where practical and possible.

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

DEL1: Development proposals will only be permitted if all necessary infrastructure improvements, mitigation measures and sustainable design requirements are provided.

DEL2: 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.

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. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings.

ENV3: Refers to design quality requirements.

ENV5: Seeks to minimise the probability and consequences of flood risk.

ENV7: Proposals involving the development of renewable energy sources will be permitted where the proposal accords with local, regional and national guidance and would not significantly harm the natural, historic or built environment or have a significant adverse effect on the amenity of those living or working nearby, in terms of visual, noise, odour, air pollution or other effects.

#### Walsall's Unitary Development Plan (UDP)

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](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: Identifies the Green Belt boundaries.

ENV2: Seeks to control development in the Green Belt. Any engineering or other operation or the making of a material change of use of land is inappropriate in the Green Belt if it conflicts with the openness and purposes of the Green Belt.

ENV3: Relates to detailed evaluation of proposals within the Green Belt.

ENV6: The Council will seek to protect, wherever possible, the best and most versatile agricultural land from loss to inappropriate development or other uses. Proposals for the diversification of the rural economy, particularly for agriculture, forestry and related enterprises, will be supported provided that the character, scale and location of the proposals are compatible with the surroundings and in accordance with the other policies of this Plan.

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

ENV11: Development which involve significant external lighting will not be permitted unless they propose the minimum amount of lighting necessary to achieve its purpose and minimise glare and light spillage from the site to protect wildlife.

ENV17: Encourage new planting.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

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

ENV24: New development should maintain the integrity of wildlife corridors.

ENV32: Proposals should take in to account the surrounding context including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

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

ENV40: The quality of all water resources will be protected.

LC9: The Council will expect all development alongside and near to canals to positively relate to the opportunity presented by the waterway, to achieve high standards of design, and to be sensitively integrated with the canal and any associated canal side features.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T7 – All development should satisfy the car parking standards set out in Policy T1.

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.

#### 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:

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

- DW2: Safe & Welcoming Places - all new development must contribute to creating places that feel safe.
- DW3: Character - all new development must be designed to respect and enhance local identity

- 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.

It **is** considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

#### Other Guidance

National Planning Practice Guidance for Renewable and Low Carbon Energy (NPPG)

This advises that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Particular factors a local planning authority will need to consider include:

encouraging **the** effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value; where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

that **solar farms** are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;

the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;

the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;

the need for, and impact of, security measures such as lights and fencing;

great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;

the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;

**the energy generating potential, which can vary for** a number of reasons including, latitude and aspect.

The approach to assessing cumulative landscape and visual impact of large scale solar farms is likely to be the same [as assessing the](#) impact of wind turbines.

The NPPG also includes advice given in a Ministerial statement 25th March 2015: Solar energy: protecting the local and global environment where it was highlighted that

"Substantial weight is to be given to the best and most versatile agricultural land ALC 1,2, and 3a. Proposals that involve the best ALC will require the most compelling of evidence to overcome the harm."

#### Consultations

Transportation – No objections. A condition to secure a Construction Methodology Statement is recommended. This should include; the number and type of construction vehicles expected to visit the site, the suitability of the access points in terms of geometry, construction details and visibility along Bosty Lane including a Autotrack analysis demonstrating the vehicle can safely and satisfactorily manoeuvre in and out of the access(s), where the parking and turning facilities for site operatives and construction deliveries will be located together with full details of the wheel cleansing arrangements to prevent mud or other material from being deposited on the highway during the period of construction.

Archaeology – An archaeological evaluation should be provided and mitigation in the form of either targeted excavation beforehand or a watching brief during the development. A programme of archaeological work should be secured by condition.

Canal & River Trust – No objections. The proposed hedgerow planting to field 4 will provide screening but should be conditioned so that it is established and maintained to screen views from the towpath and canal. The proposed landscaping has the potential to impact on the integrity of the waterway therefore the future maintenance responsibilities for the planting need to be determined. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location. The drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is therefore important that full details are submitted and agreed prior to the first use of the new development. Conditions to secure details of landscaping maintenance and swales should be included on any permission.

**Coal Authority** – The application site is located within the defined Development Low Risk Area and there is no requirement for a Coal Mining Risk Assessment to be submitted. The Coal Authority's Standing Advice should be included as an informative on any decision.

**Ecology** – Concerns regarding the potential precedent that approving this application will have in landscape and visual terms. The applicant has proposed reducing the area of development in Field 4 and although the adverse visual impacts on Field 4 are reduced they are not eliminated. Proposals for habitat protection, management and enhancement proposed in the Landscape and Biodiversity Management Plan and Ecology Report should be secured through a condition on any planning permission.

**Environmental Health** – No objections.

Flood Risk Manager – Solar panels have the potential to change land drainage regimes, and without appropriately sized and managed SuDs techniques, have the potential to increase overland flow and affect vegetation cover under each mounted panel. Localised SuDs are to be incorporated to help control any additional run-off by virtue of the panels and details of the swales are required. A condition to secure drainage details is recommended.

**Health & Safety Executive** – No objections.

Inland Waterways – Objects. Daw End Branch canal is a historic waterway and a valuable amenity and recreational corridor, providing leisure boating, walking, angling, cycling and nature conservation benefits to the area. Inland Waterways is concerned about the visual impact on the rural setting to the canal to the detriment of the amenity value and regional tourism and regeneration benefits. The proposal has an industrial appearance and field 4 in particular would damage the visual amenity of the area contrary to BCCS policy ENV4 giving it an urbanised appearance. The screen planting proposed would have little immediate impact and during winter would still expose the site to views. Field 4 should be excluded entirely. The whole development is inappropriate development in the Green Belt for which very special circumstances have not been demonstrated.

**Local Access Forum** (Walsall Ramblers) – There is no impact on rights of way but the walking environment will be compromised as the ability to enjoy a countryside location will be lessened by the commercial appearance of the solar farm. Although the proposals would be an intrusion into the Green Belt, methods to screen the development from views have been incorporated.

Natural England – No objections to the proposal and welcomes the biodiversity enhancements which it is recommended are secured on any planning approval. If approved, a note for applicant is recommended to locate a potential source of green hay to help improve the site's wildlife value.

Network Rail – Holding objection as the application site boundary overlaps operational railway land. Notes for applicant regarding works adjacent to the railway are recommended to ensure that during construction, and after completion of works on site, the development does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures. A Risk Assessment and Method Statement (RAMS) should be submitted to the Network Rail Asset Protection Engineer. Network Rail request that no trees are planted next to the boundary with their land and the operational railway. Network Rail would request that only evergreen shrubs are planted and we would request that they should be planted a minimum distance from the Network Rail boundary that is equal to their expected mature growth height.

Police – No objections provided that details of security measures are provided as solar farm thefts are on the increase. Specifically CCTV, perimeter detection and monitoring should be considered.

Pollution Control – No objections but a condition is recommended to ensure nearby residents will not be affected by tonal noise. Conditions to secure a Construction Management Plan and to control hours of construction are recommended to protect the amenities of nearby residents.

#### Public Participation Response

Four letters of objection have been received. This is summarised as follows:

The solar panels would be higher than the present hedgerows and are obtrusive from the surrounding area including public footpath

Grazing beneath the solar panels would not help the visual aspect

The wind turbine was rejected and a solar farm is equally unacceptable

Adverse impact on the open green aspect

The land should remain for agricultural/livestock rural use

A solar farm should not be allowed in this area

Adverse impact on wildlife (including Buzzards)

Adverse impact on the aesthetic view

To cover the fields with unsightly solar panels is a waste of green space

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

#### Determining Issues

Principle of development for renewable energy

Impact on Agricultural Land

Impact on the Green Belt

Landscape and Visual Impact

Ecology

Relationship to surrounding properties

Access and parking

#### Observations

#### Principle of development for renewable energy

The NPPF (paragraph 17) and policy ENV7 of the BCCS support the development of renewable energy sources provided the proposal accords with local, regional and national guidance and would not significantly harm the natural, historic or built environment or have a significant adverse effect on the amenity of those living or working nearby, in terms of visual, noise, odour, air pollution or other effects. For reasons to be discussed in the following report the principle of the renewable energy for a solar farm does not significantly harm the natural, historic or built environment or have significant adverse effect on the amenity of those living or working nearby and is therefore acceptable in principle only.

#### Impact on Agricultural Land

The site is within the Green Belt and the land is presently used for agricultural purposes (grazing). The NPPF and local development plan policies support the protection of agricultural land. Further the NPPG advises that large scale solar farms should be encouraged on previously developed non agricultural land, provided it is not of high environmental value. Where a proposal involves greenfield agricultural land it must be shown to be necessary and poorer quality land used in preference to higher quality land and the proposal should allow for continued agricultural land and biodiversity improvements.

The applicant has provided an Agricultural Land Classification Survey which identifies that the land is Class 3b. This class of land is not afforded the same level of protection as the best and most versatile agricultural land. It is also identified that the land would continue to be used for agricultural purposes for sheep grazing. In the circumstances the proposal is not located on higher quality agricultural land and would allow for continued agricultural use.

The objectors consider the land should remain for agricultural use for livestock grazing. The applicant has identified that sheep grazing can continue beneath the solar panels so the agricultural use would continue.

The proposal includes biodiversity enhancements as discussed in the ecology section below which meets another criterion in the guidance in the NPPG.

As the land is lower quality agricultural land, agricultural use will continue on the land and biodiversity enhancements are proposed the proposal will not have an adverse impact on agricultural land.

#### Impact on the Green Belt

##### Character and Openness

The current fields are open in character as they have no permanent structures on them. The proposal will have an adverse impact on the openness of the Green Belt as the ground mounted solar panels, perimeter fencing, transformer stations, compound area and substation structures cover an extensive area of the site. These structures are industrial in character and would significantly alter the character of the land from open farm land to a solar farm. The proposal is considered to have an adverse impact on the character and openness of the green belt.

Objectors are concerned about the adverse impact on the current open green aspect of the site. Although the structures are proposed for a temporary period of 25 years the permanent structures will still have an adverse impact on the openness of the Green Belt and are industrial in character.

It is recognised that following the amendment to Area 4, there are no significant views of the site. Despite this though the development will remove the site from traditional farming use and bring with it the existence of development which by virtue of its height, design and area of coverage is not open in nature.

#### Purpose of including land within the green belt

The NPPF, BCCS and UDP all define the five purposes of Green Belt land as follows:  
to check the unrestricted sprawl of large built-up areas;

to prevent neighbouring towns merging into one another  
to assist in safeguarding the countryside from encroachment;  
to preserve the setting and special character of historic towns; and  
to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The site is within a part of the green belt that is on the edge of the built up area and as a consequence the key green belt functions which it performs are to check the unrestricted sprawl of large built up areas and to assist in safeguarding the countryside from encroachment. It is a relatively narrow area of Green Belt that separates urban areas. The proposed solar farm encroaches into the countryside extending the built up area where there is presently farm land and is contrary to this purpose of including land within the green belt. Objectors are also concerned about this impact as they consider unsightly solar panels are a waste of green space.

### **Very Special Circumstances**

As the proposal is inappropriate development in the Green Belt the developer has to demonstrate very special circumstances to outweigh the harm to the Green Belt. The developer has stated a case that the need to provide renewable energy, limited degree of harm on the landscape and visual amenities and the fact that the use is temporary and reversible coupled with biodiversity enhancements outweigh the harm to the green belt by reason of inappropriateness or any other harm.

Whilst the merits of production of renewable energy are given some weight is the decision [process it is noted that any national environmental benefits from renewable energy](#) production could equally well be obtained from sites on land outside the Green Belt. The applicant has not shown through a sequential site assessment why this scale of development could not be accommodated on a site outside of the Green Belt.

Objectors consider that the solar farm is equally unsuitable for the site as the wind turbine proposal reference 11/0802/FL was which was refused and dismissed at appeal in 2013. It is acknowledged though that whilst both proposals relate to renewable energy production, this development differs notably in character from a wind turbine in terms of appearance and motion and the reasons used in the assessment of that application cannot be directly applied to this development.

For the reasons given above it is not considered sufficient evidence has been put forward to prove very special circumstances of a sufficiently strong nature to outweigh the harm to the openness and character of the Green Belt or purposes of including the land within the Green Belt.

### **Landscape and Visual Impact**

There are limited views across the site from surrounding areas due to the presence of the existing hedgerows and topography of the land. The key view is from the canal adjacent to Field 4. The plans have been amended to reduce the extent of the solar panels on field 4 and incorporate additional planting and double hedgerows. This will screen the view and limit any adverse visual impact.

Due to the nature of the glass used which is intended to absorb solar energy, the panels are designed to reduce any potential impact from glare.

Objectors consider that grazing amongst the solar panels will not help the visual aspect of the site which will remain industrial in appearance. They also consider that the site will be visible above the hedgerows and obtrusive to views from the public footpath and adjacent canal. The hedgerows will be managed to a height that will screen fencing and the panels and the additional planting will help screen the views of the site from within the surrounding landscape.

Due to the nature of the topography the landscape and visual impact of the proposals is not significant considering the measures highlighted in the landscape and biodiversity management plan could be secured through conditions.

#### Ecology

A landscape and biodiversity management plan has been provided to support the proposal that identifies new planting, establishment, maintenance and management and additional biodiversity measures. Tree and hedgerow planting is indicated and enhancements on Jack Holes SINC. These measures are welcomed and will help protect the adjacent Jack Holes SINC and wildlife corridors to benefit the ecology of the area and local wildlife. The proposals have been amended to reduce the extent of solar panels on field 4 and to enhance the landscaping to enhance biodiversity.

Objectors are concerned about the potential adverse impacts on wildlife but the proposed landscape and biodiversity management plan could be secured by conditions if the application were being recommended for approval.

#### Relationship to **surrounding properties**

The nearest property is the farm house itself and beyond this the residential properties on Bosty Lane to the north and residential areas to the north and east (Middlemore Lane West/Bosty Lane/Linley Wood Road/Redhouse Lane areas). The housing on Bosty Lane is over 140m away from field 2 which is nearest. Given the existing hedgerows will be managed to a height of 3m this will screen the deer fencing and solar panels from view from the housing.

The farm house is over 80m away from the compound area which is nearest and fields 2 and 3 but is well screened by existing trees and hedgerows. The proposal will not be prominently viewed from the farm house. It is likely that there will be some disturbance during construction of the solar farm but given this is a working farm and there are surrounding farm buildings then the construction will not have undue adverse effects on the residential amenities at the farm house.

The closest relationship is that with the canal to the north of field 4 from where there are views across the field. The proposal has been amended to reduce the extent of solar panels across this field so that the enclosed area is now 80m away from the canal. A new double thickness hedgerow along the boundary with the canal is proposed and a further hedgerow outside the fenced compound and along the edges of the field to be managed to 3m height. This will screen views from the canal to reduce the impact.

In terms of potential for construction traffic to cause disturbance to surrounding neighbours a construction management plan would be secured by an appropriate condition if the application were recommended for approval in order to protect residential amenities.

The relationship to surrounding properties is considered acceptable.

#### Access and parking

The proposal includes utilisation of the existing farm access with new gravel access tracks formed to each of the four fields leading to the transformer stations. This will allow access for maintenance.

The Transportation officer is satisfied with the means of access but has requested a Construction Methodology Statement to secure an appropriate method of construction traffic management.

The proposal does not have any impact on the adjacent public footpath.

The means of access and parking is satisfactory.

Positive and Proactive working **with the applicant**

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information and additional revised plans have been submitted. However, in light of the impact on the green belt officers are unable to support the scheme.

**Recommendation: Refuse permission.**

**Reasons**

1. 1. The proposed development would have an adverse impact on the character and openness of the green belt due to the industrial nature of the proposed solar farm and ancillary fencing and structures and would encroach into the countryside resulting in industrial sprawl within the green belt at a sensitive location contrary to the purposes of including land within the green belt. No very special circumstances have been justified to outweigh the harm to the green belt. For these reasons the proposals are contrary to the aims and objectives of the National Planning Policy Framework, Black Country Core Strategy policies CSP2, ENV2 and ENV7 and Walsall Unitary Development Plan Policies ENV2, ENV3 and ENV32.





# Walsall Council

## Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

**Plans List Item Number: 3.**

**Reason for bringing to committee:** Contrary to policy

**Location:** COUNTY BRIDGE SERVICE STATION, WOLVERHAMPTON ROAD WEST, WALSALL

**Proposal:** DEMOLITION OF PETROL FILLING STATION AND ERECTION OF NEW 24HR PETROL FILLING STATION WITH ANCILLARY SHOP, ATM, FORECOURT, CANOPY, HGV PUMPS, REPLACEMENT FUEL TANKS, CAR PARKING AREA, ERECTION OF 4M HIGH ACOUSTIC FENCE TO REAR AND LANDSCAPING.

**Application Number:** 14/1719/FL

**Case Officer:** Paul Hinton

**Applicant:** Euro Garages Limited

**Ward:** Willenhall South

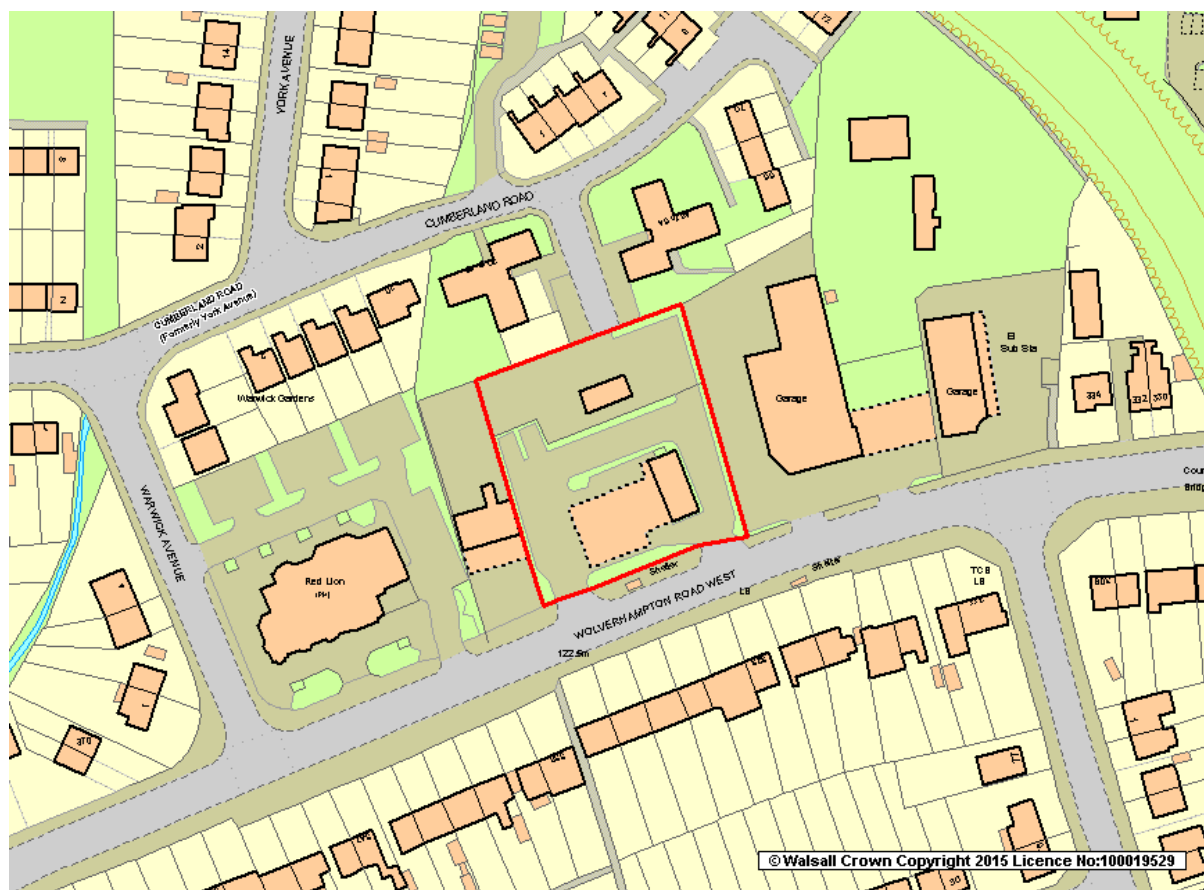
**Agent:** GC Town and Country Planning

**Expired Date:** 12-Jan-2015

**Application Type:** Full Application

**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Officers Report**

14/1719/FL – **Demolition of petrol filling station and erection of new 24hr petrol filling station with ancillary shop, ATM, forecourt, canopy, HGV pumps, replacement fuel tanks, car parking area, erection of 4m high acoustic fence to rear and landscaping.**

### **Application and Site Details**

This application seeks planning permission for the redevelopment of this existing petrol filling station. The existing canopy and ancillary shop would be demolished and replaced and in addition a separate canopy towards the rear of the site for use by HGVs is proposed. The existing jet wash area would be removed and the existing fuel tanks would be replaced. At the rear of the site a 4m wide landscape buffer is proposed which is secured by a timber fence which forms the boundary with three storey flats to the rear. To the other side of the 4m landscape buffer a 4m high acoustic fence is proposed.

**The existing petrol station has a 21.6m by 15.2m, 5.2m high canopy in the middle of the site which serves eight pumps. To the one side is the sales shop (16m by 7m, 4m high) with its side elevation facing the road. At the rear of** the current site are two uncovered HGV pumps behind which is a vacant piece of land where a disused building is located (formerly a workshop). The petrol filling station would extend into this area (a further 15m) of land which is where the HGV pumps and canopy would be located and also the landscape buffer.

Customer and staff parking takes place on the hardsurfaced areas around the site. The proposed shop would be (24m by 12.6m with a mono pitch roof rising from 4.2m to 5m in height) located in a similar location and orientation as the existing building. The building would be finished in insulated cladding panels in merlin grey colour with facing brickwork at the base and with a composite roof. The shop front would be mainly glazed with an ATM machine.

**The domestic canopy (8.8m by 26.5m with** a semi-circular roof height rising to 7.2m) would cover eight fuel pumps and is supported by four columns with a Perspex roof. The HGV canopy would be 8m by 8.5m, with a semi-circular Perspex roof rising to 8.2m and would be set back 40m from the road. Flood lights are proposed on both the building and free standing lamps around the site. Eleven designated parking spaces (including one disabled space) are proposed at the front of the shop with an enclosed bin store within the corner of the site. The surfaces would be a combination of concrete, bitmac paving and block paving. The proposal would introduce one way vehicle system using the existing ingress and egress and partly separating domestic and commercial vehicle movements. Tactile paving is proposed to the crossing points within the public footpath and a pedestrian crossing point from the pavement, across the forecourt and into the shop. The application seeks to continue to open 24 hours per day, seven days a week.

**The petrol station is** located on Wolverhampton Road West (District Distributor – B4464), with houses across the road, flats directly to the rear along Cumberland Road where there are also houses in proximity. To the northern boundary is a Volkswagen car showroom, to the southern boundary is Spar convenience shop with the Key Master (former Red Lion) Public House to the other side of the Spar. The nearest parade of shops is on the corner of Wolverhampton Road West and Bentley Road North, 775m away, Bentley Local Centre is 870m away, with Willenhall District Centre 1.2km away. Junction 10 of the M6 and access to the Black Country Route are 1.3km away. This is a long established unrestricted petrol filling station.

The application is supported by the following documents:

#### Design and Access Statement

New shop will be ancillary to the primary use of the site which is for the sale of fuel but will act as a local convenience store primarily for motorists but also for local residents.

Existing 108sqm floor area of shop replaced with larger shop of 293sqm of which 57sqm will be back of house.

#### Noise Assessment

Two sources of noise from the HGV pumps, the lorry driving up/leaving and the door slam as the driver leaves/enters the cab.

Door closing could be considered to be clearly perceptible with respect to existing noise environment without a barrier in place – however with a barrier would be just perceptible.

The noise generated by the arrival of a lorry and then being filled with fuel is very little different from the general noise character of vehicles on Wolverhampton Road West.

The revised layout of the Service Station could result in noise levels that are considered to be high with respect to the residential property to the rear of the site.

The noise level is affected by the noise from the car park of the public house and the 24 hour operation of the Spar shop.

It is proposed that an acoustic barrier is constructed adjacent to the internal road leading to the HGV pumps and that this barrier has a height of 4m above the surface of the internal road – the barrier must have a mass of at least 20kg/sqm and extend the full length of the boundary in order to prevent flanking noise around it.

If this is constructed then the calculations above show that the operation of the revised layout will have a low impact on the residents of the property during the period 23.00-07.00hrs.

#### Transport Technical Note

The level of parking, accessibility of the site and the existing provision of parking on the site are considered to be appropriate

Only two recorded slight accidents adjacent to the existing access points during five years; it is not considered that the road safety record is a material concern

While it is estimated there would be a marginal increase in turning movements at the site access resulting from the redevelopment, it is not considered this would lead to any material impact upon the highway network given the pass-by trip generating nature of the land use.

Swept path analysis has been undertaken of the revised site arrangement and demonstrated that the largest vehicles expected to use the site can be accommodated.

#### Coal Mining Risk Assessment

Risk posed to the ground surface from recorded workings is assessed as high and some form of mitigation may be required.

Risk posed to ground surface from any un-recorded working in shallow coal seams is assessed as negligible

Risk from current, future or past opencast workings is negligible

Risk to surface stability from recorded mine entries is negligible

Risk of un-recorded mine entries is moderate

Risk from spontaneous combustion is low.

To reduce the risk from shallow recorded workings it is recommended that the records lodged with the Coal Authority are examined to determine the depth of recorded workings and coal seams worked. Following that it may be that probe drilling is necessary in order to ascertain the depth of and potential for workings beneath the site.

#### Retail Policy Statement

There are no other sites available which would accommodate not only the shop part of the development but also the petrol filling station part of the development.

The proposal is not considered to have any impact on the vitality of Willenhall Town Centre as the proposal is small and sufficiently distant from the Town Centre.

Facility is provided for road users, but can be used by members of the public and accessed on foot, bicycle or using public transport.

Facility will improve on the existing ancillary convenience store at the site, providing a range of reasonably priced goods for the general public.

The primary use of the site is for the provision of fuel for motorists followed by the convenience requirements of motorists.

Euro Garages do not sell alcohol or fresh goods and prices may be slightly higher than local convenience store in the nearby centre and would therefore not attract local residents to divert custom from the existing convenience store in the Local Centre.

There is an existing 24 hours Spar shop adjacent which may divert trade from the Local Centre but the Euro Garages' site is aimed at motorists already on route towards the M6 motorway

The gross floor area proposed is 292sqm, the back of house 57sqm giving a total retail area of 236sqm, subtracting a 20sqm counter leaves 216sqm of retail floor spaces which half of that will be taken up with aisles and stands, therefore the actual retail space is less than 200sqm.

*The shop*, no matter what the size, is always ancillary to the petrol filling station use. The shop is not a retail destination in its own right, but is provided for the benefit of road users who are on the existing transport network.

The number of petrol filling stations have reduced from over 100,000 in the 1970s to less than 8000 in 2015. With low profit margins on fuel sales, petrol filling stations have had to adapt to convenience stores to survive. The convenience goods are aimed primarily at motorists and constitute only about 20% of overall sales. That margin is sufficient for an individual station to become profitable.

The original concept of a petrol station selling only motorist goods such as spark plugs, antifreeze, oil and fan belts etc. Is long outdated and the convenience goods do not replace the weekly shop carried out at large supermarkets, but provide additional choice for motorists who often rely on impulse buys when queuing for petrol.

- Geotechnical and Environmental Report
- Potential pollutant linkages associated with the site.
- Groundwater monitoring should take place prior to redevelopment. Dependant on results a detailed quantitative risk assessment may be required
- Comparison sales figures July 14-June 15
- A random selection of sales figures from 20 out of 180 EuroGarages sites have been submitted in showing the relationship between motor fuel and shop sales:

• Site	Shop size (sqm)	Fuel sales (%)	Shop sales (%)
Ashton Road	244	90	10
Beehive	395	88	12
Blackford Bridge	344	75	25
Clayton Brook	240	79	21
Deeside	370	91	9
Five Barred Gate	185	88	12
Gowy	225	83	17
Hanford	250	85	15
Larkhill	291	85	15
Newtown	328	85	15
Rivi North	825	89	11
Rivi South	950	91	9
Ross Spur	215	92	8

Royal Green	300	80	20
Runcorn	260	79	21
Stayley Bridge	200	81	19
Sudden	178	82	18
Thinford North	430	90	10
Uttoxeter	925	94	6
Westholme	240	90	10

### **Relevant Planning History**

BC08764P – Demolish existing buildings and rebuild as new petrol filling station. Granted subject to conditions 1/9/83.

BC09727P – Erection of workshop extension. Granted subject to conditions 22/2/84.  
Condition 6 controlled hours of use, Mondays to Fridays (09.00-18.00) and 09.00-13.00 Saturdays.

05/1927/FL/W5 – Redevelopment of existing service station to include new retail building, fuel forecourt and canopy, replacement fuel tank, parking and lighting.

#### **Spar**

14/0884/FL – Proposed demolition of existing front and rear single storey extensions, proposed single storey rear extension, new shopfront, ATM machine and car parking improvements. Granted subject to conditions 24/9/14.

### **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 business
- 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

**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 sustainable growth.

20 Meet development needs of businesses

21 Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Identify strategic sites for local and inward investment. Identify priority areas for economic regeneration

4. Promoting sustainable transport

32 Decisions should take account of safe and suitable access to the site can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

34 Developments that generate significant movement are located where the need to travel will be minimised.

35 Developments should be located and designed where practical to; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

7. Requiring good design

58 Developments should function well and add to the overall quality of the area and optimise the potential of the site to accommodate development.

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 or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution.

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.

123 Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts
- Mitigate and reduce to a minimum other adverse impacts on health and quality of life.
- Recognise that development will often create some noise
- 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](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 relevant policies are:

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity which are supported by the following policies:

The relevant key policies are:

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.

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

EMP1: Providing for economic growth and job creation.

CEN1: Black Country Centres will provide for the main focus for....service activities.

CEN3: The Strategic Centres should be the principle locations for major leisure, commercial leisure, entertainment, cultural facilities and services.

CEN6: New small scale local facilities outside of defined centres of up to 200 square meters will be permitted if;

- The proposal is of an appropriate scale and nature to meet a specific day-to-day need for a population within convenient, safe walking distance for new or improved facilities.
- Local provision could not be better met by investment in a nearby centre
- Existing facilities will not be undermined
- Access to facilities by means other than by car would be improved and within convenient, safe walking distance of the community it is intended to serve.

CEN7: Out-of-centre development will have to demonstrate that development cannot be provided in-centre or at edge of centres locations. Requirements of CEN6 need to be satisfied. Developments will need to be accessible by a choice of means of transport.

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

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

TRAN4: Cycle parking should be provided at all new development.

TRAN5: Sets out the requirement for development to focus on moving away from the reliance on the private car.

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

ENV3: Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits. Implementation of the principles of “By Design” to ensure the provision of a high quality networks of streets, buildings and spaces.

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

## 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 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.

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

ENV18: Protection and replacement of trees.

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

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

ENV40: Seeks conservation and protection of all water resources

S1: Defines retailing as an appropriate Town Centre use

S2: The role of the Local Centre is to meet the day-to-day convenience shopping and local service needs of their communities.

S5: Local Centres – retention, enhancement and further development of shops, services and other town centre uses will be encouraged.

S6: New small-scale local facilities will be permitted if it can be shown:

- i. The proposal is a scale and kind to meet a local need for improved facilities
- ii. The local need cannot be better met by investment in a nearby centre
- iii. There will be no likelihood of an adverse impact on the vitality and viability of any established centre in the Borough or elsewhere within the affected catchment area.
- iv. There will be no impact on existing local provision such as to leave some local needs unmet, contrary to efforts to promote social inclusion.
- v. The proposal will improve accessibility to facilities by means other than the car and, in particular, will be within convenient, safe walking distance of the community it is intended to serve.
- vi. The proposal will help to reduce the need to travel, especially by car.
- vii. There must be no significant loss of amenity for neighbouring homes.
- viii. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

S7: Sequential tests need to be undertaken to justify out of centre development of town centre uses in edge of centre locations, except where in accordance with policy S6.

S12: Petrol Filling Station Shops

- a) Retailing at petrol filling stations should be ancillary to the principle use of the site for the sale of fuel and confined to motoring accessories, newspapers and magazines, tobacco and confectionery and a limited range of basic food and convenience goods. The gross retail floorspace should not normally exceed 50 square metres.
- b) The customer base of such shops should primarily be motorists who are visiting the site to purchase fuel, although it is accepted that some petrol filling station shops also have a small element of walk-in trade from local people. The shop should not seek to trade as a significant retail destination in its own right.



- c) Proposals for retailing over and above that allowable under (a) and (b) will be subject to Policies S6 and S7.

S15: ATM facilities will be accepted in out-of-centre developments where a clear need can be demonstrated and they would not place at risk the continued provisions of such facilities. They should be appropriately located to ensure amenities of nearby residents are not adversely affected, can be used safely and off-street parking can be provided.

#### 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**

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.

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](http://www.walsall.gov.uk)).

#### **45 Degree code**

Extensions, which would breach the 45 degree code, will not normally be allowed, except for single-storey extensions where the length of the extension would not exceed 3.5 metres in length as measured from the nearest window in the adjoining dwelling.

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

### **Consultations**

**Transportation** – no objection subject to conditions relating to access, parking and operation.

**Environment Agency** – no objection subject to recommended conditions in regard to site investigation, mitigation, validation, foundation designs and preventing infiltration of surface water.

**Landscape Officer** – no objection.

**Pollution Control** – no objection. Acoustic fence is considered acceptable. Intrusive site investigation reports show some elevated levels of contaminants which are minor considering the end use. Sampling has not taken place around the tanks due to the site currently being in use, this will be required during the removal of the tank farm.

**Environmental Health** – no objection.

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

**Coal Authority** – no objection subject to use of conditions requiring site investigation and where necessary mitigation measures.

**Public Lighting** – no objection.

### **Public Participation Responses**

Surrounding occupiers notified by letter and site notice displayed

In respect of the original submission:

One letter has been received by consultants acting on behalf of the adjoining Spar convenience store, objecting to the application on the following grounds:

- Increased size of the shop, increase parking and increased staff indicates the proposed retail floorspace would not be ancillary to the petrol filling station
- Previously dismissed appeal at this site on grounds of being a significant retail destination in its own right.
- Other appeal cases resolve additional retail floorspace would not be ancillary to the petrol station.
- The application description does not accurately reflect the nature of the proposal, this is a proposed convenience store.
- Spar convenience store already meets the day-to-day needs of the population, with an approved extension further improving the store's offer.
- The applicant has not provided a sequential test or retail impact assessment
- The Technical Note does not provide complete or accurate information to allow an informed decision to be made as to whether or not the proposals should be recommended for approval, a Transport Statement should have been submitted.
- Without the reports the planning application should not have been validated.

Re-consultation has taken place in regard to an amended description which confirms the proposed 4m high acoustic fence and further information on retail considerations. A further letter has been received by consultants acting on behalf of the adjoining Spar convenience store, objecting to the application on the following grounds:

- Calculations using the Mintel Retail Rankings 2015 applied to the proposed retail space would give a turnover of £3.6m, compared to £7.43m for the sale of fuel, in the region of half of the overall turnover of the proposed development.
- Data published in the Petrol Retailers Association Market Review 2015, only 30% of typical forecourt customers buy fuel.
- The 236sqm sales area is larger than average sales area of the following convenience store operators:
  - Sainsburys Local – 215sqm
  - Spar - 155sqm
  - Tesco Express – 216sqm

- Nisa – 22sqm
- Premier – 116sqm
- Appeal case at Warwick in inspector did not accept a calculation based on convenience sales as a proportion of the total turnover of the site is appropriate way of examining the compatibility if the scheme with policy objectives.
- The Competition Commission in its “Grocery Market Investigation: Final Report” (2008) states at June 2006 Tesco Express stores sell a range of up to 7000 lines. Therefore the range of convenience goods that the proposed retail floorspace could provide cannot be considered to be ancillary.
- A further appeal in Warwick (by the applicants on this planning application) the Inspector in regard to 80%/20% balance between petrol and retail sales but did not consider the figure itself demonstrates that the proposal would be ancillary to the primary use and its retail offer.
- Do not consider a proposal to construct a four metre high fence in such close proximity to residential properties to be high quality design.
- Question whether enough light would be available for the landscaped area

### **Determining Issues**

- Principle of use
- Out of centre retail provision
- Land contamination/stability
- Impact upon visual amenity
- Impact on surrounding occupiers
- Impact on community safety
- Car parking, manoeuvring and access arrangements

### **Observations**

#### **Principle of use**

This is a long established petrol filling station. The proposal would look to continue this use with a redevelopment of the site. The principle of re-use of a petrol filling station would be acceptable and would not be contrary to current planning policies.

#### **Out of centre retail provision**

Proposals for shops at petrol filling stations have become increasingly common in recent years. At some petrol stations, the retail stores are not simply ancillary to petrol stations and as such can have an adverse impact upon the vitality and viability of Local Centres.

In 2006 an appeal in respect of redevelopment of this petrol filling station with a sales building of 376sqm was dismissed on the grounds that it failed to show the development would accord with the sequential approach and would be appropriately located. Since that decision the BCCS and NPPF have been published.

The current retail contribution is 108sqm with the application proposing 293sqm of which 57sqm will be back of house and will include shelving and circulation space. UDP policy S12 states that retailing at petrol filling stations should be ancillary to the principle use of the site with a limited range of basic food and convenience goods. The customer base should be primarily motorists and not seek to trade as a significant retail destination in its own right. Gross retail floorspace should not normally exceed 50sqm unless they comply with UDP policies S6 and S7. BCCS policy CEN6 defines small local facilities as up to 200sqm, with the proposed retail provision larger than this; CEN7 in regard to out of centre facilities is therefore relevant.

The increase in the car park provision by seven further spaces, the increase in staff from equivalent number of full-time from 7 to 13 suggests that the operator is indeed expecting

customers to visit the store for retail purposes alone. The objector refers to average sales area of convenience store, for example Tesco Express being 216sqm.

The applicant shows examples of other petrol filling stations where there is an average 80/20 ratio of fuel to retail sales. It is explained that Euro Garages' is not a retail destination in its own right, but is provided for the benefit of road users who are on the existing transport network site and aimed at motorists already on route towards the M6 motorway, they do not sell alcohol or fresh goods and prices may be slightly higher than local convenience store in the nearby centre and would therefore not attract local residents to divert custom from the existing convenience store in the Local Centre. The convenience goods do not replace the weekly shop carried out at large supermarkets, but provide additional choice for motorists who often rely on impulse buys when queuing for petrol.

A dismissed appeal case in Warwick (APP/T3725/A/11/2146677) for larger retail space at a petrol filling station the Inspector considered ancillary use as a matter of fact and degree and not derived from a policy threshold and in that case (26sqm of space rising to 121sqm) would not appear to be subservient to the petrol filling station and its nature and scale would be likely to cater for more than the needs of the passing motorist and become a draw in its own right, particularly given its prominent position on a main road.

The combination of the floor area, staffing and servicing in this application results in a proposal that is more than ancillary.

UDP Policy S6 and BCCS policy CEN6 state that out-of-centre development may be appropriate to meet specific local needs. However given the existing Spar convenience store which has planning permission for an extension of 199sqm, local need is already being served. In addition there is the nearby Local Centre of Bentley which provides a variety of shops that meet local needs including a convenience store, bakery, greengrocers and butchers. As meeting local needs consideration under is not applicable, the tests in UDP policy S7 and BCCS policy CEN7 are:

#### Need

The NPPF does not require proposals in out of centre locations to demonstrate a need; rather such proposals must establish that they would not harm retail interests in town centres and other centres.

#### Sequential approach

Whilst the applicant has not provided a detailed sequential assessment they have set out some of their requirements. Recent case law (APP/V4630/A/14/2213650) has established that if an alternative site is not suitable for the commercial requirements of the developer in question then it is not a suitable site for the purposes of the sequential approach. The NPPF also asks whether town centre sites are available, not whether they are likely to become available in the future. For this reason it would be not be suitable to argue for the disaggregation of the petrol filling station and shop and it is understood that the business model of petrol stations now require the sale of products other than fuel. Given the size and location requirements of alternative sites in a more central location officers are not aware of any more suitable sites for such a proposal to argue against the applicants statement that there are no more sequentially suitable alternatives.

#### Vitality and viability of existing centres

While a larger convenience store out-of-centre has the potential to draw trade and investment away from this centre the Council does not hold evidence to show that the level of impact in this case would be sufficient to harm the local centre. It is possible that whilst the shop may be of a scale larger than normally considered ancillary the location next to a Spar means that it is unlikely to become a destination store in its own right as any passing trade not requiring petrol could simply use the Spar which is a dedicated convenience store.

This would change if the petrol station and shop were taken over by a retailer such as Tesco who typically have express stores of the size proposed here. The proposal would allow for a national retail chain to locate here which could arguably have a more significant impact as is likely to attract more trade and from a further catchment area. Unfortunately it is not possible to prevent against this through planning but it is a potential risk that should be noted.

The centres of Willenhall and Bentley are some distance away and the application sits on a prominent site leading to the M6/Black Country Route. Officers do not have any evidence to demonstrate the proposal would draw trade away from existing centres or that it would deter future investment within the centres.

One of the tests in policy CEN6 is that existing facilities that meet day-to-day needs will not be undermined. The proposal would not remove a local facility, but would have a convenience provision aimed primarily at motorists which would be next door to an existing convenience store. It has been well established that refusal on ground of competition cannot be sustained.

Weight is given to the HGV element of the proposal which due to the national trend of declining petrol filling stations, the proposal would continue to support the commercial users located this side of the borough prior to using the motorway/Black Country Route.

ATMs in out of centre locations are considered acceptable providing they would not place existing facilities in established centres at risk. For the same reasons for the shop, the ATM would be unlikely to have an adverse impact on existing facilities and weight is given to there being an existing ATM at the site.

Subject to neighbouring amenity and highway safety considerations the principle of the increased shop size is acceptable. To maintain that the primary draw to the site is for the purchase of fuel it is considered necessary that the retail element is connected to the petrol filling station (should the petrol station close the shop would need to follow) and not used for any other purpose.

The objector feels that in the absence of a sequential assessment or retail impact assessment the application should not have been validated. These documents are not a validation requirement.

#### **Land contamination/stability**

Site investigations have been provided with the application. Neither the Environment Agency nor Pollution Control raise an objection to the application but require further assessments and where necessary mitigation measures to deal with the risk associated with contamination of the site. Conditions in regard to penetrative foundation designs and preventing infiltration of surface water are also considered necessary and are recommended.

A Coal Mining Risk Assessment has been submitted recommending further intrusive work. The Coal Authority raise no objection to the application subject to the use of a recommended conditions securing further assessments and where necessary mitigation measures as part of any building work. A relevant condition is recommended.

#### **Impact upon visual amenity**

The proposal seeks to increase the size of the shop building in both length and width and increasing the flat roof by 1m higher mono pitch roof while being largely in the same location as the existing building. The canopy would have a reduced width, with an increase length into the site. The flat roof would be increased in height by a further 2m through a modern semi-circular Perspex canopy. A new canopy for HGVs would be 8m by 8.5m also with a semi-circular roof rising to 8.2m; this would be set back 40m from the road.

From Wolverhampton Road West the increased sales building would be absorbed within this 51m wide site and would be considered against the greater massing of the adjacent commercial buildings. The use of grey cladding panels would bring a modern clean appearance to the site and would complement the cladding used within the Volkswagen showroom next door.

The main canopy would have a reduced massing from the streetscene and its increased length within the site would be absorbed without causing harm. The use of the semi-circular roof, while increasing the overall height would not be harmful due to the use of the Perspex roof which would provide relief.

From the street the HGV canopy would be viewed above the shop building, with its modest 8m width and Perspex roof ensuring its massing is not over dominant. While this open sided structure would have an increased presence there would continue to be views through and when considered against the wider proposal this would not cause significant harm to the appearance of the wider area.

At the rear of the site a 4m wide landscape strip is proposed, this would include a native shrub mix and tree planting. The tree planting includes hornbeam (potential to grow higher than 12m), silver birch (potential to grow higher than 12m) and wild cherry (potential to grow higher than 12m). Shrub planting is also proposed within areas at the front of the site. A landscape maintenance schedule has been provided setting out how this area will be maintained. The land at the rear is largely hard surfaced which surrounds the vacant workshop building with some self setting trees breaking through and a couple of trees to the boundary. This landscaping takes the opportunity to improve the visual amenity of the area.

### **Impact on surrounding occupiers**

This is an unrestricted petrol filling station located within a small parade of commercial buildings and fronting a busy district distributor linking Willenhall to Walsall and the M6/Black Country route junction. The petrol filling station currently operates 24 hours per day and that includes provision for commercial vehicles. The HGV diesel pumps are 32m away from the windows of the nearest residents in the flats along Cumberland Road with a 2m boundary fence and the vacant workshop building between. The proposed pumps would position HGVs 19m away from these windows. A noise survey has been undertaken which recommends that an acoustic barrier is constructed adjacent to the internal road leading to the HGV pumps and that this barrier has a height of 4m above the surface of the internal road, the barrier must have a mass of at least 20kg/sqm and extend the full length of the boundary in order to prevent flanking noise around it. If this is constructed then the calculations of the survey show that the operation of the proposed layout will have a low impact on the residents of the property during the period 23.00-07.00hrs.

While activities are closer to the flats than the current situation the existing 2m fence would not provide significant mitigation from the existing operations. Therefore it could be argued that the proposal, while closer, would through the use of the 4m acoustic fence provide greater protection to residential amenity. Weight is also given that there have been no objections to the proposal.

The location of the shop means that the building would not have an adverse impact upon outlook from either of the neighbouring properties to the front or rear. The 8.2m high HGV canopy would be 19m from the window of the flats. Due to its open design it is not considered this would result in a significant loss of outlook or light. In addition the 4m high fence would provide substantial screening of the petrol filling station building. It is acknowledged that the height of this fence is unconventional but would be 17m from the rear windows of the nearest flat with a 4m buffer of landscaping between and the existing timber fence being retained to the boundary. Accordingly the boundary would not have a significant impact upon outlook. The petrol filling station is to the south of the flats, therefore during the winter months the 4m high fence has the potential to cast a shadow across the shared

amenity areas and the rear of the flats. This loss is balanced against protection from the existing noise potential of the site.

### **Impact on community safety**

It is common practice that petrol filling stations provide CCTV systems. It is considered a condition is necessary for these to be provided.

### **Car parking, manoeuvring and access arrangements**

The access points are existing with improvements proposed to pedestrian accessibility through the use of tactile pavements at the crossing points and demarcated crossing across the forecourt.

In terms of UDP T13 parking policy, based upon the gross floor area the existing shop requires 8 spaces plus 1 disabled space and the extended shop 22 spaces plus 2 disabled spaces. The development looks to provide 10 spaces plus 1 disabled space outside the shop with a further 8 additional spaces at the pumps available totalling 19 spaces. While this is just below the policy requirement it is considered the provision available would meet the operational needs of the development.

An objection has been received which includes an assessment from a Transport Consultant considering that the Technical Note does not provide complete or accurate information to allow an informed decision to be made as to whether or not the proposals should be recommended for approval and a Transport Statement should have been submitted. In addition it is felt without the report the planning application should not have been validated. Transportation have considered the proposal against local knowledge of the road network, the existing lawful use of the site and the detailed designs and consider it to be acceptable. No further reports are necessary and the application was supported by the necessary information for it to be validated.

Conditions are recommended in regard to a revised plan widening the segregated pedestrian zone at the front of the building, re-positioning of the zebra crossing to avoid an existing telecommunications cabinet and the provision of cycle stands. In addition conditions are necessary for the surfacing and drainage of the forecourt, specification of revised kerb and tactile paving, details of directional signage and a construction methodology statement dealing with the parking of construction vehicles.

### **Positive and proactive working with the applicant**

Officers have liaised with the applicant's agent during the application process resulting in amendments to the proposal to enable full support of the scheme.

### **Recommendation Summary: 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, proposed layout and proposed elevations (1333.9) received 13.11.14
  - Existing site plan and site elevations (1333.7) received 13.11.14
  - Landscape layout (3143.01.Rev A) received 20.7.15
  - Landscape schedule of maintenance received 20.7.15
  - Proposed lighting (LS13036-1-2) received 17.12.15
  - Proposed building plan, elevations and roof plan (1333.10) received 13.11.14
  - Coal Mining Risk Assessment received 2.12.15

- Acoustic report received 13.3.15
- Geotechnical and Environmental Assessment Report (June 2006) received 30.4.15
- Environmental Assessment Report (November 2012) received 27.5.15
- Ground Water Monitoring Report (May 2012) received 27.11.14
- Transport Technical Note received 13.11.14

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 the development, a construction methodology statement shall be submitted to and approved in writing by the Local Planning Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located during the period of construction.

Reason: In order to minimise potential disruption to the free flow of traffic on Wolverhampton Road West, which is a classified road (B4464) and a District Distributor, during the period of construction in the interests of highway safety.

4. This provision shall be retained during construction in accordance with the approved details.

Reason: In order to minimise potential disruption to the free flow of traffic on Wolverhampton Road West, which is a classified road (B4464) and a District Distributor, during the period of construction in the interests of highway safety.

5. No development shall commence until an intrusive site investigation to establish the coal mining legacy and any remediation measures required to ensure the safety and stability of the proposed development have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safety and stability of the development.

6. The development shall be undertaken in accordance with any approved remediation measures.

Reason: To ensure the safety and stability of the development.

7. Prior to the commencement of built development the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
8. Following removal of the tank farm a supplementary site investigation scheme, ground contamination and ground water survey (having regard to current best practice) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site shall be undertaken. (See note for applicant CL1)

CL1 - Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in the National Planning Policy Framework (2012); British Standard BS10175: 2011+A1:2013 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground



gas and or groundwater before installation of same.

9. The supplementary site investigation results and the detailed risk assessment and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken shall be submitted to and agreed in writing with the Local Planning Authority. (See note for applicant CL2)

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.

10. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation in encountered development shall cease until the remediation strategy (b) has been amended and agreed with the Local Planning Authority.
11. Prior to the bringing into use of any part of the development a verification plan confirming the details of the remediation measures implemented together with details of the data that will be collected in order to demonstrate that the works set out in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. (See note for applicant CL3)

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.

12. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
13. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

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

14. Prior to built development commencing a revised site plan shall be submitted to and approved in writing by the Local Planning Authority, showing;-
15. The segregated pedestrian zone along the entire front elevation of the shop widened to 3.0m.

Note: The proposed segregated pedestrian zone around the front of the building is about 1.2m in width. Bearing in mind petrol filling station stores often have seasonal promotional goods for sale outside the store and around entrances, this is considered inadequate. DfT Inclusive Mobility guidance recommends footpath widths of between 3.5m to 4.5m outside shops. A footway width of 3.0m would be a reasonable compromise that should not significantly impact on the layout and operation of the service station but would greatly improve accessibility to the store entrance.

16. The proposed 'zebra' pedestrian crossing over the exit road, between the public highway and the shop forecourt, repositioned further to the east to avoid the existing telecoms cabinet which currently obstructs the existing footpath, together with the provision of tactile paving on at both ends of the zebra crossing point.
17. The provision of at least two bicycle stands for the use of staff or shop customers, to be positioned as near as possible to the shop entrance.

Reason: To ensure adequate pedestrian and vehicle segregation to the store and around the store entrance, in accordance with UDP Policy GP2 and to encourage sustainable modes of travel in accordance UDP policy T13 and BCCS policy TRAN4.

18. 7a. Prior to built development commencing drainage plans for the disposal of surface water and foul sewage shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the quality of controlled waters in the local area and to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

19. 7b. The scheme shall be implemented as approved and maintained.

Reason: To protect the quality of controlled waters in the local area and to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

20. 8a. Prior to built development commencing details of all boundary treatment, including materials and finishes have been submitted to and approved in writing by the Local Planning Authority. The details shall include the precise location of an acoustic barrier 4m in height at the rear of the site with a mass of 20kg/sqm and in accordance with the findings of the Noise Assessment received 13.3.15.

Reason: In the interests of visual amenity and protecting the amenity of neighbouring occupiers.

21. The approved details shall be implemented prior to the development first being brought into use. The acoustic fence shall thereafter be retained.

Reason: In the interests of visual amenity and protecting the amenity of neighbouring occupiers.

22. Prior to built development commencing a schedule for all external materials to be used within the development shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development

23. The development shall be built in accordance with the approved materials and retained.

Reason: To ensure the satisfactory appearance of the development

24. The development shall not be brought into use until details of the location of a litter bin has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

25. The litter bin shall be available for use prior to first operation of the petrol filling station and available during opening hours and retained.

Reason: In the interests of visual amenity.

26. The development shall not be brought into use until details for CCTV covering the inside of the shop and the forecourt area has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of security and preserving residential amenity.

27. The approved details shall be implemented before the development is brought into use and thereafter retained in working order.

Reason: In the interests of security and preserving residential amenity.

28. Prior to the development first coming into use, the following works shall be undertaken in accordance with the approved details;

- i) All parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced, drained to ensure surface water from the development does not discharge onto the public highway and the parking bays clearly demarcated on the ground.
- ii) The proposed kerb realignments and the installation of tactile pedestrian paving on the existing bellmouth access points on Wolverhampton Road West, which shall be undertaken a specification to be approved and agreed in writing and implemented to the satisfaction of the Local Planning Authority.
- iii) The installation of the 'Zebra' pedestrian crossing across the exit road, with tactile paving at both ends,
- iv) The installation of appropriate signing and lining within the site to clearly indicate to customers and operators alike that the site operates a one-way access and egress arrangement, details of which shall be submitted to and approved in writing by the Local Planning Authority.
- iv) The installation the bicycle stands for the use of staff or shop customers,

29. These areas and facilities shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development, in accordance with UDP Policy GP2, T7 and T13, Black Country Core Strategy TRAN4, to ensure the satisfactory completion of the required improvements to the existing access points and in the interests of highway safety.

30. The landscape scheme hereby approved shall be implemented before the development is brought into use and retained for 5 years.

Reason: To preserve and enhance the visual amenities of the locality

31. Any trees or plants, which die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species.

Reason: To preserve and enhance the visual amenities of the locality

32. The lighting to the development shall be carried out in accordance with approved drawing Proposed Lighting (LS13036-1-2) received 17.12.14, retained and maintained.

Reason: To safeguard the amenities of the area.

33. There shall be no provision of vacuum, car wash, jet wash or hand washing facilities.

Reason: To define the permission.

34. The sales building shall be used for the sale of convenience and motoring related goods. The premises shall not be used, in whole or in part, as a post office or pharmacy.

Reason: To ensure retail facilities which have a role in serving the wider community are provided and retained in existing centres.

35. The site and buildings shall remain in single occupation and shall not be subdivided to form two or more units in separate occupation. If at any time the petrol filling station ceases trading, the associated shop shall also cease trading.

Reason: In the interests of avoiding harm to the vitality and viability of existing centres.

36. There shall be no increase in the size of the sales area shown on the approved plans.

Reason: In the interests of avoiding harm to the vitality and viability of existing centres.

37. No public address facility, tannoy system, radio, electrical or electronic sound production or amplification system or similar device, which could be audible beyond the boundary of the site, shall be installed internal or external to any building or structure.

Reason: To protect the amenity of neighbouring occupiers

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

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

Reason: In the interests of the amenity of adjoining residents.





## Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

**Plans List Item Number: 4.**

**Reason for bringing to committee:** Called in by Councillor Wade on grounds of impact on amenity of neighbours and impact on surrounding area.

**Location:** OFFSHORE STAINLESS STEEL LTD, LICHFIELD ROAD, BROWNHILLS, WALSALL, WS8 6JZ

**Proposal:** RESUBMISSION OF 14/0322/FL FOR: REMOVAL OF OFFICE ACCOMMODATION TO FRONT AND REPLACEMENT WITH EXTENDED INDUSTRIAL FLOOR SPACE, EXTENSION TO SIDE AND SECURITY GATES AND FENCING.

**Application Number:** 15/0387/FL

**Case Officer:** Paul Hinton

**Applicant:** Offshore Stainless Steel

**Ward:** Brownhills

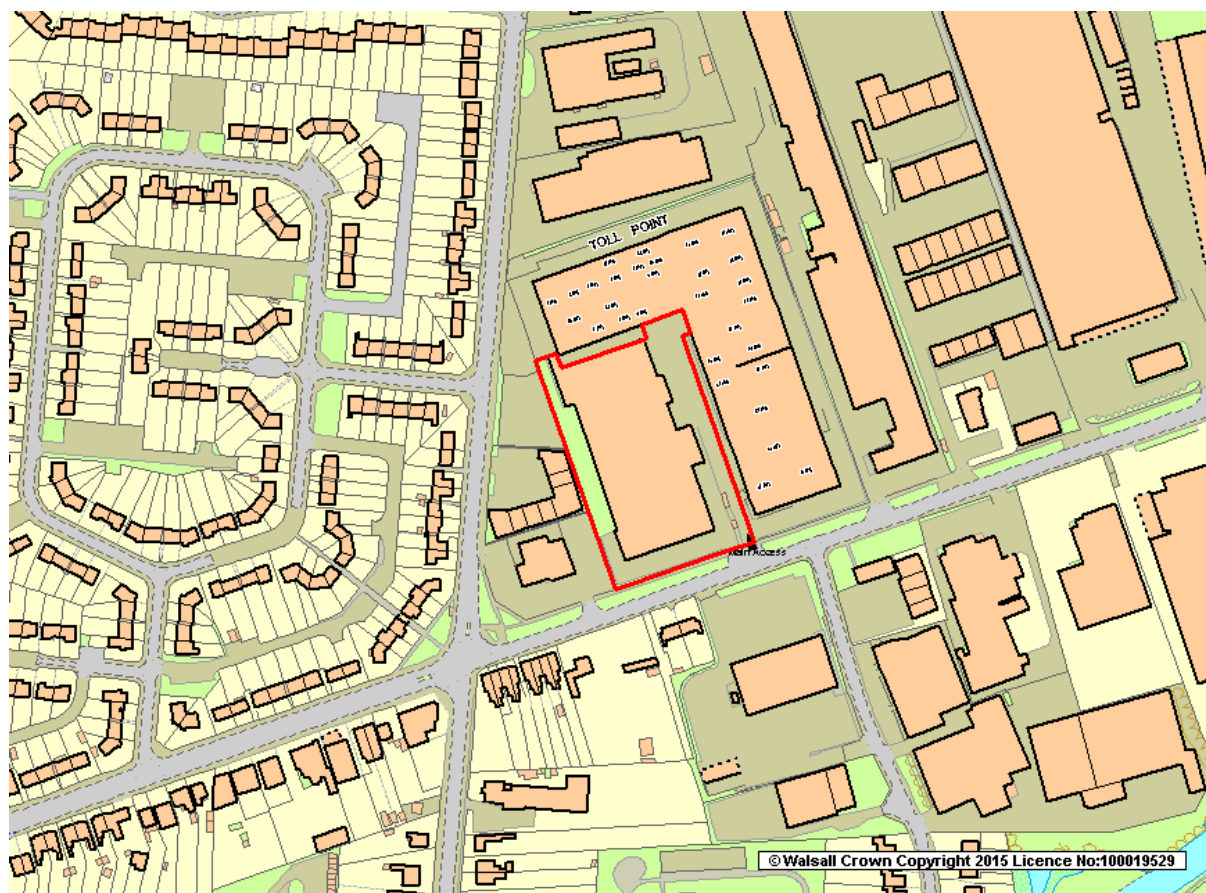
**Agent:** Stephen Capper Design and Planning

**Expired Date:** 25-May-2015

**Application Type:** Full Application

**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Officers Report**

15/0387/FL – Resubmission **of 14/0322/FL for: Removal of office accommodation to front and replacement with extended industrial floor space, extension to side and security gates and fencing.**

**Offshore Stainless Steel, Lichfield Road, Brownhills, WS8 6JZ**

### **Application and Site Details**

**This application seeks planning permission** for the removal of the existing low level office accommodation to the front of this factory and in its place proposes to extend the front of the building bringing it 2m closer to the road. A 6m wide extension is proposed to the eastern side of the building and a 3m wide extension to the western side. The extension would have a maximum height of 8.5m. For the first 2m the extension would have facing brickwork with the rest of the elevation blue profiled metal sheeting. Six high level fixed windows are proposed to the front elevation.

The extension would be used as part of an expansion to the operational floor space of the factory including a covered loading and unloading area.

Between the building and its front boundary hedge is a car park, this can currently accommodate 18 spaces, the proposed extension would result in the loss of five spaces to the front, 11 alternative parking spaces are proposed to the rear of the building and a cycle shelter proposed to the front resulting in a total of 24 spaces.

The application also shows commercial access arrangements for deliveries and dispatches using the shared drive of the next door property where vehicles will turn round deep within the site and then enter the building at the rear for loading/unloading to take place within the building itself. For commercial servicing the proposal would utilise a one way system. Between the shared drive and the side boundary of the curtilage area it is proposed to erect 2.4m high palisade fence, to the front a 3m high fabricated set of gates, powder coated in black are proposed to secure the frontage access to the car park and factory egress.

**The application site is on the northern side of Lichfield Road and is part of Chase Road/Lichfield Road Core Employment Area that contains a mix of small to large industrial units. To the east and north of the application site is Toll Point a large industrial** building that has been subdivided into a number of smaller units, to the west is a vehicle garage (tyres, exhausts etc.). Directly across the road are a pair of semi detached houses, numbers 206 and 208 Lichfield Road, further to the west and towards the junction with Chase Road and Ogle Road are ten further houses. Across the road and towards the east is a commercial vehicle hire premises. Lichfield Road (B4155) is a busy distributor that links the A5 to Brownhills.

The application is supported by the following documents

#### Design and Access Statement

Offshore Stainless Steel Ltd have occupied the site since October 2012 and process steel products predominately for the offshore oil and gas industries.

The company supply steel plate and bars and provide services that include shot blasting, sawing, grinding, tagging, drawing and straightening

To meet the increased demand from the oil and gas sector it is necessary to enlarge the facilities. Additional staff will be required increasing the number from 34 to 40. This staff will be sourced locally.

**Whilst** the company have permission to operate night shifts, by increasing floor area and hence machinery it is proposed to eliminate night shifts, reducing hours to 06.00 to 24.00

**Acoustic profiled metal cladding to be fitted above** brickwork to front elevation.

Acoustic roller shutter door and acoustic curtain to be fitted. Roller door will be electrically operated and only open during the exiting of transport.

Deliveries on average consist of three large lorry loads during the day. Outgoing deliveries are of smaller lorries

Initial appraisal of the impact of noise from proposed changes

Access doors into the storage area at the front should remain closed

Access between the new storage area and the factory may require plastic strip curtaining to reduce the degree of noise movement.

There should be no cause for complaint for daytime running of the factory with the planned changes made as long as the factory noise remains contained.

#### Relevant Planning History

Application site

BC16939P – Established Use Certificate for Manufacture of Metal Products. Lawful  
11/6/1986

03/0259/FL/E5 – Erection of covered loading bay and inspection room, re-roofing of existing works, reorganisation of car park, erection of two metre fence. Granted subject to conditions 4/4/2003.

03/2084/FL/E6 – Alterations to Planning Permission 03/0259/FL/E5 – Granted subject to conditions 22/12/2003.

#### **Toll Point**

**BC49033P** – Redevelopment of existing light industrial facility to provide additional industrial and office area. Granted subject to conditions 9/6/97

#### 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

contribute to conserving and enhancing the natural environment and reducing pollution.

Key provisions of the NPPF relevant in this case:

1. Delivering sustainable development

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 Decisions should take account of safe and suitable access to the site can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.



34 Developments that generate significant movement are located where the need to travel will be minimised.

35 Developments should be located and designed where practical to; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

7. Requiring good design

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 or being put at unacceptable risk from, or being adversely affected by unacceptable levels of... noise pollution.

120 The effects (including cumulative) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution should be taken into account.

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)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](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

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity.

The relevant key policies are:

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.

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

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

EMP2: Encourage high quality development/redevelopment and discourage development that prejudices quality, dilutes employment uses or deters investment.

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

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

TRAN4: Requires new developments to link to existing walking and cycling networks. Cycle parking facilities should be provided at all new developments.

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](http://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: i) Visual appearance, ii) The creation of, or susceptibility to, pollution of any kind, vii) Accessibility by a choice of means of transport, 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 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.

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

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

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

ENV40: Seeks conservation and protection of all water resources.

4.4 Core employment uses are defined as B1b, B1c, B2 and B8 of the Use Classes Order and are locations of strategic importance and good accessibility which contain major concentrations of these uses. Core employment areas will be safeguarded for core employment uses.

JP5: Core Employment Areas will be safeguarded for core employment uses.

JP8: The location of bad neighbour uses will be given very careful consideration.

T1: Help anybody, including disabled people, in getting around, including the design of highways and footpaths, with provision of safe crossing facilities.

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.

T8: Encourages greater use of walking as a healthy and sustainable form of travel.

T9: New developments should meet the accessibility standards for cyclists. The design of cycling infrastructure should be safe and secure for all users.

T12: Industry (B1b&c, B2 and B8) i) developments should be within 400m walking distance of a bus stop ii) The service frequency should be at least 30mins during working hours.

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% of all parking spaces should be reserved for disabled people.

Use class B2: 1 car park space per 50m<sup>2</sup> up to 250m<sup>2</sup>, then 1 space for every additional 100m<sup>2</sup> of gross floorspace. 1 bike locker for every 10 parking spaces. Taxi facilities.

Use class B8: 1 car park space per 50m<sup>2</sup> of gross floorspace up to 250m<sup>2</sup>; then 1 space per 100m<sup>2</sup> up to 2500m<sup>2</sup>; then 500m<sup>2</sup> of gross floorspace. 1 bike locker for every 10 car parking spaces. Taxi facilities.

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

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.

Walsall Employment Land Review

Area 1: Retain as Potential High Quality

Consultations

Transportation – no objection subject to use of recommended conditions in regard to demarcating and retaining parking spaces, keeping clear vehicle manoeuvring areas, display of no entry signage and details of cycle store.

Pollution Control – no objection subject to use of recommended conditions in regard to use of noise related condition in regard to construction materials.

Environmental Health – no objection.

Crime Reduction Officer – no objection.

Severn Trent Water – no objection subject to the use of recommended condition in regard to full drainage details of the proposal.

- Public Participation Responses
- Surrounding occupiers notified by letter and site notice displayed.
- Two letters have been received from nearby neighbours objecting to the application on the following grounds:
  - No mention what the building is to be used for.
  - Currently continuously harassed by repetitive vibration and noise coming from the building, day and night.
  - Object to 24 hours permission due to close proximity and current disturbances.
  - Making the building higher and nearer will only increase the noise levels.
  - Aesthetic outlook would be detrimental.
  - This is a semi-residential; and semi-industrial area.
  - Company previously promised not to draw large diameter bars outside the hours of 07:00 and 19:00, but have experienced this before 07:00 going back on their promise which leads to believe they will not follow all their proposals in the planning application.
  - Should be a stipulation that anti vibration pads are applied to the machinery as part of application.
- The extension should be for storage only.
- Seeks to know if forklift trucks will be contained to the interior of the warehouse.
- Constant humming sound from the extraction unit to the side of the building.
- Affects light quality to front elevation of home.
- Concerned about lorries pulling up outside the site causing problems for traffic double yellow lines should be put along this part of the road.

### **Determining Issues**

- Principle of development
- Impact upon visual amenity
- Relationship to residential properties on Curtin Drive and the surrounding area
- Car parking, manoeuvring and access arrangements

### **Observations**

#### **Principle of development**

The application site falls within a designated Core Employment area. The proposed extension to this established general industrial use (B2) is consistent with UDP policy JP5. The size and position of the extension would ensure a more efficient use of the site in accordance with the needs of modern industry. The Employment Land Review considers the site and the immediate adjoining industrial area as Potential High Quality. The site continues to be allocated for core employment use, an area of strategic importance for industrial use. The principle of the extension and continued use of the site is supported.

#### **Impact upon visual amenity**

The existing building is a maximum of 10.6m in height and has been altered and extended over the years to give areas of irregular shapes. The proposed extension would have a maximum height of 9.6m, with a width of 55m which is the same maximum width as the existing building. The extension would be 9m from the pavement, being brought 2m closer to

the road. The building is finished with blue metal cladding sheets with a flat roof office building to the front. Along the front boundary is a mature conifer screen hedge. The adjoining building at Toll Point is two storey in height, clad in profile metal and projects slightly further forward than the office building. The proposed extension would be the equivalent of two storey in height, with the bottom 4.6m finished in facing brickwork and the remaining to be metal profiled cladding finished in blue. Within the front elevation six windows are proposed within the metal cladding with space in the middle for space for the company name. One high level roller shutter door is also proposed along the front elevation.

Given the context of the area, both the massing and fenestration the extension would not appear out of character, taking the opportunity to use appropriate materials that would not cause harm to the visual amenities of the area. The boundary hedge also provides screening. A condition in regard precise details of materials is considered necessary.

The proposed 3m high metal gates at the front of the site and 2.4m high palisade fence to the side of the yard would be viewed in the context of similar boundary treatments in the area. Accordingly they would not appear out of character.

### **Relationship to adjoining occupiers**

The extension would be 35m from the front of the houses across Lichfield Road, concern has been raised about affecting light to neighbouring properties to the south, given the distance between the extension and the houses it is not considered the additional projection would cause any material loss of light that would cause any further loss of amenity to neighbours.

The application is presented as an extension to a general industrial building. Objections have been received on the grounds that the existing operations have caused harm through vibration and noise and object to 24 hour permission and that the extension should be for storage only. Neighbours request that there should be a stipulation that anti vibration pads are applied to the machinery and seek confirmation that forklift trucks will be contained to the interior of the warehouse.

This is a long established general industrial (B2) building in a core employment area. In regard to hours of operation and noise levels the building is unrestricted in planning terms. Pollution Control have received complaints about the premises which has been identified that there is a fault with the foundations upon which some of the machinery is placed. This has resulted in the transmission of vibration that can be sensed in the residential premises opposite the site and produces a noticeable "thump". The business operator has advised that this issue will be addressed by repairing and improving machinery foundations. Pollution Control is of the opinion that sound emanating from the use of this machinery is no longer a planning concern. While residents suggest measures are applied through this application because this is an existing issue within the existing building it is outside the scope of the powers of this application to apply such a requirement.

The noise reports indicate that noise levels inside the factory close to the offices that are to be demolished average 83 dB(A) with short episodes of up to 89 dB(A). Information supplied by the applicant indicates that the airborne sound reduction of the proposed cladding wall on the Lichfield Road façade is between 33dB and 36 dB and the proposed glazing is up to 40 dB. Provided no noisy equipment is relocated into the extension, noise from operations inside the factory should not give rise to any further significant loss of amenity to residents. The applicant explains that the extension would need to be available to serve future needs of the business and to be able to be used for both manufacturing and storage. Following the findings of the noise survey and the relationship to the houses across the road it is considered necessary that a planning condition is used that controls the noise levels. This would ensure that manufacturing operations (rather than just storage) could take place to assist the business needs, but within a reasonable noise level to safeguard the amenities of residential occupiers.

It is noted that the applicant currently has the option of 24hr use, but would look to operate between 06:00 to 24:00. In addition concern has been raised that the company has gone back on an informal agreement in terms of hours of operating more heavy machinery, with residents concerned that the company would not follow all their proposals in the planning application. As this is an application for an extension it would not be possible to remove the lawful rights of the rest of the building and to condition working hours for the extension only would be difficult to enforce; the noise level condition proposed would provide greater certainty and control.

The applicant explains that in addition to the acoustic cladding an acoustic roller shutter door and acoustic curtain would be fitted. The roller door will be electrically operated and only open during the exiting of transport. The noise survey comments that access doors into the area at the front should remain closed. A condition is recommended to ensure that the front acoustic roller shutter door is kept closed other than for the passage of vehicles and that an acoustic curtain should be fitted and retained

The site has been and is being used for industrial purposes that may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. It is recommended that an advisory note is attached to any planning approval issued.

While it is acknowledged that there are houses across the road, this is an allocated core employment site, a strategic area for industrial users and areas that provide a large number of jobs. The noise assessment and proposed mitigation measures considered in this industrial context demonstrate that the proposal would not result in a significant further loss of amenity to neighbouring residential occupiers.

Further mitigation measures are recommended during the demolition and construction phase of the development, to minimise impacts upon nearby residents. This would include restricting working hours, and measures to ensure dust and debris cannot escape from the site, including the cleaning of vehicle wheels and road-sweeping if necessary.

Due to the industrial past of the site, localised contamination may have occurred which may present Health and Safety implications for persons undertaking ground works. An advisory note is recommended.

### **Car parking, manoeuvring and access arrangements**

The proposed extension would result in the loss of five parking spaces at the front of the site, with 11 alternative parking spaces proposed to the rear of the building and a cycle shelter proposed to the front. 24 parking spaces would be provided at the site. The proposal also looks to introduce a one-way system for commercial vehicles, with ingress using the neighbouring driveway to Toll Point where vehicles would turn at the end of the drive and enter the loading bay at the rear of Offshore Steel, vehicles would then travel into the building to unload/load then leave the front of the site via the new high level roller shutter door and exit onto the Lichfield Road in a forward gear.

Under UDP parking policy T13 there is a maximum requirement for the existing building to have 52 parking spaces, therefore the current provision is 38% of the policy requirement. The requirement for the proposed extended premises is 57, 42% of the policy requirement. In parking policy terms, the proposed development will increase this ratio from 38% to 42% and hence is considered a betterment in this respect. The applicant has stated that the maximum number of staff on any one shift is 16 and of these 11 travel by car, 1 by bus, 2 cycle and 2 walk. There are bus stops along Chase Road and Ogleby Road within 200m walking distance that have regular services.

Transportation raise no objection to the application. Due to the provision of 24 parking spaces, a cycle store for 6 bikes and access to public transport it is considered that there is sufficient parking provision to meet the needs of the development. Conditions in regard to

demarcating and retention of the parking spaces, vehicle turning areas, signage to be erected to clearly show the one way circulation arrangement for HGVs, details of the cycle shelter and access gates opening inwards are considered necessary and are recommended.

Concerned have been raised about lorries pulling up outside the site causing problems for traffic and seek double yellow lines should be put along this part of the road. As the application demonstrates sufficient arrangements for vehicles to enter, unload/load and exit within the application boundary there would be no need for further measures.

### **Positive and proactive working with the applicant**

Officers have liaised with the applicant's agent during the application process to ensure full information has been provided to enable full support to be given to the scheme.

### **Recommendation Summary: Grant Permission Subject to Conditions**

#### **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 application form and following plans and documents: -
  - Location plan received 30/3/15
  - Existing block plan received 30/3/15
  - Proposed block plan received 20/8/15
  - Existing plan (800/1) received 12/3/15
  - Proposed plan, front extension (800/2/C) received 12/3/15
  - Existing elevations (800/3) received 12/3/15
  - Proposed elevations (800/4/C) received 12/3/15
  - Proposed street scene and gate details (800/6) received 12/3/15
  - Proposed fencing details received 30/3/15
  - Initial appraisal of the Impacts of Noise from proposed changes received 28/3/15
  - Environmental Noise Source Diagnosis received 7/7/15
  - Design Statement received 30/3/15
  - Built-up metal roof specification received 12/3/15
  - Built-up metal walls specification received 12/3/15
  - Acoustic roller shutters specification received 12/3/15

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

3. No development shall commence until a Construction Working Plan including measures for controlling dust, flying debris, and drag-out from the site during the demolition and construction operations have been submitted to and agreed in writing by the Local Planning Authority.

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

4. The agreed measures shall be implemented and maintained throughout the duration of demolition operations and construction activities.

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

5. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority.

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

6. The approved details shall be implemented before the development is first brought into use.

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

7. Built development shall not be carried out until a schedule of facing materials to be used in the external walls, roofs, doors and rainwater goods have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

8. The development shall be completed in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the development.

9. No 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 Monday to Fridays 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 the occupiers of adjoining premises.

10. Prior to the development first coming into use details of signage to be displayed at the main access point on Lichfield Road directing HGV's to the internal one-way circulation arrangement as shown on the approved plans shall be submitted for written approval by the Local Planning Authority.

Reason: To ensure the safe and satisfactory operation of the development, in accordance with UDP Policy GP2 and in the interests of highway safety.

11. The approved signage shall be displayed prior to the development first coming into use. The signage and one way HGV access arrangement shall be retained.

Reason: To ensure the safe and satisfactory operation of the development, in accordance with UDP Policy GP2 and in the interests of highway safety.

12. Prior to the development first coming into use, full details of the proposed cycle shelter, which shall be covered, secure and illuminated, shall be submitted to and approved in writing by the Local Planning Authority.

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



13. The approved details shall be installed prior to first use of the development and shall be retained and used for no other purpose.

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

14. Prior to the development first coming into use the numbered parking spaces on the approved block plan received on 20/8/15 shall be clearly demarcated on the ground. The spaces shall thereafter be retained and used for no other purpose.

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

15. The wall to be erected on the Lichfield Road frontage shall have a minimum weighted sound reduction of 36 dB.

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

16. The wall, cladding, glazing and roller-shutter doors shall be implemented in accordance with the approved details and an acoustic curtain behind the roller shutter doors shall be installed prior to the development hereby permitted first being brought into use. These measures shall thereafter be retained.

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

17. No machinery and equipment, either individually or cumulatively, shall be operated or designed to give rise to noise levels that will result in:

- An adverse impact likelihood scenario at nearby residential premises, as determined in accordance with British Standard BS 4142:2014 'Methods for rating and assessing industrial and commercial sound'.
- A Noise Rating exceeding NR45 1metre from the window of any occupied residential premises during the hours 23.00 to 07.00.

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

18. The applicant shall demonstrate compliance with the above acoustic conditions at the written request of the Local Planning Authority.

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

19. All HGV and motor car turning and manoeuvring areas shown on the approved plan shall at all times be kept clear of any materials, plant or equipment and shall be used for no other purpose.

Reason: To ensure adequate turning and manoeuvring space is available at all times to ensure the safe and satisfactory operation of the development and in accordance with UDP Policy GP2 and in the interests of highway safety.

20. At no time shall the gates at the access/egress point open outwards across the public highway.

Reason: In the interests of highway safety.

21. No external lighting to the development hereby approved shall be installed until full details, including its location, positioning, level of illumination and management has been submitted to and approved in writing by the Local Planning Authority.

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

22. The approved light(s) shall be fully installed in accordance with the approved details and retained in accordance with these details.

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

23. The roller shutter door facing Lichfield Road and serving the extension hereby permitted shall remain closed except when in use for access/egress.

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

### **Notes for Applicant**

- The area of this proposed development was and is being used for industrial purposes that may have resulted in localised ground contamination, which may present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking any ground works in order that they may implement any Health and Safety at Work precautions they feel appropriate.





## Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

Plans List Item Number: 5.

**Reason for bringing to committee:** Significant Community Interest

**Location:** ST ANNES ROMAN CATHOLIC CHURCH, BRIDLE LANE, STREETLY, SUTTON COLDFIELD, B74 3HB

**Proposal:** VARIATION OF CONDITION 9 TO ALLOW OPENING HOURS OF 0730 TO 10.30PM DAILY.

**Application Number:** 15/1079/FULL

**Applicant:** Rev G Lloyd

**Agent:** Mr Andrew Capper

**Application Type:** Full Application

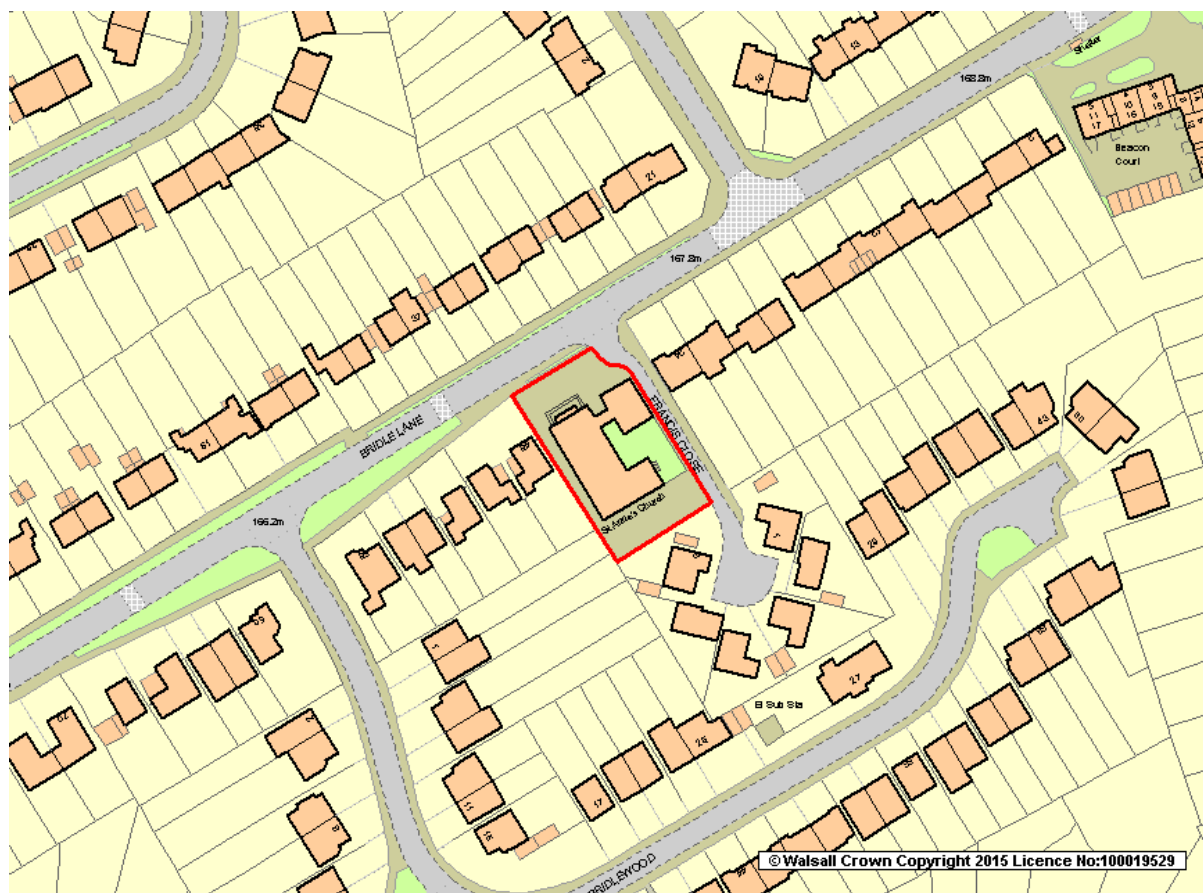
**Recommendation Summary:** Grant Permission Subject to Conditions

**Case Officer:** Karon Hulse

**Ward:** Streetly

**Expired Date:** 03-Sep-2015

**Time Extension Expiry:**



## **Application and Site Details**

**This application follows a recent approval for the demolition of the former two storey presbytery and erection of a single storey extension to provide meeting rooms, an office, tea bar and toilet facilities at St Annes Church, Bridle Lane, Streetly.**

**This application seeks to vary condition 9 of that consent**, the hours of opening, 0900 hours to 1800 hours. The applicant has asked for 0730 to 2230 hours with extended opening for certain events such as Midnight Mass at Christmas, although they would prefer to see unlimited opening hours.

**The extended opening hours will allow for the approved extension to be used in conjunction with and outside the main service times by church groups** and parishioners and in particular on Saturdays when there is a mass which does not usually finish until 7 pm, the intention is also to use the facility for social purposes following mass and for children's liturgy group.

**The previous planning permission** for the extension included the provision of an additional 5 car parking spaces off Francis Close.

**The site is surrounded by** residential properties of mixed character including semi-detached and detached houses with hipped and pitched roofs along Bridle Line and six detached bungalows to rear.

### Relevant Planning History

15/0399/FL - Demolition of attached Presbytery and proposed church extension. Granted 12/6/15

11/1110/FL - First floor extension to Presbytery. GSC 10/11/2011.

### 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

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.

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](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. CEN6 states that small scale local facilities in out of centre locations may be acceptable where they serve a local need and do not exceed 200m<sup>2</sup> gross floor space.

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

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;

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

Consultation Replies

Transportation – No objections. The five proposed parking spaces accords with UDP T13 parking policy. Francis Drive is a private road and is not a publicly maintained highway.

### **Public Participation Responses**

3 letters of representation objecting on the following grounds:

excessive amount of parking on Bridlewood by visitors to the church **early** and late is unacceptable.

**church car** park is at the end of garden, can hear cars parking and people talking **car headlights** in car park visible through the trees,

Not enough parking spaces for the church to be open from 7.30am to 10.30pm.

Saturday night and Sunday morning is bad enough.

double park along Bridle Lane on the grass verge outside my house

Needs double yellow lines both sides outside the church.

## Determining Issues

### Residential Amenity

#### Parking

## Observations

### Residential Amenity

This is a well establish local community facility which has recently been granted planning permission for a new extension to provide better meeting room facilities and reverends office. That consent was subject to a condition controlling the extension hours of use to between 9.00am and 6.00pm. The use of the church remains unrestricted. This application seeks consent for the use of the new extension to be open between 7.30am to 10.30pm although they would like the hours to coincide with the church. There is no intention to increase the number of parishioners using the church.

Local community facilities which include church or other religious facilities are often unrestricted due to the nature of the establishment. In this case, the proposed opening hours are ones which would normally be expected from such a community facility. In addition the intention is to only use the extension in conjunction with the existing site it is unlikely that the changes to opening hours will impact on the amenities of local residents. Furthermore, as the extension will not be used for any other purposes other than the church there will be no additional vehicular use other than that which already exists.

Whilst the immediate area is predominantly residential in character Streetly local centre is 150 metres to the east along Bridle Lane at the traffic light controlled junction with Chester Road, where there are a number of shops including a Tesco Express which is open between the hours of 6.00am to 11.00pm daily.

There will be no intensification of the use of the site or the car park at the rear. Houses in Bridlewood are in excess of 40 metres from the car park and there is a mature hedgerow boundary between the two as such views of the car park will be restricted.

Furthermore, the future use of the church extension for use by groups outside the church group can be adequately controlled through the imposition of conditions, similarly conditions to restrict music or other entertainment and the use of tannoy systems should be imposed to further protect residential amenity.

### Parking

The Transportation Officer does not object to the proposed changes to the opening hours of the approved extension on the basis that it will only be used in conjunction with the existing church and that the approved extension also includes the provision of an additional 5 car parking spaces as such parking will be improved.

### 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 Summary: Grant Permission Subject to Conditions**

### **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 17/03/2015
- Site Plan. Deposited 17/03/2015
- Survey Plan (3478-03-01A). Deposited 14/04/2015
- Proposed Extension and Alterations Plan (3478-03-20). Deposited 17/03/2015

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

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

- Brick type including size texture and colour
- Roof tile type including its size and colour

b. 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. a. 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.

b. 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. a. The five proposed car park spaces as shown on submitted plan 'Proposed Extension and Alterations (3478-03-20)' shall be fully consolidated, hard surfaced, drained and fully operational prior to the extension first coming into use.

b. The above parking spaces shall thereafter be retained as such.

Reason: To ensure provision of adequate car parking to comply with Policy T13 of Walsall's Unitary Development Plan.

6. 6. The proposed side facing window serving the proposed toilet as shown on submitted plan 'Proposed Extension and Alterations (3478-03-20)' must be obscure glazed to Pilkington (or equivalent) privacy level 4 and any opening parts to be more than 1.7m higher than the floor level of the rooms they serve and must be retained as such.

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

7. 7. The extension shall be used in conjunction with St Annes Catholic Church, Bridle Lane, Streetly and for no other purposes.

Reason: To define the permission.

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 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.

9. The hereby approved extension to the church shall not open before 7.30am and shall close no later than 10.30pm.

Reason: To protect the amenities of surrounding occupiers

10. No live music, amplified music or live entertainment shall take place on the premises.

Reason: To protect the amenities of surrounding occupiers





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

**Plans List Item Number: 6.**

**Reason for bringing to committee:** Requiring delicate judgement.

**Location:** WATERWORKS FARM, CHESTER ROAD, WALSALL, WS9 0PP

**Proposal:** REDEVELOPMENT OF EXISTING B2 (GENERAL INDUSTRIAL) AND B8 (STORAGE AND DISTRIBUTION) BUILDING ON THE SITE BY WAY OF THE ERECTION OF 6 NO. DWELLING HOUSES WITH ASSOCIATED WORKS.

**Application Number:** 14/1824/FL

**Case Officer:** Paul Hinton

**Applicant:** Mrs U Austin

**Ward:** Aldridge Central And South

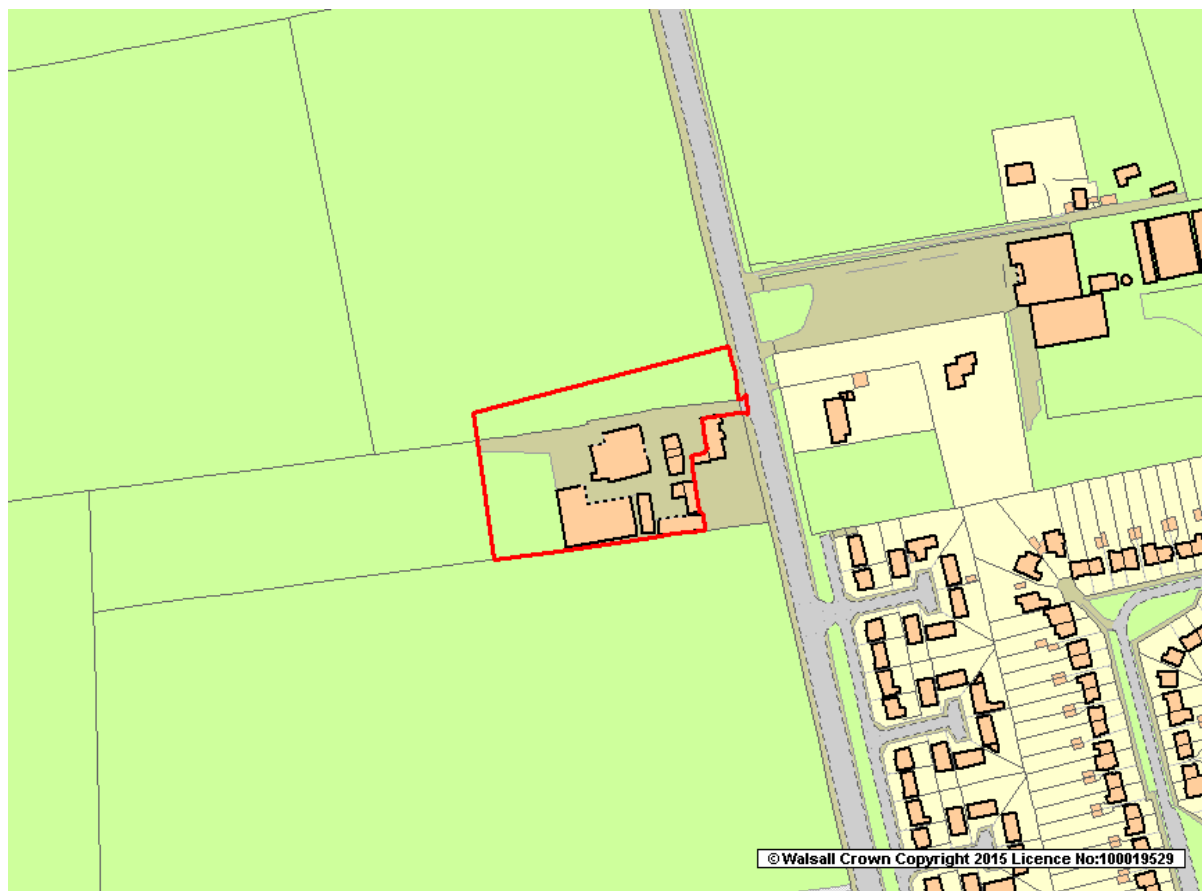
**Agent:** CT Planning

**Expired Date:** 10-Aug-2015

**Application Type:** Full Application

**Time Extension Expiry:** 10-Sep-2015

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Officers Report**

**14/1824/FL – Waterworks Farm, Chester Road - Redevelopment of existing B2 and B8 building on the site by way of erection of 6 no. dwelling houses with associated works.**

### **Application and Site Details**

**This application seeks planning permission for the demolition of a collection of B2 and B8 buildings** with the replacement of six new houses and a private access road. The overall application site measures 83m across, with a depth of 121m and would be set back from Chester Road by 33m and behind an existing house (the former farm house). The six houses would be orientated in a horse shoe shape to face the private access drive. There would be six different house types:

**Plot 1: Four bedrooms with an en-suite bathroom. Front** projecting tile hung gable, part catslide roof with small front projecting dormer window, double bay window to side elevation facing towards Chester Road, feature chimney breast, 12m wide, 10.9m in depth and 7.8m in height with a detached double garage. Rear garden length of 14.5m and area of 144sqm. Mix of render and hanging tiles to elevations, with tiles to roof.

**Plot 2: Four bedrooms with an en-suite bathroom. Front projecting gable, part catslide roof with small front projecting dormer window, feature chimney breast,** with integral double garage, 14.7m wide, 12m in depth and 7.8m in height. Rear garden length of 13m and area of 221sqm. Facing brick to elevations and tile roof.

Plot 3: Four bedrooms with an en-suite bathroom. Front projecting tile hung gable, part catslide roof with small front projecting dormer window, double bay window to side elevation facing towards Chester Road, feature chimney breast, 12m wide, 10.9m in depth and 7.8m in height with a detached double garage. Rear garden length of 20m and area of 334sqm. Mix of render and hanging tiles to elevations, with tiles to roof.

**Plot 4: Four bedrooms** with an en-suite bathroom. Front projecting tile hung gable, part catslide roof with small front projecting dormer window, double bay window to side elevation facing towards Chester Road, feature chimney breast, 12m wide, 10.8m in depth and 7.8m in height with a detached double garage. Rear garden length of 39m and area of 672sqm. Mix of facing brick and hanging tiles to elevations, with tiles to roof.

**Plot 5: Four bedrooms** with an en-suite bathroom. Front projecting gable, part catslide roof with small front dormer window, feature chimney breast, with integral double garage, 14.7m wide, 12m in depth and 7.8m in height. Rear garden length of 33m and area of 561sqm. Render finish to elevations and tile roof.

Plot 6: Four bedrooms with an en-suite bathroom. Front projecting tile hung gable, part catslide roof with small front dormer window, feature chimney breast, double rear facing bay window, integral double garage, 14.8m wide, 11.3m in depth and 7.8m in height. Rear garden length of 34m and area of 680sqm. Render finish to elevations and tile roof. Mix of render and hanging tiles to elevations, with tiles to roof.

The three double detached garages are 6.5m wide, 6m depth, with a pitched roof 4.8m in height. It is proposed that full details of the red brick/render elevation finishes, plain clay tiles, painted softwood window frames and doors and hardsurfacing details would be submitted for approval under condition.

The private road would be 5.5m wide, using a shared surface (with no defined pavement) and includes a turning area. The application site is 0.6ha which gives a development density of 10 dwellings per hectare (dph). To the north elevation a landscaped area for proposed

tree planting is included, measuring 130m by 15m. Indicative tree planting is also shown within the front gardens of the proposed houses, with the tree planting to the side and rear of the garages of the two plots to the south elevation.

The site is located on the western side of Chester Road (A452 Strategic Highway), which is subject to a speed limit of 30 mph in the vicinity of the site and increased to 50mph to the north of the site. The site includes a collection of former farm buildings that have evolved into commercial uses over the years (a lawful development confirming this was issued in 2013). The buildings are located within the middle of the site and have a mix footprints and roof shapes; the entire application site is within the Green Belt. At the front of the site is the original farm house now used as a dwelling and which would remain so. At the rear and within the application boundary is an area used for the storage of domestic caravans. Between the site and Cottage Mews to the north, 380m away, are open fields used for agriculture, defined by boundary hedges. A similar relationship exists to the south, with Chester Wood 380m away. The ground levels of the site sit lower than Chester Road (approximately 1m).

Across the road is Pacific Nurseries and also a detached house at 407 Chester Road with a personal permission for the garaging of business vehicles. There is a near continuous line of built form across the road to the south which includes brick finished detached houses all the way to the junction with Hardwick Road to where there is a parade of shops and the nearest bus stop (540m away). The density of the immediate houses along Chester Road are 24dph, with the houses in Chester Wood 10dph

The following documents have been submitted with the application:

#### Design and access statement

The footprint of the existing building is 1791sqm, the proposal is 1423sqm, 296sqm less than the existing.

Volume of the existing buildings is 7,083 cubic metres, the volume of the proposal is 4,698 cubic metres, 2,385 cubic metres less than the existing.

**Maximum** height of the current buildings are around 6.5m, with the proposed houses having eaves height raising from 2.4m to 4.4m with ridge heights in the order of 7.6m. The increase in ridge height is as a result of the desire to use plain clay tiles.

Each dwelling is of a bespoke design, influenced by the Arts and Crafts style which is suited to the scale of the housing proposed.

There are no significant landscape features within the application site, the proposal would result in significant greening up of the site through removal of large areas of hardstanding, with an opportunity to secure the provision of new landscaping.

The siting of the dwellings, relative to each other, is such that there will be no significant overlooking between dwellings and overlooking of private amenity space.

Each dwelling is provided with at least four car parking spaces, two of which are contained within garages and each of the garages are of sufficient size to make provision for cycle storage.

#### Planning Statement

The application site compromises previously developed land that is not inappropriate development since it would result in the redevelopment of previously developed (brownfield) site.

The dwellings would have a floor area 17% smaller than the existing buildings and volume reduced by 34%. Proposals include the greening up of the hardstanding that is to be removed. Consequently the proposal will secure a significant improvement to the openness of the Green Belt by securing a significant reduction in the amount of building and the amount of hardstanding within the site.

The replacement of the existing use will reduce the amount of traffic associated with the use of the site.

The development would not encroach beyond the established site boundaries and will not result in encroachment into the surrounding countryside or result in urban sprawl and not result in neighbouring town and villages merging into one another.

The development will make a contribution to the local economy, the redevelopment of the site for housing would be preferable to the loss of Greenfield land for such purposes.

The unrestricted industrial site has the potential to have significant visual impact upon its surroundings.

The residential development would significantly improve the appearance of the surrounding countryside by replacing industrial style buildings that evidently detract from the character and appearance of the area with more attractive buildings grouped in a more coherent manner.

Although in the Green Belt, its accessibility by modes of travel other than the private car is comparable with more urban sites, lying adjacent to the built up area of Streetly.

St. Anne's Roman Catholic Primary School and Manor Primary School in Streetly are both approximately 1.7km away, Streetly Academy is 2.6km away and with 5km of the site it is possible to cycle to Aldridge, Walsall and Sutton Coldfield.

#### Transport statement:

Site is within walking distance of local shopping and education facilities and that regular bus services can be boarded within 600m of the site.

A 2m footway is present along the length of Chester Road.

There are no existing highway safety concerns.

The redevelopment of the site would not result in an increase in traffic movement compared to that which would be generated by the existing use class. As such it is concluded that the proposals would not result in any additional traffic impact on the adjacent highway network.

#### Occupancy and employment statement

12 units across the site, three vacant. All remaining units used for storage and do not employ people directly on the site on a daily basis.

**Units** are rented under licence agreement, there are no formal leases and are rented on an annual bases with three month notice by either party.

**The principal users of the site were Forge Autos and TC Leonard Loft Conversions** who both vacated the site during 2014 which precipitated the need to pursue the current application.

**The farm changed from agriculture to employment uses on an ad hoc basis as the buildings became no longer required for agricultural purpose due to the difficulties of farming on the urban fringe.**

The predominant use of the site is that of storage and storage does not directly employ people on the site.

There are ample amounts of purpose built storage facilities available within purpose built storage facilities available within the many industrial estates at Aldridge a short distance away. There are a wide variety of options available to the present occupiers to find alternative premises.

The NPPF states that Planning Policies should avoid the long term protection of sites in employment use where there is no reasonable prospect of the site being used for that purpose.

#### Phase 1 Desk Study

Medium harm could arise to sensitive receptors from current activities on the site as likely a pollutant pathway could be established which would result in an adverse effect on human health and controlled waters

Intrusive Site Investigation is normally required to clarify the risk and to determine the potential liability. Some remedial work may be required in the long term.

#### Bat and Bird Survey Report

There is no evidence of bats using the buildings as a place of shelter

There are temporary roosting opportunities for bats, but no bats were seen or heard

There **was evidence of birds nesting in the two** storey brick building on site.

A method of working should be put in place with contractors to ensure that in the event of bats being found they will not be injured.

New roosting opportunities for local crevice dwelling bats should be created by installing three brick bat boxes in the new dwellings.

The positioning, orientation and design of the plots has been amended during the application process following discussions with officers and re-consultation has been undertaken.

#### Relevant Planning History

BC45235P - Lawful Development Certificate use of a barn (Building C) for the repair of motor vehicles. Granted February 1996

03/2303/CE/E2- *Lawful Development Certificate for the storage* of caravans at the western end of Waterworks Farm. Granted January 2004

13/0569/LE – Certificate of lawful development: Use of building for employment purposes (B2 *General Industrial*) and storage and distribution (B8 use class). Certificate issued 21/6/13.

#### 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: 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:

##### 1. Delivering sustainable development

19 Planning should encourage sustainable growth.

22 Avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose.

##### 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 to create safe and secure layouts.

39. If setting parking standards for residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

##### 6: Delivering a Wide Choice of High Quality Homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development.

55. Avoid new isolated homes in the countryside unless there are special circumstances.

##### 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. *Decisions should aim to ensure that developments:*

*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

60. It is proper to seek to promote or reinforce local distinctiveness.

61. Decisions should address the integration of new development into the natural, built and historic 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.

9: Protecting Green Belt land

79 Green Belt policy is to prevent urban sprawl by keeping land permanently open.

87 Inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

88 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89 New buildings are inappropriate in the Green Belt. Except:

**Limited infilling or the partial or** complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

11. Conserving and enhancing the natural environment

109. The planning system should prevent new and existing development from contributing or being put at unacceptable risk from, or being adversely affected by unacceptable levels of...air...or noise pollution.

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.

118. Local planning authorities should aim to conserve and enhance biodiversity by....incorporate biodiversity in and around developments.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

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.

## Local

### The Black Country **Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](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.

2b: Encourages sustainable management of material resources through minimising waste, ensuring all members of the community have the best access to housing, previously development land is prioritised over greenfield sites and encourages a comprehensive approach to development.

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided. Green Belt boundaries will be maintained and protected from inappropriate development.

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

CSP4: The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

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.

DEL2: Before releasing employment land we will first ensure the retention of an adequate supply of occupied and available employment land. Ensure satisfactory arrangements for the relocation of existing occupiers to safeguard existing employment base. Ensure that the site is no longer viable and required either for employment use or for other employment generating uses.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness as defined in Policy ENV2.

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Proposal should aim to sustain and reinforce locally distinctive elements.

#### 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. Implementation of the principles of "By Design" to ensure the provision of a high quality networks of streets, buildings and spaces. Meeting Code for Sustainable Homes Level 3 or above.

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

WM5: All new developments should address wastes as a resource, minimise waste as far as possible, manage unavoidable waste in a sustainable and responsible manner, and maximise use of materials with low environmental impacts.

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

Walsall's Unitary Development Plan (UDP) (2005)

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://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: 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.

XII. The effect on woodland or individual trees on or near the site.

3.3 Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

3.6 Development and redevelopment 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.

ENV2 a) In the Green Belt there will be a presumption against the construction of new buildings except for the following purposes:

v. limited infilling or redevelopment of major existing developed sites in accordance with ENV4.

e) Where development is consistent in principle with the purposes of the Green Belt the Council will require that its siting, design, form, scale and appearance is compatible with the character of the surrounding area.

ENV3: Identifies more detailed considerations for proposals in the Green Belt, including vii. The cumulative physical effect of proposals in any one area.

ENV4: b) Redevelopment of major developed sites may be permitted provided they have (i) no greater impact (and where possible less impact) than the existing development on the openness and purposes of the Green Belt, (ii) the height of existing buildings is not exceeded and (iii) the area to be covered by buildings would not occupy a larger area than

the aggregate floor area of the existing buildings, unless it would achieve a reduction in height which would benefit visual amenity.

ENV10: 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: seek to bring forward derelict, vacant or underused land and buildings for new uses.

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: Proposals must take account of opportunities for nature conservation.

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:

IV. Adjacent to transport corridors.

VI. Areas with a special character arising from the homogeneity of existing development in the neighbourhood.

IX. Within Green Belt

(b) When assessing the quality of design the Council will use the following criteria:

I. The appearance of the proposed development

II. The height, proportion, scale and mass of proposed buildings/structures.

III. The materials proposed.

IV. The integration and co-ordination of buildings and external space.

VI. The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

VII. The effect on the local character of the area.

ENV33: Good landscape design is an integral part of urban design. Development within the Green Belt should be supported by full details of landscape proposals.

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

H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites, provided that:-

I. A satisfactory residential environment can be achieved, taking into account the considerations set out in Policy ENV10.

II. There is no overriding need for the land or buildings to be retained for employment or any other use.

III. The proposal would have good accessibility by a choice of means of transport and be well related to schools, shops and other social and community facilities.

IV. Residential development would not unacceptably constrain the development of any adjacent site for its allocated or identified use.

V. The proposal is acceptable in terms of other policies of the Plan.

JP7: When windfall sites or buildings come forward for reuse or redevelopment they will normally be safeguarded for employment use. There may sometimes be exceptional circumstances in which it will be more appropriate to consider other uses such as housing due to the relationship with the surrounding land or because the site is not well located to meet the needs of modern industry.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T8: Encourages greater use of walking as a healthy and sustainable form of travel.

T10: Accessibility Standards – General

(b) Standards will apply to all development proposals with the exception of:

i small residential developments within existing residential areas including infill plots

7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.



## **Consultations**

**Transportation** – no objection subject to the use of conditions in regard to a revised plan showing the tracking for a refuse wagon, engineering details of highway infrastructure including footway and pedestrian refuge crossing, construction methodology, surfacing, draining and retention of parking areas, arrangements for maintenance of private road.

**Pollution Control** – no objection subject to the use of conditions in regard to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the site.

**Environmental Health** – no objection.

**Natural Environment (Ecology)** –no objection subject use of conditions in regards to

**Natural Environment (Landscape)** - objects. While the principle of residential development may be acceptable, the suburban development is incongruous and out of keeping with an open agricultural landscape. No information is provided on landscape design.

**Natural Environment (Trees)** – no objection subject to the use of condition to secure some new landscaping, including trees.

**Severn Trent Water** – no objection subject to the use of recommended condition in regard to drainage.

**Fire Services** – no objection subject to provision of suitable water supplies.

## **Public Participation Responses**

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

No comments received.

## **Determining Issues**

- Whether the development is appropriate development in the Green Belt
- Loss of industrial land
- Impact on the character and appearance of the area
- Impact upon residential amenity
- Ecology
- Access and Parking

## **Observations**

### **Whether the development is appropriate development in the Green Belt**

This is a previously developed site within the Green Belt with unrestricted use for B2/B8 purposes. The NPPF at paragraph 89 states that new buildings in the Green Belt are inappropriate development except the complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. The existing collection of buildings have a footprint 1,791sqm, the proposal has would have a footprint of 1423sqm which is 296sqm less than the existing. In volume terms currently there is 7,083 cubic metres of built form; with the volume of the proposal is 4,698 cubic metres which is 2,385 cubic metres less than the existing. The proposal therefore would have no greater impact on the openness of the Green Belt than the existing buildings.

There are five purposes of the Green Belt; to check the unrestricted sprawl of large built-up areas and to prevent neighbouring towns merging into one another. This is an isolated site

which would not impact upon this purpose. To assist in safeguarding the countryside from encroachment, the proposal would not exceed the boundaries of the site set by the lawful established use of the buildings and caravan storage. The area is not defined as a historic town so there would be no impact on such a character and the proposal would provide six houses on a previously developed site to assist with urban regeneration.

Accordingly the proposal would not have a greater impact upon the openness and purpose of including land within the Green Belt than the existing development.

The supporting justification to policy HOU2 of the BCCS states the Black Country suffers from a lack of housing choice, which limits its ability to attract more households in Social Groups A and B and goes on to state that it will be important to achieve a level of transformation necessary to attract A/B households. The proposals offer such an opportunity to provide six large aspirational houses set within generous plots that would attract entrepreneurs and business managers to live within the Borough. Aspirational new housing can only be provided in the form of low density, low rise schemes on greenfield sites peripheral to the existing built up area. Waterworks Farm is one such site and the proposal offers the opportunity to provide this choice of housing.

### **Loss of industrial land**

This is an established industrial site within the Green Belt. The most recent published comprehensive review of employment land in the borough (Employment Land Review) was carried out in 2012. Because of its small size and lack of planning history relating to any employment use at the time, the 2012 Employment Land Review did not specifically identify this site. However, the granting of the lawful development in 2013 shows that the site was in employment use at that time.

The isolated and small size of the site means that it does not have potential to make a significant contribution to the employment land supply in Walsall. The NPPF states that Planning Policies should avoid the long term protection of sites in employment use where there is no reasonable prospect of the site being used for that purpose. BCCS policy DEL2 states that before releasing employment land first ensure the retention of an adequate supply of available employment land. Due to the size of the site and the nature of the uses in consideration of the supply across the borough, the loss of the buildings is not considered to cause harm to the supply of such land across the borough. Weight is also given to the size of the buildings not necessarily meeting the needs of modern industry and the absence of direct employment within the buildings which meets the exceptions tests of UDP policy JP7

On balance the loss of industrial land is not considered to cause harm to the employment generating provisions across the borough.

### **Impact on the character and appearance of the area**

The NPPF says that developments should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available to preserve or enhance the character of the area. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3.6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements.

UDP policies ENV2, ENV3 and ENV4 specifically in regard to Green Belt requires siting, design, form, scale and appearance is compatible with the character of the surrounding area, including the cumulative physical effect of proposals in any one area and (in ENV4) the height of existing buildings is not exceeded.

The proposed six houses would have a greater dispersal across the site than the existing buildings, but to the rear do not exceed further than the buildings at the rear of the site. The

buildings would be sited within a horse shoe shape with the ridge lines staggered to provide irregularity to be more akin to buildings in the countryside than a suburban cul-de-sac. The architecture of the houses are inspired by the Arts and Craft with a variety of form, materials and asymmetrical shapes. Each plot is different but include projecting gables, double bay windows, catslide roof leading to low eaves levels and feature chimney breast. This design is not an immediate feature of the area, but provides attractive good quality buildings.

The Natural Environment team object to the application questioning whether introducing a suburban cul-de-sac in an open agricultural landscape results in a development which sits comfortably within the landscape. Concern is raised about the Arts and Crafts design in this location noting that the existing evolved farm buildings are more visually in keeping with the open arable landscape. They object to placing two rows of modern houses with little context which is probably less visually coherent than the current buildings. Concern is also raised that here is no detailed landscaping proposals, the proposal to obtain permission for the layout and design of the buildings and then introduce some landscape proposals at a future date is not supported. While, in landscape terms this team does not object to the principle of development, this team feel the design is particularly incongruous and out of keeping with its setting.

The NPPF states that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative. Decisions should optimise the potential of the site to accommodate development and permission should be refused for development of poor design that fails to take the opportunities available for improving the character of quality of an area.

This is an unrestricted B2 and B8 site, with the buildings originally serving the agricultural use of the site. The height of the proposed houses would be around 1m higher than the existing buildings and therefore would have a more noticeable appearance from the views in both directions of the Chester Road. The separate six houses would also have a greater dispersal across the site than the existing four blocks of buildings. The existing buildings are largely portal framed with corrugated metal sheeting with a mix of shapes and sizes. With the exception of the area where the caravan storage takes place the areas around the buildings are hardsurfaced. There are no restrictions to the type and number of vehicles that could be parked around the site; in addition there is no restriction to the location and height of external storage associated with the site. An intensive use of this site would cause visual harm to the area; the typical use of the site makes no contribution to high quality design sought by the NPPF.

The residential development would significantly improve the appearance of the surrounding countryside by replacing industrial style buildings and their associated activities that detract from the character and appearance of the area with more attractive buildings grouped in a more coherent manner. The overall massing of the site would be reduced increasing the openness of the Green Belt and in comparison the less intensive use of six houses at 10 dwellings per hectare compared to 12 industrial units is more sympathetic to the tranquillity of the countryside. There would also be a reduction in the amount of hardstanding around the site.

The objections from the Natural Environment team are acknowledged and it is recognised that a suburban cul-de-sac in an otherwise open agricultural landscape would not seamlessly blend into the site, but that could be said of any built form on the site; the Arts and Craft design is not part of the immediate vernacular, but an alternative proposed design matching the detached houses along Chester Road would not take the opportunities to improve the character of the area. The principle of housing is accepted, too fewer houses (not withstanding viability) would appear awkward and a mock barn conversion would be imposing particular tastes that the NPPF advises to avoid. The proposals were originally presented as two rows of housing which have been amended to take a horseshoe layout with steps in the position of the ridgelines to provide variance. The architecture of the individual houses adds to the asymmetrical nature of the site which is akin to development



around farms. The Arts and Craft style avoids the repetition character of suburban developments that would otherwise cause harm on this site.

Policy ENV33 requires full landscape details to be provided with an application and officers agree with the Natural Environment team about no detailed landscaping proposals being put forward. Landscaping in such locations needs to be an integral part of the design process and not left as an afterthought. The layout shows that to the southern boundary at the rear of the detached garages tree planting can be accommodated, the rest of this boundary is addressed by the hard landscaping of the houses where efforts have been made to maximise the interaction with glazing and bay features rather than blank gable ends that typify the urban environment. Thought is also given to planting within the front gardens of properties and to the north an area of 130m by 15m is reserved specifically for planting. This space is sufficient to ensure high quality native planting can be provided and sustained.

The agent has explained that the applicants as owners of the land are not developers and would not develop the site. Subject to obtaining planning permission the site would be sold and therefore they would not wish to invest in detailed landscape designs at this time, the land owners would continue to own the adjoining land. On the basis that appropriate landscaping can be secured it would be unreasonable to refuse the application on a lack of precise detail when it can be secured through a reasonable condition.

The proposed houses have an identical height of 7.8m. The commercial buildings generally have low eaves heights of between 2m and 4.2m and ridge heights between 4.8m and 7.8m. The commercial buildings generally sit lower than the proposed houses. The proposed relationship is considered in the context of a development that returns more to the openness of the Green Belt on both footprint and massing than the current situation. On balance the benefits to the Green Belt, the additional large housing within a sustainable site and the recycling of previously developed land outweighs any perceived harm additional height of the houses would have.

Appearance, scale and massing of the houses is an improvement upon the present buildings and while the layout results in a more conspicuous development, on balance it is not considered to have such harm on the character and appearance of the area to sustain refusal of the application.

It is recommended that permitted development rights for extensions, alterations to the roofs, porches, outbuildings, hard surfacing and means of enclosure are removed to enable control over future development at the site that may reduce the openness of the Green Belt or adversely affect the character of the area.

### **Impact upon residential amenity**

The original farmhouse fronting Chester Road is to be retained; this property has its garden to the side, a garage to the rear and habitable room windows at first floor. The proposed houses would be over 24m away from the rear of the house, maintaining an appropriate level of separation to avoid any unnecessary issues of overlooking or shadowing between the properties. For the proposed properties, there is again more than 24m separation distance across the private road between the houses. Each property has rear amenity areas of 144sqm or above. The lengths of the gardens are sufficient and do not create a cramped form of development while providing sufficient private amenity to future occupiers.

The site is currently used for commercial purposes which have the potential to have caused contamination, the site investigation submitted recommends further detailed work is undertaken to fully assess the ground conditions and where necessary undertake remedial works. It will be necessary to commission a ground investigation and ground gas survey which can be secured by condition.

## **Ecology**

The application has been accompanied by a bat and bird report, no bats were recorded. A method statement for the dismantling of the existing buildings has been provided and it is also proposed that several roosting features are built into any new development which can be required by condition.

Both house sparrow and swallow were recorded in buildings on the site. Both bird species are on the list of British bird species of conservation concern. House sparrow is on the red list and swallow on the amber. Apart from recommending that demolition takes place outside the bird nesting season, no specific conservation proposals were made.

While the method statement and roost provision for bats is acceptable, further nesting provision is required for house sparrows and swallows to provide continued nesting sites in the immediate neighbourhood. These matters can be dealt with by condition, as recommended.

## **Access and Parking**

The development looks to construct six detached houses and new access road on the site of existing commercial buildings. In terms of traffic generation, the development will result in a net decrease in vehicle movements to the site. Improvements to provide a pedestrian crossing facility across Chester Road are required as there is no footway on the development side of Chester Road. All dwellings are shown with at least three parking spaces which accords with UDP T13 parking policy for 4 bedroom dwellings. In addition the site is within a sustainable location with walking distance of local shops and bus stops.

The access road would be private (including delineation between it and the public highway) and includes provision for turning vehicles. Details of the maintenance arrangements, bin storage provision and connection to water facilities for the Fire Services are required by condition. In addition it is considered necessary to require conditions in regard to full engineering details of the highway infrastructure, construction methodology detailing where parking and turning facilities for site operatives are to be located, surfacing details and retention of the garages.

## **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 six 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**

Due to the nature of the proposal it has not been possible to offer any proactive suggestions to make the proposal acceptable.

## **Recommendation Summary: Grant Permission Subject to Conditions**

### **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 application form and following plans and documents: -
  - Location plan (4120.99A) received 22/5/15
  - Site plan (1321-100c) received 14/5/15
  - Property detail and level survey (14-039-01) received 4/12/14
  - Plot 1 elevations (1321-200b) received 14/5/15
  - Plot 1 plans and visualisation (1321-201b) received 14/5/15
  - Plot 1 visualisation of plans (1321-202b) received 14/5/15
  - Plot 2 elevations (1321-203b) received 14/5/15
  - Plot 2 plans and visualisation (1321-204b) received 14/5/15
  - Plot 2 visualisation of plans (1321-205b) received 14/5/15
  - Plot 3 elevations (1321-206b) received 14/5/15
  - Plot 3 plans and visualisation (1321-207b) received 14/5/15
  - Plot 3 visualisation of plans (1321-208b) received 14/5/15
  - Plot 4 elevations (1321-209b) received 14/5/15
  - Plot 4 plans and visualisation (1321-210b) received 14/5/15
  - Plot 4 visualisation of plans (1321-211b) received 14/5/15
  - Plot 5 elevations (1321-212b) received 14/5/15
  - Plot 5 plans and visualisation (1321-213b) received 14/5/15
  - Plot 5 visualisation of plans (1321-214b) received 14/5/15
  - Plot 6 elevations (1321-215b) received 14/5/15
  - Plot 6 plans and visualisation (1321-216b) received 14/5/15
  - Plot 6 visualisation of plans (1321-217b) received 14/5/15
  - Plots 1, 3 and 4 garages plan and elevations (1321-218b) received 14/5/15
  - Comparison with existing mass (131-105d) received 22/5/15
  - Ground level views (132-107c) received 14/5/15
  - Overview from north (1321-104b) received 14/5/15
  - Overview from south (1321-103c) received 14/5/15
  - Separation distance appraisal (1321-102c) received 14/5/15
  - Site plan and statistics (1321-101d) received 22/5/15
  - Site sections (1321-106c) received 14/5/15
  - Statistics for existing workshop 1 (1321-108) received 22/5/15
  - Statistics for existing workshop 2 (1321-109) received 22/5/15
  - Statistics for existing workshop 3 (1321-110) received 22/5/15
  - Statistics for existing workshop 4 (1321-111) received 22/5/15
  - Statistics for existing workshop 5 (1321-112) received 22/5/15
  - Bat and Bird Survey received 4/12/14
  - Design and Access Statement received 4/12/14
  - Planning Statement received 4/12/14
  - Transport Statement received 4/12/14
  - Phase 1 Desk Study received 17/2/15

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 the development, a construction methodology statement shall be submitted to and approved in writing by the Local Planning

Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of wheel cleaning arrangements to be provided during the period of construction.

Reason: In order to minimise potential disruption to the free flow of traffic on the A452 Chester Road and in the interests of highway safety.

4. This provision shall be retained during construction in accordance with the approved details.

Reason: In order to minimise potential disruption to the free flow of traffic on the A452 Chester Road and in the interests of highway safety.

5. All site clearance shall take place outside the bird nesting season (the bird nesting season is March to September inclusive). Where this is unavoidable a breeding birds survey shall be undertaken by a suitably qualified and experienced ecologist prior to any works commencing. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

Reason: To protect local bird populations

6. 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)

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.

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

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

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

8. 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)

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.

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

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

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

10. 5e) 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 a) of this condition is encountered development shall cease until the “Remediation Statement” required by part c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

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

11. 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)

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.

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

12. 6a) Built development shall not be carried out until full details of the proposed levels of the site, roads, access routes and floor levels for the proposed dwellings has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development.

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

13. The development shall be carried out in accordance with these approved details.

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

14. Built development shall not commence until a revised site plan has been submitted to and approved in writing by the Local Planning Authority demonstrating an Autotrack analysis showing a 10.7m long refuse wagon can safely and satisfactorily make a full turning manoeuvre in the turning facility.

Reason: To ensure the satisfactory arrangements for the collection of waste and in the interests of highway safety.

15. The layout of the development shall be built in accordance with the approved details.

Reason: To ensure the satisfactory arrangements for the collection of waste and in the interests of highway safety.

16. 8a) Built development shall not commence until full engineering details of all highway infrastructure works within Chester road including the existing bell mouth modifications, new footway and a central pedestrian refuge crossing facility to the south of the access point have first been submitted for approval by the Local Planning Authority.

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

17. Prior to the first occupation of any new dwelling on the development, the approved highway infrastructure works shall be fully implemented.

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

18. Built development shall not commence until details of the future legal maintenance arrangements for the private road have first been submitted to the Local Planning Authority for written approval. The arrangements shall involve a properly constituted body with legally defined maintenance responsibilities in perpetuity for the common benefit of the residents.

Reason: To ensure the satisfactory arrangements are in place for the future maintenance of the access road in accordance with Manual for Streets guidance.

19. The approved arrangement shall be in place prior to the first occupation of any dwelling on the development.

Reason: To ensure the satisfactory arrangements are in place for the future maintenance of the access road in accordance with Manual for Streets guidance.

20. Built development shall not commence until a schedule of facing materials to be used in the external walls, roofs, windows, doors, rainwater goods and surfacing have been submitted to and approved in writing by the Local Planning Authority.

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

21. 10b) The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained thereafter.

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

22. Built development shall not commence until details for external lighting, including its location, angle of positioning and level of illumination has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme requires:
- There shall be no direct illumination of the new bat roosts installed or the hanging tiles on the house frontage.
  - Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.
  - Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased.

Reason: To prevent light pollution and to protect the amenity of surrounding residential occupiers.

23. The agreed details shall be fully implemented prior to the first occupation of the dwellings and retained in working order thereafter.

Reason: To prevent light pollution and to protect the amenity of surrounding residential occupiers.

24. 12a) Built development shall not commence until full details of hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- correct botanical names
  - numbers/planting densities for each block of planting proposed
  - size supplied of all proposed tree and shrubs at time of planting
  - details of proposed turf/seeded areas
  - topsoil and mulching depths and specifications
  - staking details for proposed trees
  - details of landscape establishment / maintenance proposals to be undertaken during the standard conditioned maintenance period
  - Details of the future management of the landscape scheme.
  - Ground preparation measures to be adopted.
  - Existing and proposed levels.
  - Management Plan, including arrangements for the landscape strip next to the private drive.

Reason: To ensure the satisfactory appearance of the development and protect wildlife

25. The approved scheme shall be fully implemented before the development is brought into use and retained for 5 years and managed in accordance with the approved management details. Any trees or plants, which die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species.

Reason: To ensure the satisfactory appearance of the development and protect wildlife

26. The approved management plan for the grassed area next to the private drive shall be implemented and maintained thereafter.

Reason: To ensure the satisfactory appearance of the development and protect

wildlife

27. Built development shall not commence until details/measures for access to suitable water supplies for fire fighting has been submitted to and approved in writing by the Local Planning Authority.

Where additional installations are required, they shall be undertaken in accordance with the approved details and available for use prior to first occupation of any dwellings.

Reason: to provide satisfactory access to water supplies for fire fighting purposes.

28. 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.

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.

29. 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.

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

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

Reason: To protect the amenities of surrounding occupiers

31. Bat survey work has found a low risk that bats may be present in the buildings within the site (as identified in the bat report by S Christopher Smith dated 3/12/14) and the following precaution shall be taken when implementing the planning permission:

a) Contractors undertaking demolition works shall be made aware that bats may be present and undertake demolition works in accordance with the method of working set out in S Christopher Smith's bat report on pages 35-37.

If no bats or evidence of bats are found during these operations, the approved works can continue.

Reason: To conserve local bat populations

32. b) If bats or evidence of bats are found during these operations:

1. bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.

2. no further destructive works shall be carried out to the building until the need



for Natural England licence has been established.

3. within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation

4. work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued

Reason: To conserve local bat populations

33. Prior to the first occupation of any dwelling on the development, all vehicle hard standing, parking areas and access ways serving that dwelling shall be fully consolidated, hard surfaced, drained and brought into use.

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

34. These areas shall be thereafter 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, T7 and T13.

35. A scheme for the provision of bat roosting sites as set out on pages 28-35 of S Christopher Smith's report dated 28/8/14 shall be installed before any part of the development is brought into use and retained thereafter with access openings maintained free of obstructions at all times.

Reason: To conserve local bat populations.

36. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or succeeding Orders, the dwellings hereby permitted shall not be altered or enlarged to deprive them of an existing garage, drive or parking area as approved.

Reason: To ensure the satisfactory provision of off-street parking.

37. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors other than those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A to F of Part 1 of Schedule 2 of the Order, shall be constructed.

Reason: To ensure the Local Planning Authority has control over the development in the interests of retaining the openness of the Green Belt and the amenity of occupiers of adjacent dwellings.

38. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or succeeding orders, no gates, fences, walls or other means of enclosure other than those expressly approved by this permission shall be constructed.

Reason: In the interests of the visual amenities of the Green Belt.

### **Notes for Applicant**

- 1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
- 2. The applicant will be expected to enter into agreements under S278 of the Highways Act 1980 for all works within the existing public highway.





# Walsall Council

## Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

**Plans List Item Number: 7.**

**Reason for bringing to committee:** Significant community interest

**Location:** BENTLEY SOUTH PLAYING FIELDS, BENTLEY ROAD NORTH, WALSALL, WS2 0EA

**Proposal:** 4 X SEATING STANDS, 2 X DUG OUTS AND PERIMETER HARDSTANDING AND LEANING RAIL TO 1 PITCH.

**Application Number:** 15/0602/FL

**Applicant:** Mr Neil Chambers

**Agent:** G & G Building Consultancy Ltd

**Application Type:** Full Application

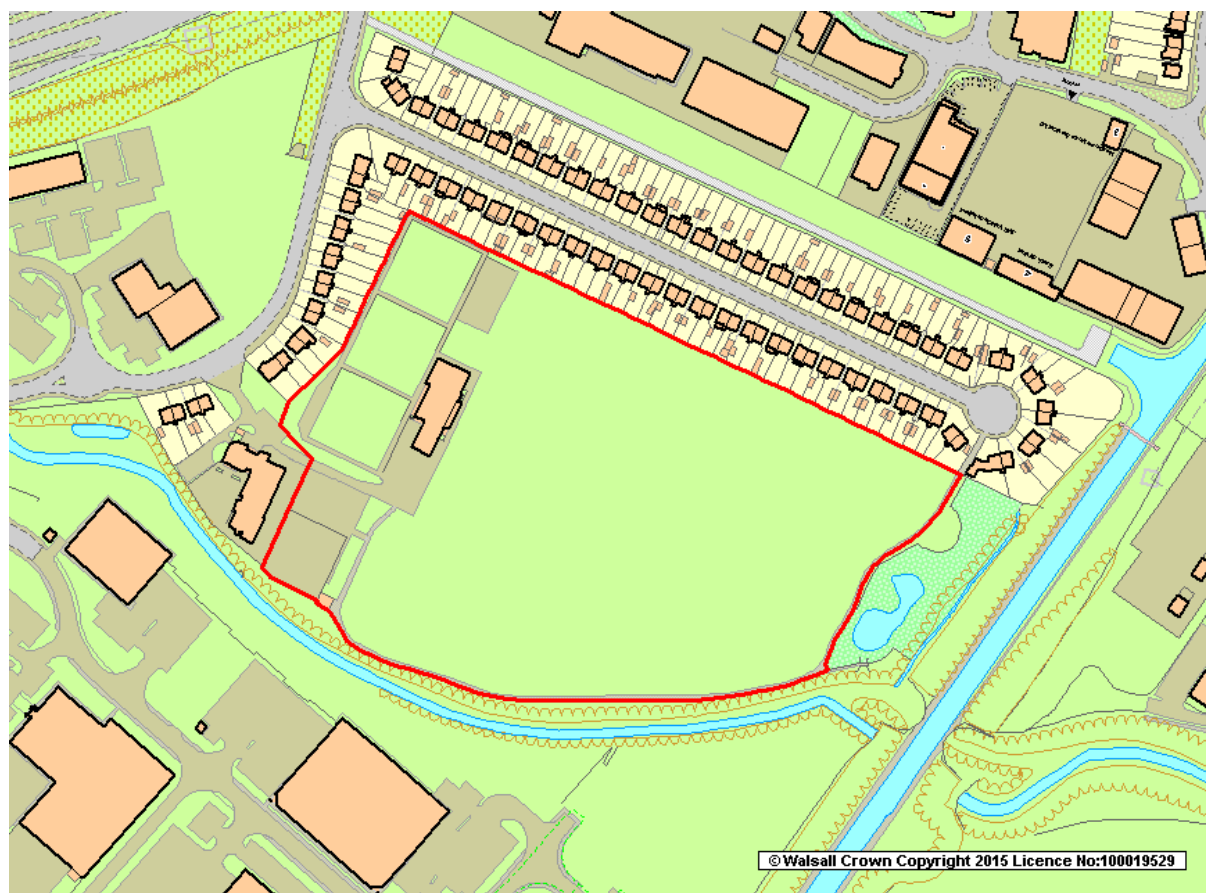
**Recommendation Summary:** Grant Permission Subject to Conditions

**Case Officer:** Stuart Crossen

**Ward:** Bentley And Darlaston North

**Expired Date:** 13-Jul-2015

**Time Extension Expiry:**



## **Application and Site Details**

**The application proposes two dug out shelters for 8 people and 5 seating stands to accommodate 200 people at an existing sports pitch at Bentley Leisure Pavillion. Also proposed is a 1.5 metre wide hardstanding around the pitch with 1 metre high perimeter rail.**

**The dug outs include a solid roof and back section** on aluminium frame, have already been installed and would measure:

4 metres wide

**0.9 deep**

**1.9 metres high**

**The seating stand would have a corrugated roof and rear elevation with open sides** and front and would measure:

3 metres wide

0.9 deep

1.9 metres high

Amended plans have been received which have moved the stands away from the goal ends of the pitch (away from houses on Wrexham Avenue) to either side.

The existing site is used as a sports playing field, with bowling pitches and a club house. To the South is the river Tame with the gardens and grounds to houses and flats to the North and West along Wrexham Avenue and Bentley Road defining the shared boundaries.

### **The design and access statement makes the following relevant points:**

The design is in compliance with league requirements for match football.

The position and orientation of the pitch has located so as to be accessible from the car park and the existing pavilion/community centre and as far as possible from the existing boundary with the neighbouring houses.

The new pitch is in a similar position to the existing.

The dug outs are essential transparent and will be located relatively close to the existing building.

**The** stands will be located on each side of the pitch, prefabricated with green powder coated finish.

**The existing building remains altered.**

**Access to the site also remains as existing.**

**The existing changing room / toilets etc will be used**

A flood risk strategy and planning statement has also been submitted.

The applicant has provided the following additional information about the site:

The site has been in use as an outdoor sports venue for more than 50 years.

There is no increase in the number of football pitches as a result of the application.

There have been 4 football pitches at the site for many years so the maximum capacity is 8 teams and this is unchanged.

All teams are amateur and the majority are children's/youth and ladies teams. Together with teams, officials and spectators the maximum number of people expected (assuming all pitches have games being played) is between 200-250.

There are two car parks with the capability of overflow car parking if needed. The car parks have a capacity of approx 120 vehicles with an additional overflow (when needed) for another 75 vehicles (this can be further extended for several hundred vehicles if we encroached onto playing areas of surrounding pitches on an occasional basis).

**The planning application has** been made for the sole purpose of complying with FA Regulations appropriate to our (Darlaston Town (1874) FC) standard of football and no more vehicles are expected as a result of the application.

Matches which are likely to attract attendances (based on last year) will average approx 65 (gates between 50-80) will be played on alternate Saturday's pm and will be the only game played on the alternate Saturday.

**The layout and car parking** availability is also unchanged and has been so for many years. There is a car park (approx 30-40 vehicles) adjacent to the main building and dressing rooms and a much larger car park (approx 80-90 vehicles) to the side of the smaller car park. the overflow car park is a grassed area immediately off the main car park.

The facilities are mainly open on Saturday's and Sunday's (between July -April). Morning games kick off between 10-11 and finish between 12-1 whilst afternoon games kick off between 2-3 and finish between 4-5pm.

It is very rare that coaches visit the site but for example Wolverhampton Wanderers FC Ladies have used the site for many years and they occasionally play games against National opposition who travel by coach. We also play some teams from Herefordshire who may travel by coach. The number of coaches is unlikely to exceed 6 per annum and there has never been a problem in all of the years the site has existed. When it is known the visitors will travel by coach an area of the large park is cordoned off to allow a large turning circle and a separate parking area (on the large car park) for the coach is also cordoned off.

Relevant Planning History  
None

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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:  
Take account of the different roles and character of different area, promoting the vitality of our main urban areas, protecting Green Belts around them  
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 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;
- identify priority areas for economic regeneration, infrastructure provision and environmental enhancement.

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 58 supports high quality design and highlights several criteria including the need for development that will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; 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, and are visually attractive as a result of good architecture and appropriate landscaping.

Paragraph 70 seeks to ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

Paragraph 73 states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

Paragraph 74 states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on.

Paragraph 109 states the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes amongst other factors.

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](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 the broad approach will be to focus on previously developed land, locations with best access to services (where appropriate) and areas of lowest flood risk.



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. Design of spaces and buildings will be influenced by their context.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. TRAN2: Requires development proposals to manage transport impacts of new development

ENV1: Development within the Black Country will safeguard nature conservation, inside and outside its boundaries. All appropriate development should positively contribute to the natural environment of the Black Country.

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.

ENV6: Relates to sports fields and states that development that would reduce the overall value of the open space, sport and recreation network in the Black Country will be resisted. It further notes a requirement to make more efficient use of urban land by creating more multifunctional open spaces, and significantly expanding community use of open space, sport and recreation facilities provided at places of education.

ENV5: Proposals for development must demonstrate that the level of flood risk associated with the site is acceptable in terms of the Black Country Strategic Flood Risk Assessment and its planning and development management recommendations as well as PPS25 depending on which flood zone the site falls into and the type of development that is proposed (see PPS25, table D1: Flood Zones to explain appropriate uses in flood zones).

DEL1: All new development 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.

#### 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. Potential problems of land stability will be a material consideration.

ENV23: Development should take account of the natural environment.

ENV32 and 3.116: Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV33: Deals with landscape design and opportunities to create and enhance environmental quality.

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

8.7...Education, Health and Community Facilities... enhancement of existing, and provision of new, facilities for education will be encouraged...emphasis placed on locations accessible to all by choice of means of transport.

ENV40: Conservation, Protection and Use of Water Resources

(a) Development will only be permitted in areas where adequate water supplies are available or where they can be made available without detriment to the environment.

LC1 (b) in terms of the relocation of the pitch acting as compensatory provision and any further compensatory provision deemed necessary.

LC6 specifically relates to sports pitches and requires:

A carefully quantified and documented assessment of current and future needs has demonstrated that there is an excess of sports provision and the site is not of good quality or importance to the development of sport; or

**At least equal compensatory provision will be made in respect of quality, quantity,** suitability of location, and subject to equivalent or better management arrangements prior to the commencement of development

**T3: The Council will safeguard land for rail use.**

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

T13: Car parking standards – outdoor sports pitches

15 car park spaces per pitch.

15 bike stands per pitch

Taxi and coach facilities

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

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.

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

Consultations

Sport England – No objections

Flood Risk Planning & SUDS Officer – No objections subject to condition

Pollution Control – No objections, note to applicant recommended.

Transportation – No objections

Public Participation Responses

7 objections have been received on the following grounds:

The proposal has already been part implemented (The application description has been updated to reflect this)

Noise of youths who congregate on the field causing anti-social behaviour at night

Noise from stands

**The new stands will attract youths causing further issues.**

Metal scaffold poles next to the pitch could cause harm to footballers (Not a determining issue of this planning application)

The application is vague and does not state how many seats (The proposal is for 200 seats as indicated on the plans)

Lack of parking

Large coaches use the facility, access is on a bad bend

How often will the pitch and stands be used.

Highway safety concerns about access and traffic volume

Use contrary to covenants (Not a determining issue of a planning application)

Loss of view

Lack of security

Damages the look of the area

Devalues property (Not a determining issue of a planning application)

Determining Issues

Design of proposal and character of the area

Neighbouring and Occupiers Amenity

Access and Parking

Flooding

Security

Observations

Design of proposal and character of the area

The design, by virtue of its scale in the context of an existing sports pitch, is considered appropriate and would have little impact on the character of the area which is part is defined by this existing facility.

*Neighbouring and Occupiers Amenity*

*The proposed dug outs and seating area compliments the existing sports pitch facility. The seating area is partly enclosed and is considered would not create any significant additional noise than if spectators were to stand out in the open as would currently be the case. The amended location of the stands would also keep the fans away from the rear gardens of houses on Wrexham Avenue which is considered an improvement to the existing situation.*

Access and parking

Highways Officers have raised concerns about the use of the grounds but understand *that no change of use is proposed and it is not possible to attach conditions which do not relate specifically to the proposal.*

*The application does not propose a change of use and the proposed seating would enhance the existing facility which could attract similar numbers of spectators, furthermore the existing parking provision accords with the Councils parking standards. Private parking areas and any obstruction to the highway would either be a private or police matter.*

*Flooding*

*The hardstanding areas and spectator areas should be positively drained, as the dug outs are open fronted structures and the pitches are not seen to be proposing any new formal drainage, the flooding consultant has recommended a drainage condition to be imposed for drainage details to be agreed, to ensure the proposal is within the principles of the NPPF and associated PPG.*

*Security*

*Concerns have been raised from residents about anti-social behaviour at this site. At the time of the site visit the dug outs had already been damaged. These issues can be mitigated for through condition and is not considered sufficient reason to refuse a planning application.*

**REASON FOR BRINGING TO COMMITTEE: Significant community interest**

*Application and Site Details*

*The application proposes two dug out shelters for 8 people and 5 seating stands to accommodate 200 people at an existing sports pitch at Bentley Leisure Pavillion. Also proposed is a 1.5 metre wide hardstanding around the pitch with 1 metre high perimeter rail.*

*The dug outs include a solid roof and back section on aluminium frame, have already been installed and would measure:*

*4 metres wide*

*0.9 deep*

1.9 metres high

The seating stand would have a corrugated roof and rear elevation with open sides and front and would measure:

3 metres wide

0.9 deep

1.9 metres high

Amended plans have been received which have moved the stands away from the goal ends of the pitch (away from houses on Wrexham Avenue) to either side.

The existing site is used as a sports playing field, with bowling pitches and a club house. To the South is the river Tame with the gardens and grounds to houses and flats to the North and West along Wrexham Avenue and Bentley Road defining the shared boundaries.

The design and access statement makes the following relevant points:

The design is in compliance with league requirements for match football.

The position and orientation of the pitch has located so as to be accessible from the car park and the existing pavilion/community centre and as far as possible from the existing boundary with the neighbouring houses.

The new pitch is in a similar position to the existing.

The dug outs are essential transparent and will be located relatively close to the existing building.

The stands will be located on each side of the pitch, prefabricated with green powder coated finish.

The existing building remains altered.

Access to the site also remains as existing.

The existing changing room / toilets etc will be used

A flood risk strategy and planning statement has also been submitted.

The applicant has provided the following additional information about the site:

The site has been in use as an outdoor sports venue for more than 50 years.

There is no increase in the number of football pitches as a result of the application.

There have been 4 football pitches at the site for many years so the maximum capacity is 8 teams and this is unchanged.

All teams are amateur and the majority are children's/youth and ladies teams. Together with teams ,officials and spectators the maximum number of people expected (assuming all pitches have games being played) is between 200-250.

There are two car parks with the capability of overflow car parking if needed. The car parks have a capacity of approx 120 vehicles with an additional overflow (when needed) for another 75 vehicles (this can be further extended for several hundred vehicles if we encroached onto playing areas of surrounding pitches on an occasional basis).

The planning application has been made for the sole purpose of complying with FA Regulations appropriate to our (Darlaston Town (1874) FC) standard of football and no more vehicles are expected as a result of the application.

Matches which are likely to attract attendances (based on last year) will average approx 65 (gates between 50-80)will be played on alternate Saturday's pm and will be the only game played on the alternate Saturday.

The layout and car parking availability is also unchanged and has been so for many years . There is a car park (approx 30-40 vehicles) adjacent to the main building and dressing rooms and a much larger car park (approx 80-90 vehicles) to the side of the smaller car park. the overflow car park is a grassed area immediately off the main car park.

The facilities are mainly open on Saturday's and Sunday's (between July -April). Morning games kick off between 10-11 and finish between 12-1 whilst afternoon games kick off between 2-3 and finish between 4-5pm.

It is very rare that coaches visit the site but for example Wolverhampton Wanderers FC Ladies have used the site for many years and they occasionally play games against National opposition who travel by coach. We also play some teams from Herefordshire who may travel by coach. The number of coaches is unlikely to exceed 6 per annum and there has never been a problem in all of the years the site has existed. When it is known the visitors will travel by coach an area of the large park is cordoned off to allow a large turning circle and a separate parking area (on the large car park) for the coach is also cordoned off.

Relevant Planning History  
None

#### Relevant Planning Policy Summary

##### National Planning Policy Framework (NPPF)

The NPPF was published on Tuesday 27th March 2012. It *replaces and cancels all PPGs* and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

*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:*  
*Take account of the different roles and character of different area, promoting the vitality of our main urban areas, protecting Green Belts around them*  
*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 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*;
- identify priority areas for economic regeneration, infrastructure provision and environmental enhancement.

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 58 supports high quality design and highlights several criteria including the need for development that will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; 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, and are visually attractive as a result of good architecture and appropriate landscaping.

Paragraph 70 seeks to ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

Paragraph 73 states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

Paragraph 74 states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on.

**Paragraph 109 states the planning system** should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes amongst other factors.

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](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 the broad approach will be to focus on previously developed land, locations with best access to services (where appropriate) and areas of lowest flood risk.

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. Design of spaces and buildings will be influenced by their context.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. TRAN2: Requires development proposals to manage transport impacts of new development

ENV1: Development within the Black Country will safeguard nature conservation, inside and outside its boundaries. All appropriate development should positively contribute to the natural environment of the Black Country.

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.

ENV6: Relates **to sports fields and states that** development that would reduce the overall value of the open space, sport and recreation network in the Black Country will be resisted. It further notes a requirement to make more efficient use of urban land by creating more multifunctional open spaces, and significantly expanding community use of open space, sport and recreation facilities provided at places of education.

ENV5: Proposals for development must demonstrate that the level of flood risk associated with the site is acceptable in [terms of the Black Country Strategic Flood Risk Assessment and its planning and development management recommendations](#) as well as PPS25 depending on which flood zone the site falls into and the type of development that is proposed (see PPS25, table D1: Flood Zones to explain appropriate uses in flood zones).

DEL1: All new development 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.*

#### 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. Potential problems of land stability will be a material consideration.

ENV23: Development should take account of the natural environment.

ENV32 and 3.116: Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV33: Deals with landscape design and opportunities to create and enhance environmental quality.

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

8.7...Education, Health and Community Facilities... enhancement of existing, and provision of new, facilities for education will be encouraged...emphasis placed on locations accessible to all by choice of means of transport.

ENV40: Conservation, Protection and Use of Water Resources

(a) Development will only be permitted in areas where adequate water supplies are available or where they can be made available without detriment to the environment.

LC1 (b) in terms of the relocation of the pitch acting as compensatory provision and any further compensatory provision deemed necessary.

LC6 specifically relates to sports pitches and requires:

A carefully quantified and documented assessment of current and future needs has demonstrated that there is an excess of sports provision and the site is not of good quality or importance to the development of sport; or

*At least equal compensatory provision will be made in respect of quality, quantity, suitability of location, and subject to equivalent or better management arrangements prior to the commencement of development*

T3: The Council will safeguard land for rail use.

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

T13: Car parking standards – outdoor sports pitches

15 car park spaces per pitch.

15 bike stands per pitch

Taxi and coach facilities



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

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.

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

#### Consultations

Sport England – No objections

Flood Risk Planning & SUDS Officer – No objections subject to condition

Pollution Control – No objections, note to applicant recommended.

Transportation – No objections

#### Public Participation Responses

7 objections have been received on the following grounds:

The proposal has already been part implemented (The application description has been updated to reflect this)

Noise of youths who congregate on the field causing anti-social behaviour at night

Noise from stands

The new stands will attract youths causing further issues.

Metal scaffold poles next to the pitch could cause harm to footballers (Not a determining issue of this planning application)

The application is vague and does not state how many seats (The proposal is for 200 seats as indicated on the plans)

Lack of parking

Large coaches use the facility, access is on a bad bend

How often will the pitch and stands be used.

Highway safety concerns about access and traffic volume

Use contrary to covenants (Not a determining issue of a planning application)

Loss of view

Lack of security

Damages the look of the area

Devalues property (Not a determining issue of a planning application)

#### Determining Issues

Design of proposal and character of the area

Neighbouring and Occupiers Amenity

Access and Parking

Flooding

Security

#### Observations

### **Design of proposal and character of the area**

The design, by virtue of its scale in the context of an existing sports pitch, is considered appropriate and would have little impact on the character of the area which is part is defined by this existing facility.

### **Neighbouring and Occupiers Amenity**

The proposed dug outs and seating area compliments the existing sports pitch facility. The seating area is partly enclosed and is considered would not create any significant additional noise than if spectators were to stand out in the open as would currently be the case. The amended location of the stands would also keep the fans away from the rear gardens of houses on Wrexham Avenue which is considered an improvement to the existing situation.

### **Access and parking**

Highways Officers have raised concerns about the use of the grounds but understand that no change of use is proposed and it is not possible to attach conditions which do not relate specifically to the proposal.

The application does not propose a change of use and the proposed seating would enhance the existing facility which could attract similar numbers of spectators, furthermore the existing parking provision accords with the Councils parking standards. Private parking areas and any obstruction to the highway would either be a private or police matter.

### **Flooding**

The hardstanding areas and spectator areas should be positively drained, as the dug outs are open fronted structures and the pitches are not seen to be proposing any new formal drainage, the flooding consultant has recommended a drainage condition to be imposed for drainage details to be agreed, to ensure the proposal is within the principles of the NPPF and associated PPG.

### **Security**

Concerns have been raised from residents about anti-social behaviour at this site. At the time of the site visit the dug outs had already been damaged. These issues can be mitigated for through condition and is not considered sufficient reason to refuse a planning application.

## **Recommendation Summary: Grant Permission Subject to Conditions**

### **Conditions**

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

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

2. The development shall be carried out in accordance with the following plans:

Aerial view received 05/05/15

Existing site and block plan (G002101/01a) received 20/04/15

Amended proposed site layout (G002101/05a) received 21/08/15

Flood Resistant Strategy received 05/05/15

Design and Access Statement received 20/04/15

Planning Statement received 20/04/15

Email from applicant received 07/08/15

Reason: To define the permission.

3. a) No further works to implement the development hereby permitted shall take place until a scheme for the provision of security measures has been submitted to and approved by the Local Planning Authority.

3b) The approved scheme shall be fully implemented and retained thereafter.

Reason: To safeguard neighbouring amenity in accordance with UDP policy GP2.

4. a) No further works to implement the development hereby permitted shall take place until a scheme for the provision of surface water drainage works has been submitted to and has been submitted to and approved in writing by the Local Planning Authority.

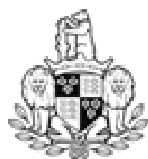
4b) The approved scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and in accordance with ENV40.

### **Notes for Applicant**

- Deposition of unknown material in the immediate vicinity of this proposed development may have resulted in localised ground contamination which may present Health and Safety implications for persons undertaking ground works.

No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.



# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

**Plans List Item Number: 8.**

**Reason for bringing to committee:** Significant community interest

**Location:** 2, DANEWAYS CLOSE, STREETLY, SUTTON COLDFIELD, B74 3NL  
**Proposal:** NEW BUILD FOUR BEDROOM DWELLING ADJACENT TO 2 DANEWAYS CLOSE.

**Application Number:** 15/0832/FL

**Applicant:** Mr David Flower

**Agent:** Williams Architectural

**Application Type:** Full Application

**Recommendation Summary:** Grant Subject to Conditions

**Case Officer:** Stuart Crossen

**Ward:** Streetly

**Expired Date:** 27-Jul-2015

**Time Extension Expiry:** 11-Sep-2015



### **Application and Site Details**

**The application proposes a detached house to the side of 2 Daneways Close. The proposal would include an integral garage, utility room, kitchen/breakfast room, toilet and lounge on the ground floor, on the first floor would be 4 bedrooms, one with an en-suite and a bathroom.**

**Amended plans have been received which have omitted the previously** proposed front projecting gable and gable roof over garage with a single mono-pitch roof over ground floor projection. The floor layout has been amended so that windows on the side elevation now serve non-habitable rooms. The house is also moved away from the rear of number 22 Manor Road by 300mm.

The house design includes a main gable roof with chimney, a ground floor front projection, side access doors to the breakfast room and lounge. The key measurements are:

**9.1 metres** deep at ground floor

**8.5 metres** deep at first floor

**10 metres** wide

**4.7 metres high to the eaves**

**7.6 metres high to the roof ridge**

**Daneways** Close is a modern cul-de-sac of detached houses predominantly with plain front elevations and ground floor front projections with mono-pitched roofs. The density of housing in this cul-de-sac is approximately 26dph, the proposal would be part of this street and would have a density of 20dph.

Number 2 is the nearest house and the proposal would be approximately built in line with this house which has a side gable roof and no main habitable room side elevation windows.

The rear of number 22 Manor Road faces the side of the proposal 16 metres away on ground which is 350mm higher than the application house. The side of the application house would meet the rear garden boundary of number 22.

The rear of number 24 Manor Road would face the side garden boundary to the rear garden of the application house and is 17 metres away from the proposal.

A design and access statement has been submitted which makes the following relevant points:

*The property is to comprise of facing brickwork with a plain clay tile to lean-to porch and main hipped roofs. We have introduced some render on the gables to create a contrast. Windows are proposed to be White PVC-u to match the colour and material of those adjacent properties.*

Flush threshold access is proposed from all external doors onto appropriately slopping paved areas to front and rear. It is the intention to be fully compliant with Approved Document 'M' of the latest Building Regulations. Three number off street parking spaces are proposed in front of the dwelling *in addition to the integral garage provided. Providing a greater area for parking would dominate the front defendable area of the property and has therefore been restrained.*

### **Relevant Planning History**

**None**

### **Relevant Planning Policy Summary**

## National **Planning Policy Framework (NPPF)**

The NPPF was published on Tuesday 27th March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

Key provisions of the NPPF relevant in this case:

### **4: Promoting Sustainable Transport**

**35.** Plans should protect and exploit opportunities for the use of sustainable transport modes

**39. If setting parking standards for residential LPA's should** also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

### **6: Delivering a Wide Choice of High Quality Homes**

**49.** Housing applications should be considered in the context of the presumption in favour of sustainable development

**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 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

**59.** Consider using design codes where they could help deliver high quality outcomes.

Design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

**60.** Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

**60.** It is proper to seek to promote or reinforce local distinctiveness

**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 obligations and conditions the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and

- fairly and reasonably related in scale and kind to the development.

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.

## **Annex 2- Glossary** - Previously developed land

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

## **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](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted in February 2011 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 ... even if *there is a limited degree of conflict with this Framework*".

The key planning policies include CSP4, HOU2, ENV2 and ENV 3

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

## **Walsall's Unitary Development Plan (UDP)**

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://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)*".

Key planning policy references include saved policies:

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.

ENV14 and 3.9 The Council will encourage the reclamation and development of derelict and previously developed land.

3.64: Trees are an important visual, ecological and historical resource, which should be retained and protected wherever possible.

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

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, 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 and 3.117 landscape design is an integral part of urban design

H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites and through the conversion of existing buildings.

ENV40 (c) The quality of all water resources will be protected and, where possible, improved. Development will not be permitted if the drainage from it poses an unacceptable risk to the quality or usability of surface or ground water resources. In particular the Council will need to be satisfied that:-

I. Adequate foul and surface water drainage infrastructure is available to serve the proposed development.

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

T13: Parking Provision

1, 2 & 3 bedroom houses 2 spaces per unit

Supplementary Planning Document (SPD)

On the basis that relevant Unitary Development Plan policies are consistent with National Planning Policy Framework, the related Supplementary Planning Document(s) will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

Designing Walsall (Feb 2008) refers to the development respecting massing, scale and rhythm of adjacent buildings, plots sizes and built density will relate to their local context , privacy and aspect distances between buildings must ensure all occupants have a satisfactory level of amenity, whilst reflecting the emerging and existing character of the area, ground floor activity and natural surveillance will be maximised, a clear definition between private and public realm and building frontage to overlook the public realm, common building lines along road frontages must be maintained with buildings have a clear relationship with their neighbours and new development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment.

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

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

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

The Vision: Homes, provides guidance on designing homes in Walsall.

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



## Consultations

Transportation – No objections subject to condition

Natural Environment Team – Trees – No comments – None of the trees are protected.

Pollution Control – No objections

Severn Trent – No objections subject to condition

Police – No objections, recommendations made which can be conditioned

Building **Control** – No objections

## Public Participation Responses

3 objections have been received in relation to the original plans on the following grounds:

Plans do not show 24 Manor Road (not numbered but it is on the location plan and part of the officers assessment)

Overshadowing of garden

Overlooking to bedrooms and gardens

Noise pollution

Plot shape out of keeping with character of the area

Access to house would be a fire hazard due to plot shape

Double driveway will cause parking on road to move nearer to the junction with Manor Road

Property devalued (*not a material consideration of a planning application*)

Contravenes the 45 degree rule

Impact on sewage and drain network

Applicant is connected to a former Councillor (*The relationship between former Councillors and applicants is not a determining issue of a planning application*)

## Determining Issues

Principle of Development

Design and Character of the Area

Neighbouring Amenity

Drainage

Access and parking

Security

## Observations

Principle of Development

The site is situated within a well established residential area within easy walking distance (maximum of 1000m defined in paragraph 7.51 of the UDP) of Streetly Local Centre with regular bus services along Chester Road. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

Whilst the proposals will result in the development of a residential garden which is not defined as previously developed land in the NPPF, in this case it is considered that the proposals will not cause harm to the local area, will not adversely impact on the character and identity of the local area and will be consistent with advise in paragraph 53 of the NPPF. An appropriate level of private amenity will be retained for No 22 Manor Road and 2 Daneways Close and the proposals will continue the street frontage of Daneways Close.

Although an unusual shape, the plot size is larger than what is average along Daneways Close making the useable space broadly similar.

The principle of an additional residential property fronting the street is considered appropriate in this location.

## Design and Character of the Area

The design following amended plans is very similar to neighbouring houses with matching roof design, forward projection and being of a similar scale. The design would integrate well with the existing houses on Daneways Close having little if any impact on the character of the area.

### Neighbouring Amenity

The house would be built in line with number 2 Daneways Close, this proposed relationship would ensure satisfactory levels of amenity for occupiers of this house and the application house and accords with the Council's 45 degree code.

The proposal would be 16 metres from the rear of number 22 Manor Road and at first floor has no habitable room windows. The ground floor side windows facing the boundary to number 22 are not the only windows to habitable rooms, which would face the shared boundary fence and are on lower ground. This relationship would be acceptable that there would not be significant loss of light to the garden or main windows of number 22, an unacceptable overbearing impact or overlooking. The proposal also accords with the Council's separation standards.

Number 24 Manor Road is further from the proposal than number 22 and the proposal is considered acceptable that there would not be significant loss of light to the main windows of number 22, an unacceptable overbearing impact or overlooking. The garden of number 24 is 22 metres long and has three areas of patio for sitting out, one of which would be close to the proposal at the end of the garden, it is accepted that the proposal would impact detrimentally on this space. As this is at the end of a garden and is not the only patio area at number 24 the loss of amenity here would not be sufficient reason to refuse the proposed house, in this instance and on balance is acceptable in planning terms.

The house would be at least 55 metres from houses on Thornhill Park having little if any impact on the amenities enjoyed by occupiers of these houses.

Due to the unusual plot shape some permitted development extensions to the house could impact on neighbouring amenity for this reason permitted development rights for extensions can be removed.

### Drainage

Concerns have been raised about drainage. Severn Trent has no objections to the proposal which is considered acceptable in this respect.

### Access and parking

Parking for 3 vehicles is provided at the new dwelling in the form of garage and driveway parking. At least 3 parking spaces are retained at the existing dwelling. The proposal accords with the Council's parking standards. Concern has been raised about on-street parking moving towards the junction, Highways Officers have raised no concerns, if the junction was blocked this would be a matter the Police could resolve. A condition is recommended by Highways Officers for a dropped kerb to be installed prior to the use commencing which can be attached to planning permission if granted.

### Security

In the interests of security as recommended by the Police Architectural Liaison Officer and in accordance with UDP policy ENV32 the development can be conditioned to meet secure by design which can include;

Windows, doors, roof lights, defensible space for front ground floor windows, new boundary fencing, rear access gates and intruder alarm.

### Other issues **raised through consultation:**

The application is for a new house and any noise from this use would be no different to existing noise from neighbouring houses.

The plot shape is unusual, however safe access to the property can be achieved and there is no reason to refuse the proposal on Fire Safety grounds. Building Control Officers consider the proposal meets fire safety regulations and is acceptable.

With regard to drainage Severn Trent have no concerns and *have recommended conditions which can be attached to any planning permission issued.*

**Positive and Proactive Working with the Applicant:**

Officers have spoken with the applicant's agent and in response to concerns raised regarding the proposed design and massing, amended plans have been submitted which enable full support to be given to the scheme.

**Recommendation Summary: Grant Permission Subject to Conditions**

**Conditions**

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

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

2. The development shall be carried out in accordance with the following plans unless otherwise superseded by condition:

Amended Location Plan and block plan (WAD0666/02A) received 14/08/15

Amended Proposed Elevations and Floor Plan (WAD0666/03A) received 14/08/15

Design and Access Statement received 01/06/15

Reason: To define the permission.

3. a) Prior to construction of the development full details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will meet Secure By Design specification.

3b) The approved details shall be fully implemented prior to first occupation of the house and thereafter retained

NB. Please refer to "Note For Applicant" for further information.

Reason: To ensure the safety of future occupants. The details are required prior to any further works because the window openings at ground floor level are already present and the windows are part of the Secure By Design specification.

4. a) Notwithstanding the details provided and prior to the commencement of the development hereby approved a schedule of the roof tiles and facing bricks to be used in the roof shall be submitted to and approved in writing by the Local Planning Authority.

4b) The development shall be completed with the approved details and retained and maintained at all times.

Reason: To ensure the satisfactory appearance of the development.

5. a) Prior to commencement drainage plans shall be submitted for the disposal of surface water and foul sewage and approved by the Local Planning Authority

5b) The approved details shall be fully implemented prior to occupation and retained thereafter.

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

and occupants.

6. a) Prior to the first occupation of the new dwelling, the parking area shall be fully consolidated, hard surfaced and drained so that surface water run-off from this area does not discharge onto the highway or into any highway drain.

6b) This area shall thereafter be retained and used for no other purpose.

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

7. Prior to the first occupation of the new dwelling, a new vehicle footway crossing to align with new access shall be installed in accordance with Council's footway crossing specification SD11/8 dated January 2008 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 completion and operation of the access, in the interests of highway safety and UDP policy GP2.

8. No development within Classes A, of Part 1 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) shall take place.

Reason: To protect the character and amenities of the area and to comply with policies GP2 and ENV32 of Walsall's Unitary Development Plan.

9. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 16.00 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 amenity of adjoining residential occupiers.

### **Notes for Applicant**

- Secured by Design
  1. New windows/ roof lights / patio / French doors/ windows should conform to PAS 24 2012 Standard or equivalent with at least one pane of 6.8mm laminated glass in all ground floor windows,
  2. There should be an area of defensible space in front and across the length of each front facing window, which should be around 1m in depth and consist of dense low level shrubbery, suitable for the light / soil environment at its location. The defensible space will help protect ground floor windows and make access to them by offenders more difficult.
  3. All external doors should be to PAS 24 2012 standards. If a europrofile cylinder lock is to be utilised this doors testing and certification should incorporate a TS-007 3star cylinder lock.
  4. Most properties are attacked from the rear therefore perimeter security needs

to be effective in order to protect the most vulnerable area of any property. With this in mind 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 ie 1.8m fence plus 300mm anti climb trellis topping.

5. 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 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.

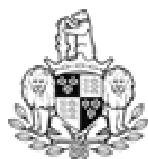
6. All gates should be 2.1m in height and be key lockable from both sides.

7. Fencing should be located as near to the front building line as possible.

8. Garage doors must be certificated to one of the following standards - Loss Prevention Certification Board standard LPS1175 security rating 1 or STS 202 issue 3:2011 burglary rating 1. Where there is an interconnecting door into the dwelling the interconnecting door should be rated to PAS24 2012 standards.

9. Due to the increase in metal theft consideration should be used to minimising the use of lead in the design, by using lead substitute or alternative products.

10. The property should be fitted with a suitable intruder alarm utilising dual technology sensor or above and alarm sirens front and back of building.



# Walsall Council

## Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

**Plans List Item Number:** 9.

**Reason for bringing to committee:** Significant Community Interest

**Location:** , 379, CHESTER ROAD, ALDRIDGE, WALSALL, WS9 0PH

**Proposal:** PROPOSED SIDE GARAGE EXTENSION, PITCHED CANOPY ROOF ABOVE FRONT BAY WINDOW, REMOVAL OF A REAR GARDEN WALL AND RELOCATION OF A NEW FENCE AND FRONT BOUNDARY FENCE

**Application Number:** 15/0935/FULL

**Case Officer:** Helen Smith

**Applicant:** Mr A Evans

**Ward:** Streetly

**Agent:** Mr D Evans

**Expired Date:** 09-Aug-2015

**Application Type:** Full Application

**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



## Application and Site Details

**This application proposes the** addition of a single garage to the side of a detached house which is separated from Chester Road by a service road. The application house occupies a prominent corner position at the entrance to Raglan Close and within a residential area. Raglan Close is one of four cul-de sacs along Chester Road consisting of 6 bungalows which have a similar building pattern. There are open fields opposite the application property.

**The new garage would** be 3.3 metres wide and 6.7 metres deep with a hipped roof which would be 2.1 metres high to the eaves increasing to 4 metres high. The existing dropped kerb would be used and the agent has provided an Auto Tracking plan which demonstrates a vehicle accessing and exiting the garage. There would be a door providing access from the rear garden and the existing house has an integral garage.

**An additional plan has been provided which includes the addition of 0.9 metres high boundary fencing to the front** corner of the application site adjacent to the footpath.

This proposal includes the repositioning of rear garden boundary treatment closer to the public footpath serving Raglan Close to enlarge the private rear garden serving no. 379. New 1.8 metres high feather edge fencing is proposed which would be set back 0.2 metres from the footpath. There are similar rear garden boundary fences at properties at the entrances to Leacliffe Way and Brandon Close which have the benefit of planning permission (house no's 355 and 363 Chester Road).

**A 1.1 metres deep pitched roof/canopy extension would be** added to the front elevation of the application house and supported by a gallows bracket.

No. 2 raglan close is a bungalow located to the rear of the application house. This neighbouring property has a front habitable room window and driveway access near to no. 4 Raglan Close.

No. 377 Chester Road is located on the opposite side of the road to the application house and has a blank side elevation. No. 381 Chester Road has a garage near to the application house.

## Relevant Planning History

None for the application house

355 Chester Road

02/0159/FL/H2 –Erection of 2 metres high fencing to side of property – granted subject to conditions 11/03/02

363 Chester Road

03/0728/FL/H4 - Reposition fence to back of pavement – granted subject to conditions 7/7/03

## 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

**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.

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](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:**

**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** 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 Designing Walsall SPD is consistent with the NPPF.

### **Consultation** Replies

Transportation – No objections

Crime Prevention Design Advisor/Crime Reduction Officer, **West Midlands Police** – No objections

### **Public Participation Responses**

**Letters of representation have been** received from six neighbouring properties making the following objections and comments;

The proposal would enlarge the garden but narrow the width of the close (the area to the side of the application *house is private land*)

**This would set a precedent and the Close would be** shut away and closed in (*each planning application is assessed on its own merits and does not create a precedent*)

**Impact** on security of the Close by creating blind spots and shielding opportunist petty thieves.

Impact on the views for the six bungalows (*the loss of a view is not a material planning consideration*)

**No** other house at the entrance to the four closes has a permanent structure built on this space

This could lead to two storey extensions being built in the future (*each planning application is assessed on its own merits and does not create a precedent*)

Overshadowing and overbearing impact having an adverse impact on residential amenity

Un-neighbourly form of development out of keeping with the cul de sac

Would create a tunnelling effect (the 8 metres wide separation distance across Raglan Close, *between the side garden boundaries of no's 377 and 379 Chester Road, are considered would prevent a tunnelling effect*).

Used to be a side entrance into the garden of no. 379

Useful to know the height of the garage (*the plans state that the garage would be 4 metres high*)

Not necessary to relocate the fence as access to the garage is possible to the garage within the existing line of the fence (*comment noted and the proposal will be assessed as submitted*)

No. 377 Chester Road may wish to do the same (*if a planning application is received for this address it would be assessed on its own merits*)

Frontages of no. 2, 4, 10 and 12 Raglan Close would not be viewable from the road and in 20 years there has only been one criminal incident which was dealt with within minutes whilst criminal activity at the adjoining 3 closes is higher. This is most likely as the front properties have similar fences to that being proposed probably without planning permission (*planning permission has previously been approved to reposition fences to the back of the footpath for no's 355 and 363 Chester Road*)

why fix something that isn't broken for the benefit of one family (the proposal will be *assessed on its planning merits*)

supportive of an increase in off-street parking

likely to block out light and views to no. 10 Raglan Close

elevation seems high and diamond shaped from the side view

drainage should be to the front of the garage (drainage is not *a material planning consideration in this instance*)

What is the proposed length of time if passed? (planning permissions remain valid for a period of 3 years)

impact on general feel of the area and openness

creates a free crime zone for any potential anti-social and criminal behaviour with a view of sight lost and anti-warning

previous works to the wall and drive by an earlier owner would be removed causing noise, mess etc. *(any construction works, if approved, are likely to be for a limited time only due to the minor scale of the works proposal)*

The application has been made in the height of summer and not in the peak of winter on a cold, dark, damp night reducing light (planning applications can be submitted at any time of the year for consideration).

Only 2 street lamps in the close and the lamp near no. 379 reflects down off the current wall and block paving into the street. This would be lost behind a wooden fencing increasing the risk of burglary and accidents in bad weather *(street lighting is on the footpath and as light is from above the extension and fence are considered unlikely to have a significant impact on street lighting)*

no other houses on the Chester Road frontage have two garages and a car port is suggested as an alternative (comment noted but the planning application will be assessed and determined *as submitted*)

this would be a disaster for the Close if completed and would never be changed back *(neighbours' concerns are noted)*

this proposal is not justified, authorised, proportionate or necessary *(this proposal will be assessed on its planning merits)*

### 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
- Parking and Access

### Observations

#### Design of **Extension and Character of Area**

The pitched roofs of proposed the canopy and garage extensions are considered would reflect the character of the existing dwelling house.

There are a number of properties along Chester Road which have side garage extensions with flat roofs and front canopy roof additions. It is considered in this instance that the proposal would integrate with the existing street scene. The existing garage is integral and the addition of a second garage is not considered to be a concern in this location.

There is a separation distance of approximately 8 metres, across Raglan Close, between the side garden boundaries of no's 377 and 379 Chester Road. The single storey garage extension and a new 1.8 metres high fence is considered would have minimal impact on the existing openness of Raglan Close.

The relocation of the rear garden boundary treatment to within 0.2 metres of the footpath would be similar to existing fencing at 355 and 363 Chester Road at the entrances to Leacliffe Way and Brandon Close which have planning permission. The addition of new fencing is considered to be visually acceptable in this location and reflects many other fences in the borough where corner houses have rear gardens near to the highway without harming the character or openness of the area.

**The plan indicates that** pea gravel and planting will be added to the gap between the new fence and the footpath although it is considered that the gap is likely to the amount of planting.

### Amenity of Nearby Residents

The proposed pitched canopy roof would be located to the south of no. 381 Chester Road but as this neighbouring house has a garage near to no. 379 it is considered that this addition would have little additional impact on neighbours' existing light and amenity.

The proposed garage would lie on the opposite side of Raglan Close to no. 377 Chester Road with a separation distance of 12 metres and it is considered this proposal would have little impact on neighbour's light and amenity.

No. 2 Raglan Close is to the east of the application house and as there would be a separation distance of 10.4 metres between the garage proposal and this neighbouring bungalow the additional impact on neighbours light and amenity would be limited.

No. 2 is already obscured from Chester Road by the application house and the existing 3 metres long rear boundary fencing. Consequently it is considered that a further extension of this fence by 2.3 metres towards the highway would not significantly worsen the existing situation.

The garage would be 10.4 metres from the nearest neighbouring property and is considered unlikely to have an overbearing or overshadowing impact on neighbours' residential amenity.

No. 10 Raglan Close is located 28 metres from the proposed garage and it is considered the proposal is unlikely to block out light to this bungalow. The loss of a view is not a material planning consideration.

**West Midlands Police Crime Prevention** Design Advisor/Crime Reduction Officer has been consulted and has commented that in principle they can see no reason why a fence would increase the risk of crime to Raglan Close to any significant extent. The Police have recommended that a 300mm anti-climb trellis topping be placed on top of the proposed fencing and that each wooden panel is secured from lifting by using galvanized steel fixings (this can be conditioned). This helps prevent offenders climbing or lifting of the proposed fencing at 379 Chester Road reducing opportunity to gain access to the rear of the properties in Raglan Close. The Police also comment that this means of access is already available to offenders with the current fencing design and the recommended trellis and steel fixings would secure this boundary to a greater extent than it is at present.

The Police crimes system shows only one crime in the three locations, Hingley Croft, Brandon Close and Leacliffe Way and this crime was not have been linked to any design feature. Raglan Close bungalows face towards the street and the positioning *and orientation of these bungalows means that residents provide passive surveillance* for neighbouring occupiers. It is considered that this proposal could not be refused permission because of a fear of crime in this instance.

### **Parking**

Transportation officers have no highway objections to the proposal following the addition of a 0.9 metres high fence along the front garden boundary to prevent vehicles using the garage from encroaching onto the footpath. A planning condition will be included to ensure the retention of the front garden fence.

Access to and from the proposed garage via the existing dropped kerb is considered would be awkward but the agent has provided Auto Tracked evidence that these manoeuvres are possible and consequently the proposal is considered to be acceptable in highway terms.

The agent has demonstrated there **would** [be an acceptable pedestrian visibility splay on drawing no. 26](#) Revision A.

Positive and Proactive working with the applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding access to the garage, *amended plans have been submitted which enable full support to be given to the scheme.*

## **Recommendation Summary: Grant Permission Subject to Conditions**

### **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 all deposited on 03/08/15: -

- Site Location Plan, drawing no. 01
- Site Plan, drawing no. 02
- Existing Elevations-Northern Elevation, drawing no. 03
- Existing Elevations-Eastern Elevation, drawing no. 04
- Existing Elevations-Southern Elevation, drawing no. 05
- Existing Elevations-Western Elevation, drawing no. 06
- Existing Elevations-Plan View, drawing no. 07
- Proposed Elevations-Northern Elevation, drawing no. 08
- Proposed Elevations-Eastern Elevation, drawing no. 09
- Proposed Elevations-Southern Elevation, drawing no. 10
- Proposed Elevations-Western Elevation, drawing no. 11
- Proposed Elevations-Plan View, drawing no.12
- Sectional Drawing-Proposed Northern Elevation (section details subject to Building Regulations approval) drawing no. 13
- Sectional Drawing-Proposed Eastern Elevation(section details subject to Building Regulations approval), drawing no. 14
- Sectional Drawing-Proposed Southern Elevation, drawing no. 15
- Sectional Drawing-Proposed Western Elevation (section details subject to Building Regulations approval), drawing no. 16
- Sectional Drawing-Proposed Plan Section, Measurements To Property Boundary (section details subject to Building Regulations approval), drawing no. 17
- Sectional Drawing-Proposed Roof Layout(section details subject to Building Regulations approval), drawing no. 18
- Proposed Fencing, drawing no. 19 Revision A
- Existing Brick Wall, drawing no. 20
- Existing Boundary Treatment, drawing no. 21
- Existing Boundary Treatment-Western Elevation, drawing no. 22
- Proposed Boundary Treatment-Northern Elevation, drawing no. 23 Revision A
- Proposed Boundary Treatment - Northern Elevation, drawing no. 24
- Proposed Boundary Treatment-Western Elevation, drawing no. 25
- Proposed Fencing Showing Highway Visibility Splay, drawing no. 26 Revision A
- Proposed Fencing and Pedestrian Visibility Splay, drawing no. 27
- Auto Tracking - Showing Vehicle Entering/Exiting Garage, drawing no. 28

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 roof of the extensions shall comprise facing materials that match in colour, texture and size 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 information provided a 300mm anti-climb trellis topping be placed on top of the proposed fencing and that each wooden panel is secured from lifting by using galvanized steel fixings.

Reason: To ensure that satisfactory levels of security are provided 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 2015, 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. Prior to the garage first coming into use the front boundary fence as detailed on drawing no's 19 and 24 shall be installed and retained as such thereafter.

Reason: In the interests of Highway safety.

7. The garage shall only be used for purposes incidental to the enjoyment of the dwelling house as such.

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





## Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning and Building Control on 03-Sep-2015

**Plans List Item Number: 10.**

**Reason for bringing to committee:** Councillor Martin has called this application before planning committee because she considers that the proposal would not result in a terracing effect or would affect the character of the area excessively.

**Location:** , 3, GLOUCESTER ROAD, WALSALL, WS5 3PL

**Proposal:** FIRST FLOOR SIDE AND REAR EXTENSION AND SINGLE STOREY FRONT AND REAR EXTENSION

**Application Number:** 15/1008/FULL

**Applicant:** Dr Siddiq

**Agent:** Dr Siddiq

**Application Type:** Full Application

**Recommendation Summary:** Refuse

**Case Officer:** Helen Smith

**Ward:** Paddock

**Expired Date:** 19-Aug-2015

**Time Extension Expiry:**





## **Application and Site Details**

**This is a detached** 1960's house within a row of similar detached houses set back 9.2 metres from Gloucester Road. This area has a residential character and houses along this street have first floor gaps of varying width.

These additions would provide a new porch and enlarge an existing lounge and kitchen at ground floor. At first floor two additional bedrooms would be added and the total number of bedrooms would increase from four to six.

**The proposed first floor** side and rear extension would be built above the existing garage and laundry room and would be 2.9 metres wide leaving a 0.6 metres gap to the side boundary (at the front) with the neighbouring house no. 5 Gloucester Road.

This extension would be in line with the existing first floor front elevation and would extend 2.2 metres further than the existing two storey rear elevation. The side extension would have a gable roof which would match the existing ridge height with the proposed rear gable roof 1.9 metres lower than the ridge.

**A new front entrance porch is proposed which would have a 3.6 metres high gable roof and would extend** forward of the front elevation by 1.8 metres.

This proposal has been amended to reduce the depth of the proposed single storey rear extension from 3.8 metres to 2.7 metres. This extension would be added to an existing 2 metres deep single storey rear extension. This proposal would be built across the full width of the application house and would have a 2.8 metres high flat roof.

The depth of the remaining rear garden would be 27 metres and there is off- street parking on the frontage of the application house.

No. 1 Gloucester Road is positioned to the south west of the application house and has a single storey rear extension with rear facing habitable room windows. The front elevation of no. 1 is 1.7 metres forward of the front of no. 3.

No. 5 Gloucester Road has a 0.4 metres higher ground level and is to the north east of no. 3. This house has a blank side elevation and front and rear facing habitable room windows close to the shared side boundary with no. 3. There is a 1.3 metres wide gap between the side boundary with no. 3 and the side elevation of no. 5.

**There would be a habitable room window to window separation** distance of 49 metres between the proposed rear extension and the rear elevation to no. 110 Sutton Road.

### Relevant Planning History

BC03959P – Kitchen extension – granted subject to conditions 24/8/82  
BC13488 – Lounge extension – granted subject to conditions 25/10/79

BC11162 – Section 53 Determination Kitchen and Lounge Extension – planning permission required 9/1/79

**BC11163** – Erection of storm porch Section 53 Determination – planning permission required 9/1/79

BC5484 – Extensions to dwelling – granted subject to conditions 21/10/76

## 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](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 guidance: particularly where new development impacts on existing (details of [this code are available on request or can be downloaded from www.walsall.gov.uk](http://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*.

#### 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 an informative note for the applicant if the proposal is approved.

#### Public Participation Responses

None

## 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*
- *Parking*

## Observations

### Design of Extension and Character of Area

The proposed gable roof is considered would reflect the design of the host dwelling.

The first floor side proposal would be built 0.6 metres (at the front) from the side boundary with no. 5 Gloucester Road and the remaining 1.3 metres wide side gap would remain wholly within the boundary of no. 5. The lack of a first floor set back to the front is considered would harm the original symmetrical balance of this property by failing to create a subservient extension to the host dwelling in this instance.

There is a limited 0.6 metres wide gap (at the front) to the side boundary with no. 5 Gloucester Road is considered would result in a cramped appearance between these two properties which would have a detrimental impact on the street scene.

**The Council's terracing** policy included in Appendix D of Designing Walsall SPD states that to avoid the creation of terracing a minimum 0.9m gap to the boundary should be retained and first floor extensions set back by a minimum of 1m.

**The Council has requested an amendment** to provide a 1 metre deep set back of the first floor front elevation which has been declined and the submitted proposal would not meet the terracing guidance included in Appendix D of Designing Walsall SPD.

The 27 metres length of the remaining rear garden would meet the garden dimensions recommendation referred to by Appendix D.

### Amenity of Nearby Residents

*The proposed first floor side extension would not extend forward of the front elevation of no. 5 Gloucester Road which has a blank side elevation.*

*There would be some loss of sunlight to the rear of no. 5 during the afternoon although it is considered that it would not be to a degree that would result in harm to the living conditions of the occupiers of this property.*

**The proposed two storey** extension would be located on the opposite side of the application house to no. 1 Gloucester Road and it is considered that the south westerly orientation of no. 1 would result in this proposal having a limited impact on the existing amenity enjoyed by the occupiers' of this neighbouring house.

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 windows in no's 1 and 5 Gloucester Road.

The **habitable room window to window** separation distance of 49 metres between the proposed rear extension and the rear elevation to no. 110 Sutton Road would exceed the minimum recommended separation distance of 24 metres, referred to in Appendix D, by 25 metres.

## Protected Species

The Council's Ecologist has commented that the gardens in this area are reasonably mature and larger than average. Furthermore it is considered that there is sufficient green infrastructure adjacent to the application site for there to be a reasonably high prospect of finding bats in the building but bat roost densities are not likely to be high in the near neighbourhood.

The proposed work involves limited works to the roof on its north-east facing side. Whilst this case is border line it is considered the submission does not require a bat survey in support of this proposal in this instance but the inclusion of an informative note for the applicant is required if the proposal is approved.

## Parking

The provision of six bedrooms would require the provision of 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

Helpful amendments to the initial proposal have been made by the applicant as requested with the exception of a first floor set back of the proposed front elevation by 1 metre to meet the terracing guidance referred to in Appendix D of Designing Walsall SPD.

## Recommendation Summary: Refuse

### Reasons

1. The design of the proposed first floor side extension which fails to include a first floor front set back when combined with the limited gap to the side boundary with no. 5 Gloucester Road is considered would harm the existing symmetry of the application house and would result in these two houses having a cramped appearance. Consequently it is considered that the proposal would have a detrimental impact on the street scene. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.