



DEVELOPMENT CONTROL COMMITTEE

**Report of Head of Planning
and Transportation on
19th April 2005**

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To: DEVELOPMENT CONTROL COMMITTEE

**Report of Head of Planning
and Transportation
on 19 April 2005**

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 05/0358/FL/W5

Case Officer: Karon Hulse

Application Type: Full application

Telephone Number: 01922 652436

Applicant: JCS (Jyoti Convenience Store)

Agent: Mistry Design Services

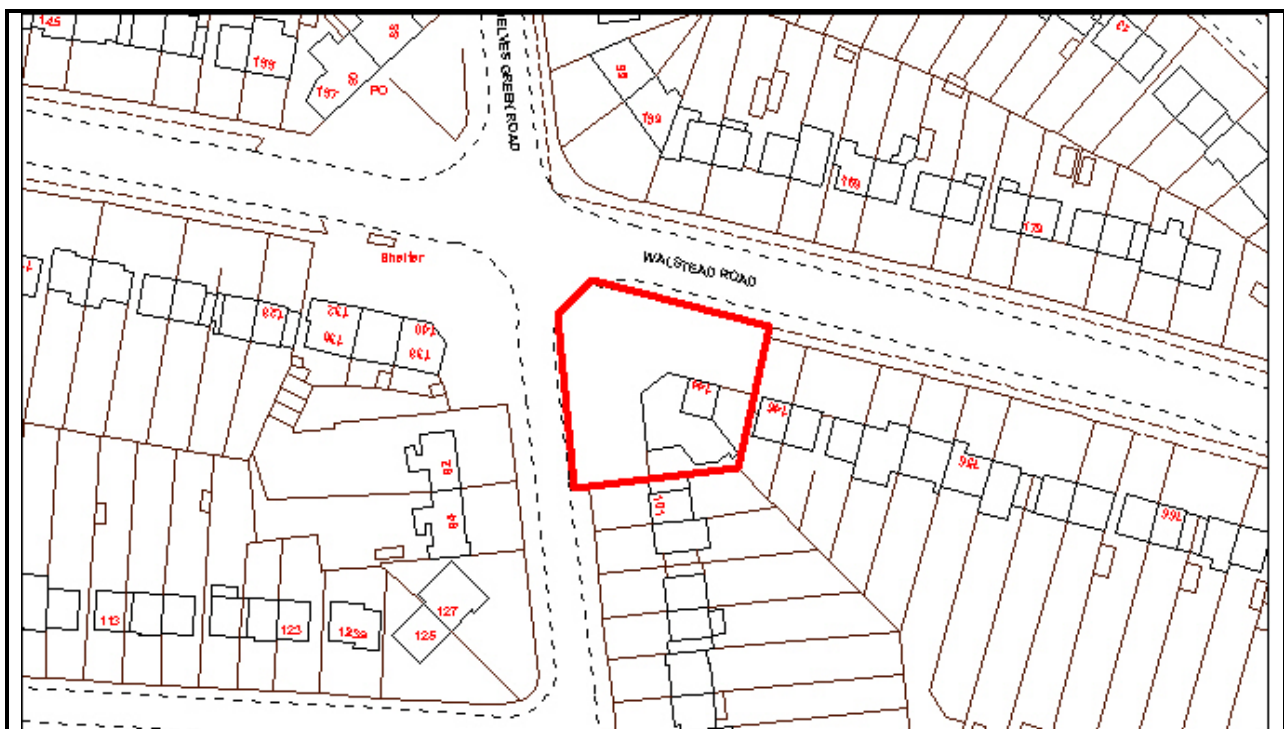
Proposal: New building, ground floor general convenience store with post office, flats above consisting of First Floor, 3 flats (two 2 bed flats & a 1 bed flat) Second Floor 2 flats (studio flat & 3 bed flat for owner of ground floor convenience store)

Location: 144, WALSTEAD ROAD, WALSALL, WEST MIDLANDS, WS5 4DN

Ward: Palfrey

Expired: 21 April 2005

Recommendation Summary: Grant Permission subject to conditions



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Application and Site Details

The site is a lock up shop at the junction of Walstead Road and Delves Green Road. The site has two frontages and the current building is set back behind a tarmac forecourt with vehicular accesses to both roads.

The current buildings are single storey with a hipped roof on the front of the building, having a maximum height of 6 metres and a flat roofed portion to the rear of 3.05 metres in height.

This application is a resubmission following two previous refusals in October, 2003 and October, 2004 for similar proposals. The reasons for refusal are listed below in the history section.

This application is a complete revision of the design of the proposed building in order to address those previous reasons for refusal. Whilst the siting of the building is in a similar position to those previously considered and would accommodate the same ground floor space intended for the convenience store, the first and second floors have been designed with the objective of reducing impact on neighbouring occupiers.

The new shop unit would have approximately 300 square metres of ground floor area, and would incorporate a post office (transferred from 157 Walstead Road - the opposite corner of the cross roads). The unit would be situated approximately 1 metre further forward than the current building on the Walstead Road frontage and 2 metres further forward on the Delves Green Road frontage. Car parking is proposed on the frontages (16 spaces for both the flats and the shop) but otherwise the building fills the site.

There are five flats, three on the first floor (two x 2 bedroom and one x 1 bedroom) and two on the smaller second floor (one x 2 bedroom and a studio apartment created in the roof space above the first floor). Effectively, all habitable room windows would be facing the front of the site.

The rear, single storey portion of the shop has a shallow ridged roof. The upper floors are only over part of the shop (the frontages). The proposed building would be two storey in height adjacent to no. 101, Delves Green Road and 146, Walstead Road, similar to those dwellings, then increasing to three storey on the corner of the building. This also includes the erection of a feature turret on the top of this corner.

The shop door is on the Walstead Road side with access to the flats via an internal communal hallway adjacent to 101 Delves Green Road.

Relevant Planning History

03/1483/FL/W3 and 04/1477/FL/W5, both for a convenience store/post office with flats above were refused for the following (abbreviated) reasons.

1. Inadequate parking likely to lead to on- street parking to the detriment of highway safety.
2. The design, height and siting in relation to the adjoining residential properties and the character of the area, would form a dominant and incongruous feature to the detriment of the visual amenity of the area.

3.The height, siting and design would be detrimental to the amenities of nearby neighbours due to the dominant effect of the building and an increase in activity at the rear of their properties.

4.Inadequate amenity space for the occupiers of the proposed dwellings.

Relevant Planning Policy Summary

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

Unitary Development Plan

The adopted Unitary Development Plan policies identify an increased emphasis on the quality of design as an important environmental issue as well as the following which are specifically relevant.

3.6...Development / redevelopment schemes help to improve the environment

3.7...proposals for development/redevelopment will seek to protect people from unacceptable noise, pollution and other environmental problems...encourage relocation of bad neighbour uses from residential and other sensitive areas.

3.16...consider development in relation to its setting, reference to character and quality of existing environment... require high quality of built and landscape design

Env 32...(a) Poorly designed development/proposals not be permitted unless take into account context or surroundings

Env 32...(b) quality of design subject to appearance, height, proportion, scale, and mass of proposed buildings/ structures, materials, integration, Community safety/security, effect on the local character of the area, vehicular and pedestrian circulation patterns, integration of existing natural and built features of value

ENV33...Good landscape design to be integral part of design

GP2...expect developments to contribute to quality of environment... not permit development which would have an unacceptable adverse impact on the environment

GP7...designing out crime through promotion of mixed use developments ...ensure presence of people, maximise surveillance of public areas from the living areas of homes and amount of defensible space, design and layout of buildings, landscaping and structures.

S6...Meeting Local Needs...existing local shopping encouraged to meet day-to-day needs of their communities...seek to define areas where there is a lack of local facilities, such as residential areas which are more than 500m from a food shop...suitable vacant premises in the area will normally be preferable to accommodate new facilities.

H3...encourage additional housing through re-use of previously developed windfall sites and through the conversion of existing buildings, including vacant dwellings and the upper floors above shops and other business premises...conversion of appropriate buildings into dwellings - flexibility in standards for parking and amenity space.

H4...Affordable Housing

H9..Minimum Densities

H10... Layout, Design and Dwelling Mix

National Policy

Planning Policy Guidance Note 3 (Housing) promotes the redevelopment of previously developed land for housing within urban areas, while protecting green spaces. It allows for some flexibility in the application of standards to achieve development. Its other objectives are :

- ~ to meet the housing needs of the whole community,
- ~ create more sustainable patterns of development,
- ~ make more efficient use of land,
- ~ promote good design,
- ~ reduce car dependence.

Consultations

Transportation - There are no transportation objections subject to conditions requiring adjustment to parking scheme and signing of the access arrangement.

Pollution control - no objections subject to conditions regarding construction times etc.

Fire Officer - Access satisfactory for fire appliances.

Representations

I have received 4 letters of objection one of which included a petition with 15 signatures, objecting for the following reasons :

- i) three storey building out of keeping with surrounding properties and dominant
- ii) increased traffic congestion, busy crossroads
- iii) overlooking
- iv) impact on viability of existing post office

In addition to the above I have received a portfolio of the application details which has been on display in the applicants current premises. It illustrates the application proposals and asks customers if they agree, disagree or are not sure about the proposals. There are 480 entries all of which are in support of the details.

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

Determining Issues

The determining issues are whether or not the amendments are sufficient to address previous refusal reasons :

- design,
- impact on existing residential amenity,
- parking and manoeuvring and
- provision of amenity space

Observations

The erection of a replacement shop and the use of the site for residential purposes or a combination of the two uses is acceptable in principle. The post office element of the proposal would be a relocation from the existing unit on the opposite corner rather than an additional unit. You will be aware that there has been a current trend towards the closure of sub-post offices, however this proposal intends to retain the existing facility in this area whilst enhancing it and improving the provision for convenience shopping.

Design

This amended scheme proposes a more acceptable design. The design now takes into account potential impact on neighbouring properties through reduced overlooking and dominance. The proposed building is in part one storey higher than its surroundings (ignoring the turret). This height would be on the corner of the development away from the residential properties of no. 146 Walstead Road and 101 Delves Green Road. Whilst this would be three storey in nature I feel it will become a notable feature within the street scene and the area generally.

Impact on residential amenity

The access hallway to the flats would be enclosed, reducing overlooking of those existing residential premises either side. Similarly all habitable room windows would face onto Delves Green Road and Walstead Road removing overlooking and potential loss of privacy. The third floor apartment would have a roof light on the rear elevation however this would simply be for the provision of extra lighting and due to the angle of the roof line I would not anticipate any overlooking of properties to the rear.

In my opinion, the impact on the amenity of both future occupiers of the flats and for those existing around the site will be acceptable.

Parking and manoeuvring

It is likely the shop would be patronised by a high proportion of local customers, indeed the applicants petition suggests that the majority of users of the existing shop (opposite) are local, being within a 500 metre radius of it. The Unitary Development Plan policy S6 (d) suggests that this should be the maximum distance from a residential area to a local food shop.

Clearly there will always be some passing trade to such premises but I do not expect it to be to the degree which would impact on highway safety by vehicles having to park on the highway.

The previous reason for refusal on highway grounds was based on the fact that the then submitted parking layout was inadequate on the basis that out of the 17 spaces proposed only 9 would have been achievable as some spaces were smaller than the required standard, there was insufficient manoeuvring space in front of some parking spaces or others would require vehicles reversing onto the highway or at the access points, ultimately discouraging the use of the car park, resulting in on street parking to the detriment of highway safety.

This submitted scheme can achieve a total of 16 spaces (with the amendment required by the Transportation officer). Whilst again this is short of the required standard (19 for the convenience store and 7 for the flats, maximum standards), I consider that the scheme will provide an increase in the provision of off street parking for a convenience shop (the existing one opposite has no off street parking) and manoeuvring within the site itself will be greatly improved by the implementation of an in / out system for motor vehicles (in off Walstead Road and out onto Delves Green Road) and as such there will be no compromise of highway safety.

In addition I consider that some flat dwellers living in an urban area may be less likely to require cars particularly when the area is well served by public transport. In this case there are good bus routes in and out of Walsall town centre and direct bus access to the local railway station at Bescot, again encouraging low car ownership and use of other modes of transport.

However and notwithstanding the above, I consider that the overall proposed parking scheme to be adequate and provide a sufficient number of parking spaces off street for both elements of the development and improve circulation around the site thereby maintaining highway safety.

Provision of amenity space

The previously refused applications were considered on the basis that they were proposing three bedroom flats and more likely to attract families with children. As such it would not be unreasonable to expect the development to be able to provide its own private amenity space. Those applications proposed a balconied roof for such, however, this was not considered acceptable for reasons of overlooking of nearby premises etc. and consequently formed one of the reasons for refusal.

These proposed flats are a mix of one and two bedroom flats, with the second floor apartment intended for use by the tenants of the shop (although this is not an essential prerequisite of the proposal if approved). I am of the opinion that flats of this size which are usually found on upper floors above shops are not usually associated with the provision of private amenity space, they would ultimately attract their own type of tenant and occupier which would be in accordance with Planning Policy Guidance 3 which seeks to secure an appropriate mix of dwelling size, type and affordability and meet the changing composition of households and needs of specific groups.

Consequently and on the basis of this scheme I consider it not necessary to require any provision of private amenity space on the site.

Recommendation: Grant Permission subject to conditions

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

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

2. Notwithstanding the deposited plans, no development shall be carried out until full details of the proposed boundary treatment of the site, including measures to secure pedestrian and vehicular visibility splays, have been approved in writing by the Local Planning Authority. The

submitted scheme shall include any internal site divisions. The approved scheme shall be implemented and completed before the development is brought into use and shall be thereafter retained.

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

3. No development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation) has been approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include, where applicable, details of:

- i) existing and proposed ground levels
- ii) dimensions of planting beds
- iii) site preparation
- iv) plant species/densities; tree species/sizes and locations
- v) arrangements to be made for the disposal of surface water
- vi) hard landscaping works.

The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such period of time as may be agreed in writing by the Local Planning Authority

Reason : To ensure the satisfactory appearance of the development.

4. No development shall be carried out until details of car parking and manoeuvring areas have been approved in writing by the Local Planning Authority. The plans shall clearly show the proposed surfacing materials and means of surface water drainage. The approved scheme shall be implemented before this development is brought into use and the parking spaces shall have been clearly marked out. The areas shall thereafter be retained and used for no other purpose.

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

5. This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

Reason : To ensure the satisfactory appearance of the development.

6. No materials, goods or refuse shall be stored or deposited in the open on any part of the site other than refuse in a refuse container which shall be positioned to avoid interference with car parking spaces and vehicle manoeuvring on the site.

Reason: To ensure the satisfactory appearance of the development.

7. The premises shall not be open for business outside the hours of 0700 to 2200

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

8. No delivery vehicles shall operate to or from the site outside the hours of 0700 to 2200 and shall not take place at all on Sundays, bank or Public Holidays.

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

9. No construction, demolition or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation) in connection with the development shall take place on any Sunday, bank holiday or public holiday, and otherwise such works shall take place between the hours 0700 to 1800 weekdays, and 0800 to 1300 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

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

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

11. Before premises on the site are brought into use, signs of a type to be previously agreed in writing by the Local Planning Authority indicating access / egress to the car park shall be erected and thereafter retained.

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

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

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

Reason : To ensure the success of the landscaping and planting scheme, and the establishment of the plants.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies 2.2, 3.6 , 3.7, 6.6, 6.8, Policy REG 1, Policy H4 (a) and (e), 7.2, 7.23, Policy 8.4 and Appendix 2 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk



To: DEVELOPMENT CONTROL COMMITTEE

**Report of Head of Planning
and Transportation
on 19 April 2005**

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 05/0192/FL/E6

Case Officer: Sally Morton

Application Type: Full application

Telephone Number: 01922 652429

Applicant: Redrow Homes (West Midlands)
Ltd

Agent: Redrow Homes (West
Midlands) Ltd

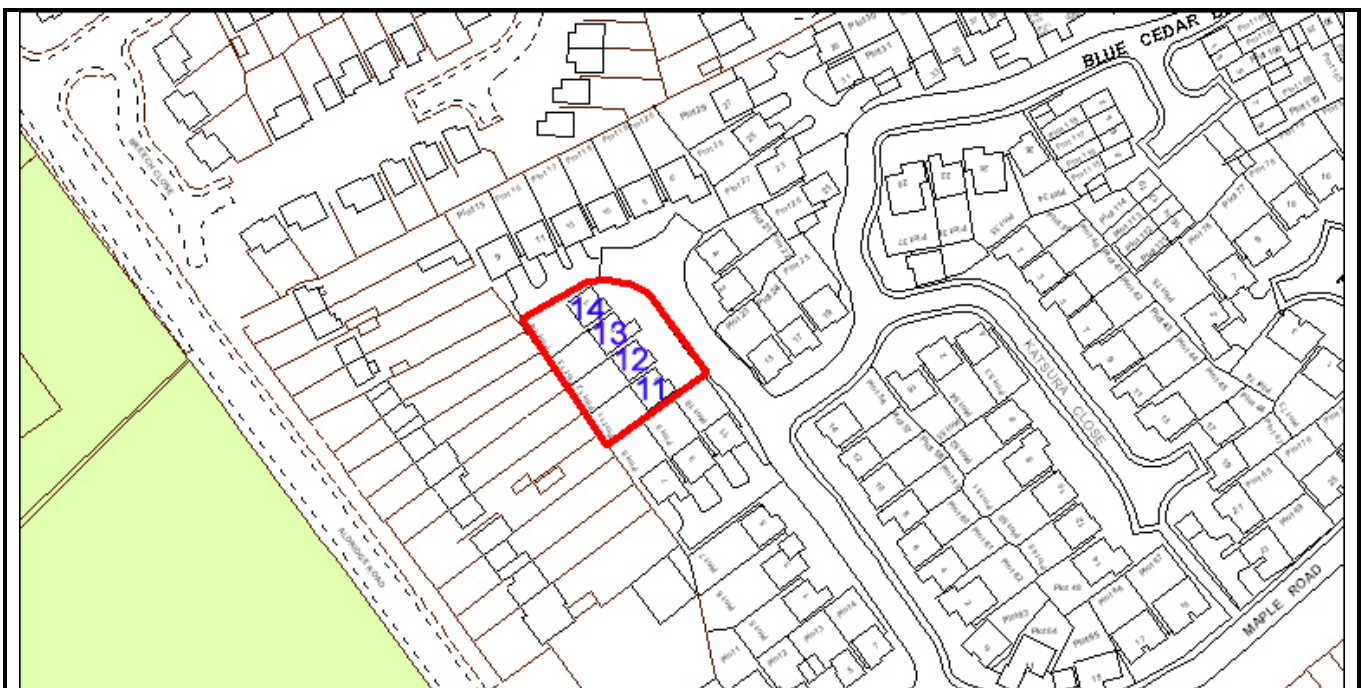
Proposal: Erection of 4 houses at revised
levels

Location: DEVELOPMENT OFF
ALDRIDGE ROAD, PLOTS 11-14

Ward: Streetly

Expired: 30 March 2005

Recommendation Summary: Grant Permission subject to conditions



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Application and Site Details

The application seeks retrospective permission for the erection of four houses at revised floor levels. The levels increases are Plot 11 is 1.15 metres higher, plot 12 is 1.2 metres higher, plot 13 1.65 metres higher and plot 14 is 1.2 metres higher. All works have ceased on these plots pending the decision of this application.

The back to back distances between the proposed and existing dwellings achieve between 47.5 and 52 metres. This far exceeds the standard of 21.5 metres separation between facing windows of habitable rooms.

The layout and design of the dwellings has not altered from what was previously granted planning permission. It is proposed to terrace the rear gardens which are between 13 and 14 metres long, and provide extensive planting to provide a screen along the boundary. It is proposed to plant Silver Birch trees of between 4.2 and 5.0 metres in height, which in three years time will be approximately 7 to 8 metres in height, at three metre intervals. It is also proposed to plant shrubs, Cherry Laurel, between the trees. The scheme also involves the erection of a 2.2 metre high fence along the boundary.

The applicants have confirmed that the revised levels will not compromise the ground reclamation scheme.

The applicants have submitted the following statement in outlining the reasons why the plots have been raised:

'This statement sets out to explain the reasons and background behind the floor slab level changes to plots 11 to 14 of the Forest Lea development site at Aldridge Road, Streetly.

The floor slab levels which were approved as part of the original planning application were designed to follow the existing contours across the site as closely as possible. This was mainly for practical purposes, but also to minimise impact upon surrounding existing homes.

Further to securing planning permission, Redrow embarked upon the detailed technical design of the estate roads, a process which involved liaison with The Council's Highways Department in its role as the eventual adopting highway authority. As part of this process The Council's highway officers objected to several elements of Redrow's proposal, one of which was the intention to follow the contours of the site in the wider area surrounding plots 11 to 14.

The highway officer's objection was that the estate road leading past plots 11 to 14 rose too steeply to reach the relatively higher ground levels of plots 15 to 20. As it was not practicable to reduce the ground levels of plots 15 to 20, the solution was to reduce the gradient past plots 11 to 14 by raising the levels of the estate road along its approach.

The raise in the estate road levels necessitated a raise in the floor slab levels of plots 11 to 14. This is because the driveways which connect the houses to the estate road would otherwise have been at dangerously steep gradients.

In recognition of a potential issue in having to raise the floor slab levels of plots 11 to 14, Redrow resisted the highway officer's request for changing the road gradients. However in balancing this concern against matters of highway safety the Highways Department

maintained its request. Accordingly the road gradients were changed, and consequently so were the slab levels of plots 11 to 14.

In further recognition of the potential issue that this created, Redrow submitted the revised floor slab levels to The Council's Planning Department in February 2002. A number of attempts were made over a one year period to draw out any objection, however none was made. Therefore on the basis that the level changes had been driven by The Council's own Highways Department and that the Planning Department did not object to them, the development proceeded in accordance with the revised levels.'

Relevant Planning History

BC67070P was a planning application for residential development and associated works. The proposal was for 171 residential units. It was refused by the Aldridge District Committee in 2000 on the grounds of insufficient data in respect of ground contamination and remedial measures. The applicants appealed against the decision, which was subsequently withdrawn.

02/0069/FL/E6 Resubmission of the previous planning application above. This application was granted planning permission subject to conditions and a section 106 agreement by the Planning Committee at a meeting in 2002.

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

Unitary Development Plan

2.2 aims to work towards the creation, sustaining and enhancing a high quality natural and built environment throughout the Borough, including a high standard of design.

Policy GP1 promotes the maximisation of the re-use of land

Policy GP2 aims to ensure no adverse impact on the environment by way of visual appearance, overlooking, loss of privacy, and the effect on day light and sun light received by nearby property, and adequacy of parking facilities

Policy GP7 community safety, deals with the principles of designing out crime.

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

Policy ENV14 encourage the reclamation and development of derelict land.

ENV32 poor design which fails to take account of context and surroundings will not be permitted. When assessing the quality of design of proposed developments the height,

proportion, scale, and mass of proposed buildings will be considered, the visual relationship of the proposed developed with adjacent areas, the street, and the character of the surrounding area.

ENV33 applications to be supported by full details of landscaping proposals.

H3 encourage the provision of additional housing through the re-use of brownfield previously developed windfall sites.

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

Policy H10 create a high quality living environment, well - integrated with surrounding land uses and local character with good design as set out in Policy ENV32

Policy T13 seeks 2 parking spaces for dwellings up to three bedrooms, and 3 spaces for dwellings with four or more bedrooms.

Government Policy

Planning Policy Statement 1: Delivering Sustainable Development, emphasises need to reject poor design and the need for sustainable development.

Planning Policy Guidance Note 3: Housing, promotes sustainable development and the efficient use of previously developed land. It promotes the need for well designed new housing developments. Consideration of design and layout must be informed by the wider context.

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

Consultations

Transportation have no objections as there are no material changes to the highway.

Pollution Control advise confirmation is sought that the ground protection measures that have been previously agreed are not compromised.

Environmental Regeneration: Landscape and Conservation advise that the choice of tree and shrub species are appropriate for a domestic garden, in particular with these garden depths. The tree canopies will have significantly less screening in winter. However the planting of evergreen or conifer trees is not advised due to the garden depths. The landscape details are acceptable.

Drainage comment that the application is satisfactory.

West Midlands Fire Service comment that the access has not changed and therefore it is satisfactory for fire appliances.

Severn Trent Water have no objections subject to the imposition of conditions, including the agreement of surface water and foul sewage disposal before commencement of development, and that no buildings are within 2.5 metres of the sewers that cross the site, otherwise the applicants would need to apply for their diversion.

National Grid Company have advised that none of their electrical transmission apparatus will be affected.

Birmingham City Council have no comments to make.

Representations

In total twenty one letters have been received over the majority of the Forest Lea development, as this application originally formed one of three which was submitted. Two of the applications have been withdrawn.

Issues raised by neighbouring occupants include,

- Fear of contamination.
- Overlooking, loss of privacy because the houses are too close, and too high in relation to their properties.
- Flooding and landslide concerns
- Block out light, light pollution from headlamps and lamps on new road
- Increase in traffic
- Proposed planting will take years to mature, and will block out light
- Noise, dust and vibration
- TV reception interference and devaluation of house

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

Determining Issues

The determining issue with regard to this application is :

- 1) Whether the proposed development would provide a satisfactory living environment for its potential occupiers, while preserving the amenities of the neighbouring residential occupiers

Observations

1) Whether the proposed development would provide a satisfactory living environment for its potential occupiers, while preserving the amenities of the neighbouring residential occupiers

The previous planning permission showed the ground floor windows to the approved dwellings above the height of the fence, and the majority of the patio doors also above the height of the fence. The increase in floor levels has raised these ground floor windows higher and parts of the garden will be above the height of the rear garden fence however planting is proposed to screen views from the windows and garden. In addition the gardens will be terraced towards the boundary to address levels, but also reduces the impact of the garden nearer to the boundary.

In terms of the gardens, occupants of the existing properties on Aldridge Road have extensively long gardens, the minimum measuring 35 metres long. The gardens to the proposed dwellings achieve the Council's standard of a minimum of 13 metres in length. The proposed development would have terraced gardens in order to avoid ground level increases adjacent the boundary and protect privacy. The finished floor levels and the gardens for distances of a minimum of 6 metres would be elevated above the proposed fence line between the existing and proposed dwellings at a height of 0.7 metres for plots 11 and 12, 1.3 for plots 13 and 14, as shown on the Landscape Proposals plan. The proposed semi-mature screen planting along the boundary would interrupt views into the existing rear gardens, and screen the views to and from the ground floor windows and gardens of the proposed dwellings. The planting height of 4.2- 5.0 metres which will mature to 7 or 8 metres within three years will effectively screen the ground floor windows and the rear gardens. The approved scheme would have allowed for views from these windows, albeit at a lower height. This screening when in full leaf would help to maintain privacy in the summer months, and interrupt views in the winter when gardens are less used. It is noted by the landscape officers that the plans accurately portray the tree screen immediately and in the three years, although the shrubs may not have matured to that extent. The trees therefore would provide a good screen.

The approved floor heights are higher than the original height of the ground, for example on plot 11 the house was some 2.45 metres higher than the ground on the boundary. It is accepted there will be a degree of loss of privacy to the gardens of the existing dwellings on Aldridge Road, on balance with the proposed tree screening it is not considered to be unacceptable. It is normally accepted in terms of dealing with privacy in gardens in planning terms to provide a private area approximately 4 metres from the back of the house. This is so that people can have a private sitting area outside their house. The existing dwellings on Aldridge Road all have neighbouring properties, the privacy to the rear of these gardens are therefore to some degree already compromised by the ability of the neighbouring properties able to look from the middle to the rear of each others gardens. As previously mentioned, the gardens to the new dwellings are between 13 and 14 metres in length, the gardens to the existing dwellings are a minimum of 47.5 metres, that would leave a minimum distance of over 40 metres between the area that would normally be expected to be a private area. The views that far would be obscured by the tree screening and would therefore be minimal over such a long distance. On balance therefore it is recommended that the degree of harm by loss of privacy is not significant.

The houses are erected on site. There is clearly a perceived increased loss of privacy from the increased height of the buildings, but views from both the ground and first floor windows would have been available from the approved scheme. The increased mass of the houses presented above the garden fence, with the elevated roof position will further erode the feeling of openness that the properties on Aldridge Road originally enjoyed but privacy and outlook could be overall improved by the extensive planting scheme that is proposed along the boundary.

The siting, design, and layout are as previously permitted.

The impact of the increased heights on the site of Forest Lea is considered to be acceptable to future occupants of plots 8-10, 15-18 and 21- 24. The orientation of the houses in addition to the fencing requested by Condition 10 will maintain privacy to the gardens of plots 8-10. Plots 15-18 are orientated so that they face the side of plots 11-14, with addition to boundary treatment the privacy levels should be maintained also. Finally, plots 21-14 are across the road from these dwellings and face front on. The distances between the dwellings meet the councils standards.

2) Other Issues

In response to the comments by the applicants that Planning Officers did not object to the increase in floor levels, no response was actually given in respect to the acceptability. This was due to considerable staff resource problems at a time of a significant increase in workload within Planning Services. The absence of a response cannot be taken to mean that there were no concerns. Acceptance of increased floor levels is clearly a matter for Committee. The applicants were advised to cease works and that to continue in the absence of planning approval for the revised levels was entirely at their own risk.

Recommendation: Grant Permission subject to conditions

1. The development shall only be carried out only in accordance with the details and specifications included in the submitted application, as amended by the revised drawing received by the local planning authority on 06 March 2005.
Reason: To make sure that the scheme takes the form agreed by the authority and thus results in a satisfactory form of development.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1195, or succeeding Orders, no development within Classes A, D, and E of Part 1 to Schedule 2 of the Order shall be carried out to any of the dwellings hereby approved without the prior submission and approval of a planning application.
Reason: To give the Local Planning Authority control over the future development of the site, and in the interests of public safety.
3. Before occupation of the first dwelling the vehicle parking and accessways as shown on the approved plans shall be hardsurfaced tarmacadam (or an alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The areas shall thereafter be retained and used for no other purposes.
Reason: To ensure the satisfactory functioning of the development and the provision of off-street parking.

4. Within one month of the date of the decision a full schedule of facing materials to be used in external walls and roofs shall be submitted to the Local Planning Authority. The development shall then only be carried out only in the materials as approved in writing by the Local Planning Authority.
Reason: To ensure the satisfactory appearance of the development.
5. Before occupation of the first dwelling the full details of the approved boundary treatment, fencing and planting, of the site as shown on plan RWM/ARS.LA1- Revision B, received 06 March 2005 shall be carried out and shall be thereafter retained. No trees or other planting as shown on the approved plan shall be removed without the prior consent of the local planning authority. Any tree that fails shall be replaced with a suitable specimen to be agreed with the local planning authority prior to planting.
Reason: To safeguard the amenity of occupants of adjoining premises and to ensure the satisfactory appearance and functioning of the development.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995, or succeeding Orders, no gates, fences, walls or other means of enclosure, except those shown on the approved plans and agreed under Condition 9, shall be erected without the prior approval of the local planning authority. Those shown on the plan shall not be removed, moved or altered in any way without the prior approval of the local planning authority.
Reason: To protect the amenity of residents and to ensure the satisfactory appearance of the development.
7. Within two months of the date of the decision details of the drainage of the site shall have been submitted to the Local Planning Authority for approval. The scheme shall then be implemented and only take the form as agreed in writing by the Local Planning Authority prior to the occupation of the first dwelling.
Reason: To ensure that the site can be adequately drained without detriment to the water environment and the amenity of residents.
8. Before this development is brought into use, the access ways and vehicle parking shown on the approved plans shall be provided, and thereafter shall be retained and not altered or used for no other purpose, except with the express permission of the Local Planning Authority.
Reason: To ensure the satisfactory provision of off-street parking and to ensure the satisfactory functioning of the development.
9. Details of fencing and boundary treatment to the north-west and south-east boundaries shall be submitted to the local planning authority within one month of the date of the decision. The fences shall then be implemented prior to the occupation of the first dwelling and carried out only in accordance with the details as agreed in writing by the Local Planning Authority. The fences shall not be removed or altered in any way without the prior consent of the Local Planning Authority.
Reason: In the interests of residential amenity and to ensure the satisfactory appearance of the development.

The following policies were considered relevant in the determination of this application

Adopted Walsall Metropolitan Borough Council Unitary Development Plan, policies 2.2, GP1, GP2, GP7, 3.16, ENV14, ENV32, ENV33, H3, H9, H10, T13.



To: DEVELOPMENT CONTROL COMMITTEE

**Report of Head of Planning
and Transportation
on 19 April 2005**

REASON FOR BRINGING TO COMMITTEE: Disposal of Council owned land

Application Number: 05/0131/FL/E4

Case Officer: Val Osborn

Application Type: Full application

Telephone Number: 01922 652487

Applicant: Thameway Investments Ltd

Agent: Mr R A Walker

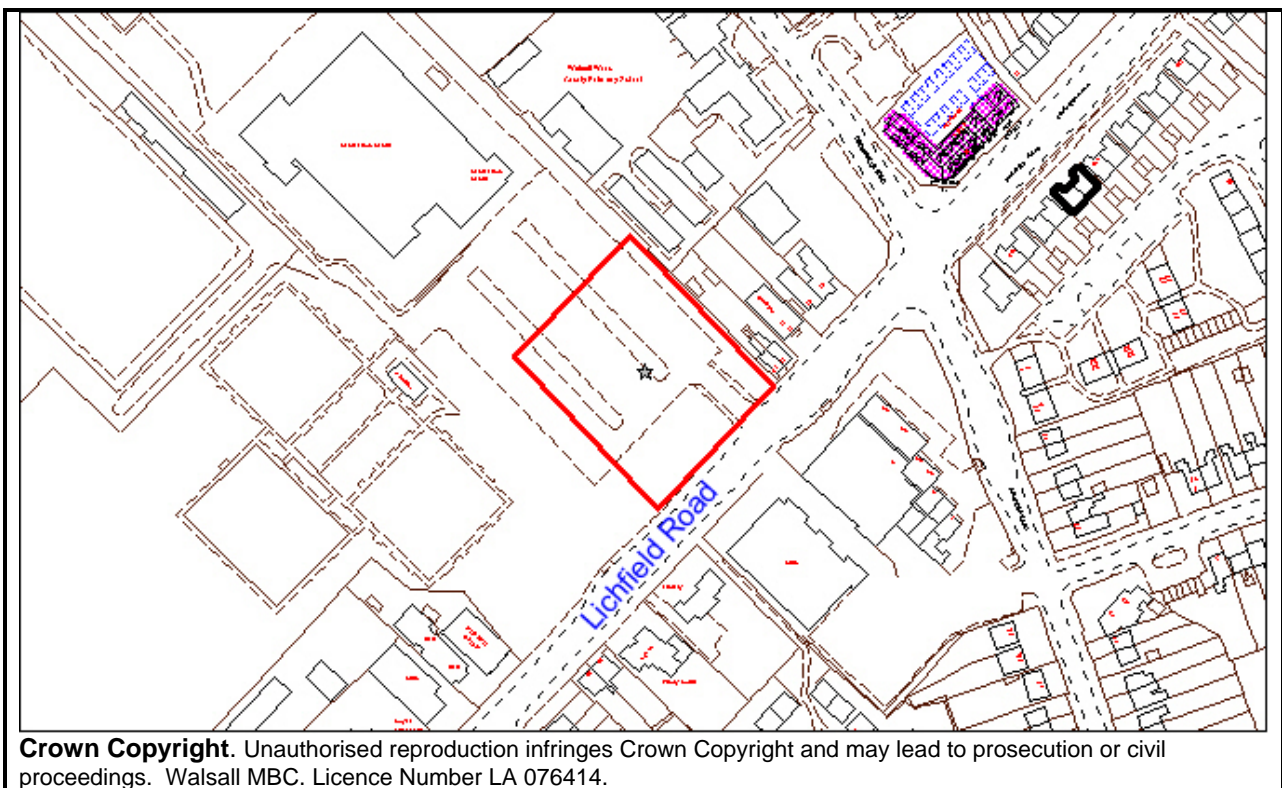
Proposal: Construction Of KFC Restaurant,
Drive Thru And Car Park

Location: LAND - PART OF CAR
PARK AT OAK PARK, LICHFIELD
ROAD, WALSALL
WOOD, WALSALL, WEST MIDLANDS

Ward: Aldridge North and Walsall Wood

Expired: 23 March 2005

Recommendation Summary: Grant Permission subject to conditions



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Current Status

This application is an amended resubmission of a previous scheme. The previous scheme (application reference 02/0527/FL/E2), has a committee resolution to grant planning permission subject to a section 106 agreement to address access issues, which involve third party land, being resolved. This revised application avoids the need for delivery vehicles to pass over the third party land by extending the application area to allow for delivery vehicles to turn around within the site.

Application and Site Details

It is proposed to build a new KFC restaurant and drive-thru takeaway on the frontage car park at Oak Park Leisure Centre. The restaurant/takeaway would be single storey, with food preparation and storage areas in a one and a half storey height structure and a corner two storey entrance tower at the front of the site. A flat roof extension, supported by piers would extend over the 'drive thru' servery at the rear. The 'drive thru' would surround the restaurant building.

Access would be from an improved entrance to Oak Park, off Lichfield Road, and a dedicated parking area providing 25 spaces would be at the rear of the proposed restaurant.

The application site includes the landscaped frontage to Oak Park and all of the trees on this part are to be retained. The proposed car park would involve the felling of 5 trees and the applicant proposes replacement planting of 4 trees, 3 to add to the frontage group and one additional tree in the car park of the proposed restaurant.

The agent has confirmed that the usual hours of operation would be 11.00am to 11.00 pm for the 82-seater restaurant, with expected peak time business at 35% of trade between 5pm and 8pm. Deliveries would be made three times a week outside of the hours of 3.00pm and 8.00pm, with the majority being made from a 10m rigid or 13m articulated lorry.

Relevant Planning History

Planning and Highways Committee resolve to grant permission for application reference 02/0527/FL/E2, for a similar proposal, subject to an agreement under Section 106. The application included land in the control of a third party about which an agreement has been unable to be achieved.

Relevant Planning Policy Summary

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

Unitary Development Plan

Allocates the site as a Local Centre development/investment opportunity.

Policy S5(d)- *Streets Corner, Walsall Wood; Land fronting the Oak park Recreation Centre Car Park , which should be used to accommodate an A3 use.*

Policy S5.2- prime concern is to maintain and enhance the vitality and viability of established centres.

Policy S5.4 - proposals must be of an appropriate scale and function in relation to the centre;

Policy S11 - Hot food take-away can be appropriate in local centres.

Policy ENV 32 - seeks good design with particular reference at (v) to Community safety and security.

National Policy

Planning Policy Statement 1 refers to the need for good design, relating to context.

Planning Policy Guidance Note 6 advises a sequential approach for new retail development.

Planning Policy Guidance Note 13- sustainable transport choices and locations.

Consultations

Transportation. The proposal is acceptable in highway terms, subject to conditions requiring the manoeuvring area being kept clear at all times. The applicant will be required to enter into a section 278 agreement, relating to the alterations to the existing road.

1. The revised plans show the swept path of an articulated lorry manoeuvring in and out of the site in a forward gear. The vehicle turns around within the KFC site in a manoeuvring area which is not part of the car park and which is to be kept clear of all obstructions and retained for this purpose.

2. The swept path indicates that a radius improvement is required on the entrance to Oak Park. This must be the subject of a section 278 agreement and be undertaken at the applicant's expense.

Environmental Health, Public Protection. No objections.

Walsall Sport and Leisure -

The application is in conflict with Walsall's Vision statement;

- Inevitable increase in traffic using the entrance to the Leisure Centre, which will frustrate customers and cause difficulty at peak times;
- Encourage a greater congregation of youth when the Centre is closed and the likelihood of increased vandalism;
- Obstruction of vision of the Centre from the road, which will reduce its profile;
- Significant congestion at the junction of KFC traffic and car park users.
- Increased litter

Lifelong Learning and Community

- Traffic concerns similar to those above.
- Obscure the leisure Centre from view and impact on the profile and accessibility.
- Anti-social behaviour and vandalism
- Concern for waste disposal and litter.

Corporate concerns:

- The Vision promotes Walsall as a healthy and caring place and a fast food outlet does not embrace this priority;
- The prevalence of high obesity rates in Walsall;
- Will the capital receipts from this land support the consequential demands on health services.

Group Library Manager, Walsall Wood - Potential for increased break-ins and vandalism when the building is unattended.

West Midlands Police Architectural Liaison Officer - has concerns about aspects of the internal design of the restaurant and these comments will be referred to the applicant.

Whether the attraction of the KFC will remain long-lived remains to be seen and will depend

on how the KFC management deals with non-customers. It is not anticipated that the development will encourage any more or additional youths that currently visit the nearby shopping centre.

Representations

Eleven letters have been received objecting on the following grounds;

- Inappropriateness in an open space amenity area, adjacent to a fitness and recreation facility, and against unhealthy eating;
- Unnecessary as there are other hot food outlets nearby;
- Traffic congestion with lorries stopping on the main road, conflict at the entrance to the Park, KFC and the car park;
- Pedestrian safety will be at risk;
- The area is already subject to anti-social behaviour;
- Reduction in the amount of available car parking for users of the Leisure Centre, which was particularly noticeable when construction started.
- Visual impact will spoil the open aspect of the area;
- Conflict with Policy S11.

Cllr Harris has written objecting on the above grounds.

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

Determining Issues

- Meeting policy
- Visual impact
- Traffic consideration

Observations

Policy

The site is allocated in the Unitary Development Plan, approved in March 2005, as suitable for an A3 use, as referred to at Policy S5 (d) above.

In respect of the Council's Vision, a priority is to "Strengthen the local economy, with a range of attractive facilities so that people do not have to travel elsewhere". The proposed development represents an investment that will strengthen the economy and viability of a local centre.

Visual Impact

The landscaped frontage to the site and the significant trees thereon would be retained and it is recommended that, in addition to conditions securing their protection and care in the short term, a Tree Preservation Order is promoted for their long term health and care. The applicant has agreed to further tree planting on the road frontage to compliment the existing group and four trees are proposed to replace the five lost, (one of which has already been felled). It is considered that appropriate species and size of replacement planting can be secured through a landscape scheme, so as to complement the very pleasant group planting at frontage of the site and within the car park of the site.

The siting of the proposed building some 27m from the back of footpath of Lichfield Road, together with the retained frontage and the additional planting, would ensure an appropriate relationship with the street scene. The Leisure Centre will remain visible from the highway, as 24m of the 70m wide frontage will be obstructed by the KFC building.

Traffic

There are no Transportation objections, subject to an agreement under section 287 of the Highways Act 1980, securing the site access improvements, and this would be secured by a condition requiring implementation prior to the opening of the facility. Delivery times would be restricted by a condition. The parking provision is considered satisfactory, remaining at the level previously supported and conditions of the recommendation would secure the retention of unobstructed access areas. The applicant has evidenced the high quality operational management that this facility would be subject to, particularly where safety, parking, delivery and access are concerned.

Other issues raised by representations and consultees

The ethics of a fast-food outlet near to fitness and leisure facilities are material Planning considerations.

The issues of littering risk would be dealt with by effective site management, and the applicant has indicated litter picking would be undertaken four times a day.

A condition of the recommendation would require the marking of access areas for pedestrians. Currently pedestrians cross the car park to the leisure centre at any point across the car park.

The internal design of the scheme and the site security issues raised by West Midlands Police Architectural Liaison Officer, will be forwarded to the applicant. It is not anticipated that the development will encourage any more or additional youths that currently visit the nearby shopping centre. The Police Architectural Liaison Officer has not raised any concerns in this regard.

Recommendation: Grant Permission subject to conditions

1. This development must be begun not later than 5 years after the date of this decision.
Reason; Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.
2. Within two months of the date of this decision details of the alterations to the access road, pedestrian access routes and kerb or other demarcation features, should be submitted to the Local Planning Authority. In addition an agreement under section 278 of the Highways Act 1980 must be entered into in relation to the modifications to the public highway. No further work should commence on site until these details have been approved by the Local Planning Authority and they shall be implemented according to the agreed scheme and maintained as such, unless agreed otherwise in writing by the Local Planning Authority.
Reason; In the interests of highway safety.
3. Before this development is brought into use, the access ways, vehicle parking and manoeuvring areas shown on the approved plans, including the remainder of the leisure centre car park, shall be surfaced in tarmacadam (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The parking spaces shall have been clearly marked out, including disabled spaces, together with pedestrian routes and other traffic control indications to be agreed, and parking,

manoeuvring and access areas shall thereafter be retained as unobstructed and used for no other purposes.

Reason; In the interests of highway safety and to ensure the availability of parking and access when the development is brought into use.

4. The premises shall not be open for business outside the hours of 9.00am to 11.00pm.

Reason; In the interests of the residential amenity of nearby occupiers.

5. There shall be no deliveries to the premises between the hours of 3.00pm to 8.00pm.

Reason; To prevent deliveries at times of peak use of the leisure centre car park, in the interests of highway safety and the safety/convenience of users of the car park.

6. Within three months of the date of this decision a schedule of facing materials to be used in external walls and roofs should be submitted to the Local Planning Authority. No further development should proceed at the site until these details have been approved and the development shall be retained in this form, unless otherwise agreed in writing by the Local Planning Authority.

Reason; To ensure the satisfactory appearance and design of the development, in the interests of public safety.

7. Within three months of the date of this decision a detailed landscaping scheme for the site shall be submitted to the Local Planning Authority. No further work shall proceed at the site until the scheme has been approved in writing by the Local Planning Authority. The landscape scheme shall provide details of the proposed surface treatments for new driveway areas and the treatment of boundaries thereto, in addition to tree and shrub planting at the site.

Reason: To ensure the satisfactory appearance of the development.

8. The approved landscape scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

9. Unless indicated on the approved plans to be removed, none of the existing trees on the site shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority.

Reason: In the interests of the amenity of the area.

10. Within one month of the date of this decision details of the design and location of protective guards or fencing to all trees to be retained within the development shall be submitted to the Local Planning Authority. No further development shall proceed at the site until the scheme is approved in writing by the Local Planning Authority. The approved guards or fencing shall be erected around all trees to be retained before further work at the site commences and the fencing shall be retained until the development is entirely complete. The land so enclosed shall be kept clear of all contractor's materials and machinery at all times.

Reason; To safeguard the trees at the site.

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

Reason; To safeguard the trees at the site.

12. All planted and grassed areas shall be maintained for a period of 5 years from the full completion of the approved landscape scheme. Within this period:
- a) grassed areas shall be maintained in a clean and tidy condition by regular cutting and any areas that fail to establish or become eroded shall be reinstated;
 - b) planted areas shall be maintained in a tidy condition by regular weeding and litter collection;
 - c) Any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed within five years of planting, shall be replaced by a tree, shrub or plant of the same or greater size as the same species as that originally required to be planted.
Reason; In order to ensure the satisfactory appearance of the proposed development.
13. Within three months of the date of this decision details of ventilation and fume control equipment have been approved in writing by the Local Planning Authority. The approved details shall be implemented before this development is brought into use, and thereafter retained in working order.
Reason; In order to ensure the satisfactory appearance of the proposed development.
14. No external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details.
Reason; In the interests of the amenity of nearby occupiers and to ensure a satisfactory appearance of the development.
15. Within two months of the date of this decision a desk study shall be undertaken, to be agreed in writing by the Local Planning Authority to investigate and produce an assessment of the risk of the potential for on site contamination. If the desk study identifies potential contamination no further work, excavations or operations shall proceed at the site and a detailed site investigation must be carried out to establish the degree and nature of the contamination and its potential to pollute the environment or cause harm to human health. Any necessary remediation measures identified through the site investigation to deal with any identified contamination shall be implemented in accordance with the assessment and to the satisfaction of the Local Planning Authority.
Reason; In order to ensure that the site and surrounding areas are not affected by pollution.
16. Within three months of the date of this decision a scheme for the arrangements for the satisfactory drainage of the site shall be submitted to the Local Planning Authority, and such arrangements shall be implemented on the site prior to the development being brought into use in any part and retained as such,
Reason; To ensure that the site can be satisfactorily drained.
17. Within three months of the date of this decision, details of the design for the bin store shall be submitted to the Local Planning Authority. The design shall be approved in writing by the Local Planning Authority, constructed according to these approved plans and completed before the restaurant is brought into any use. The bin store shall be maintained as such.
Reason : In order to retain control over the appearance of the site.

18. No areas external to the building shall be used for the positioning of tables, chairs or similar furniture for the consumption of goods sold at the premises, unless otherwise approved in writing by the Local Planning Authority.
Reason; In order to safeguard the amenity of the area.

NOTE FOR APPLICANT:

1. This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated. A separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992 or subsequent legislation.
2. An agreement under Section 287 of the Highways Act 1980 will be required before the commencement of development in respect of the alterations to the access for Oak Park.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies S5, S11 and ENV 32 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk



To: DEVELOPMENT CONTROL COMMITTEE

**Report of Head of Planning
and Transportation
on 19 April 2005**

REASON FOR BRINGING TO COMMITTEE: Disposal of Council owned land

Application Number: 02/1624/AD/E2

Case Officer: Ron Moss

Application Type: Advertisements

Telephone Number: 01922 652487

Applicant: Mercian Fast Foods

Agent: Frank Belshaw

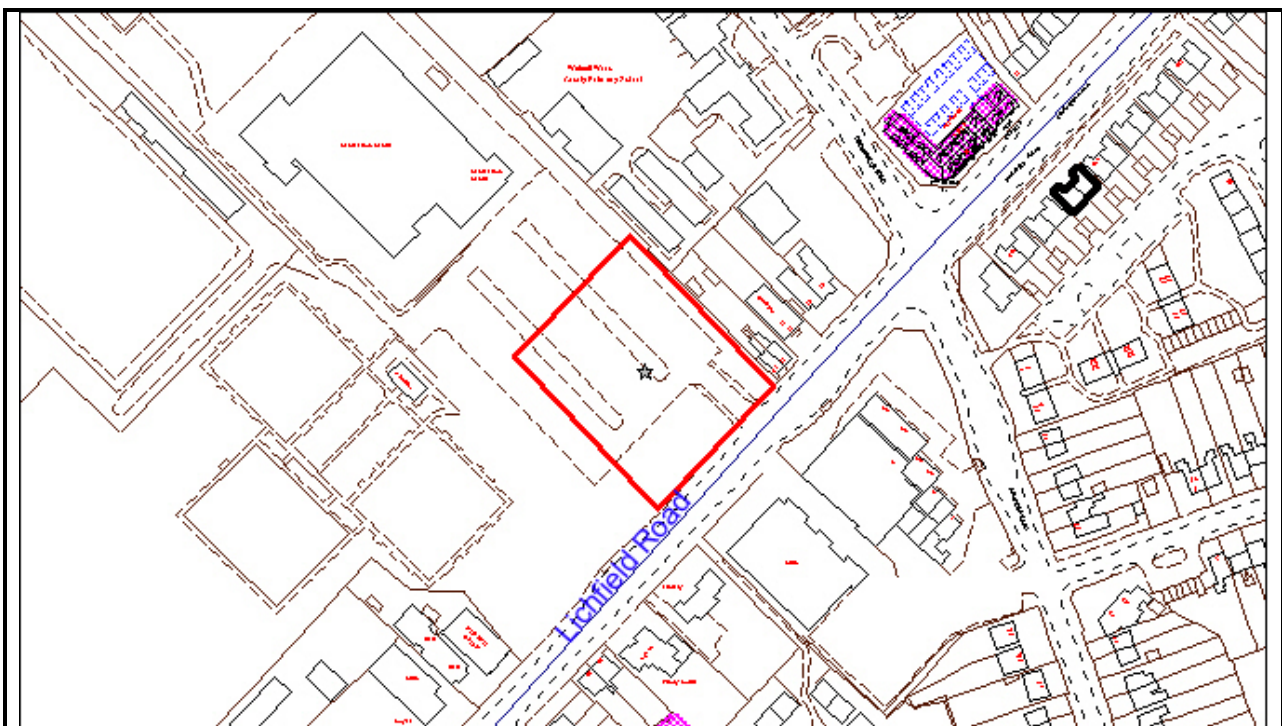
Proposal: Various illuminated freestanding and fascia mounted advertisement signs and awnings

Location: KFC
RESTAURANT, LICHFIELD
ROAD, WALSALL WOOD, WALSALL

Ward: Aldridge North and Walsall Wood

Expired: 27 November 2002

Recommendation Summary: Approve Advert 5 Years



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Current Status

The revised application for the building (05/0131/FL/E4), is before this committee. The advert application was deferred by the former Brownhills District Committee pending the outcome of the original application for the erection of the KFC restaurant, which remains unresolved.

Application and Site Details

The application proposes a range of internally illuminated signs at fascia level on the front corner elevations to the new KFC building. The corner two storey tower feature would have two illuminated panels approximately 2.65m square, set first floor level above the tower. A 10m pylon sign is proposed for the entrance to the KFC site from the Oak Park access.

Awnings above the entrance doorway and window are proposed, with 6 small scale directional signs around the building and a menu board also proposed.

Relevant Planning History

02/0527/FL/E2 - withdrawn

Relevant Planning Policy Summary

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

Unitary Development Plan

Policy ENV 36 - Poster Hoardings, describes where poster hoardings are unlikely to be permitted

Policy ENV 37 - small Panel advertisements -protection of the local street scene and considerations of visual clutter.

National Policy

Planning Policy Guidance Note 19 explains the need for control in the interests of amenity and public safety only.

Consultations

Transportation; No objections.

Representations

None

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

Determining Issues

- Amenity
- Highway safety

Observations

The proposed signage is typical of the corporate identity attached to such buildings. The proposed pylon sign will be a significant feature at the entrance to Oak Park and would have an acceptable relationship with the new building at this site, located on the edge of the Street's Corner local centre, in a mixed commercial setting.

The existing sign for the Leisure Centre is at the corner of the access to Oak Park and Lichfield Road and would not conflict with the new signage to serve KFC.

Recommendation: Approve Advert 5 Years

1. Any advertisement displayed and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where any advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. The brightness of the advertisement(s) shall not cause glare to users of the highway.
5. Illumination of the sign(s) shall not be intermittent.
6. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
7. No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

For the following reasons:

1. To ensure the satisfactory appearance of the development.
2. To ensure the satisfactory appearance of the development, and in the interests of public safety.
3. To ensure the satisfactory appearance of the development.
4. In the interests of highway safety.
5. To safeguard the visual amenity of the area.

6. It is a requirement of the Regulations that the site owners permission be obtained before any advertisement is displayed.
 7. Standard condition required by Schedule 1 of the Town and Country Planning (Control of Advertisement) Regulations 1992.
-



To: DEVELOPMENT CONTROL COMMITTEE

**Report of Head of Planning
and Transportation
on 19 April 2005**

REASON FOR BRINGING TO COMMITTEE: Disposal of Council Owned Land

Application Number: 05/0373/FL/H5

Case Officer: Owain Williams

Application Type: Full application

Telephone Number: 01922 652403

Applicant: Mrs D Adams

Agent: Mrs D Adams

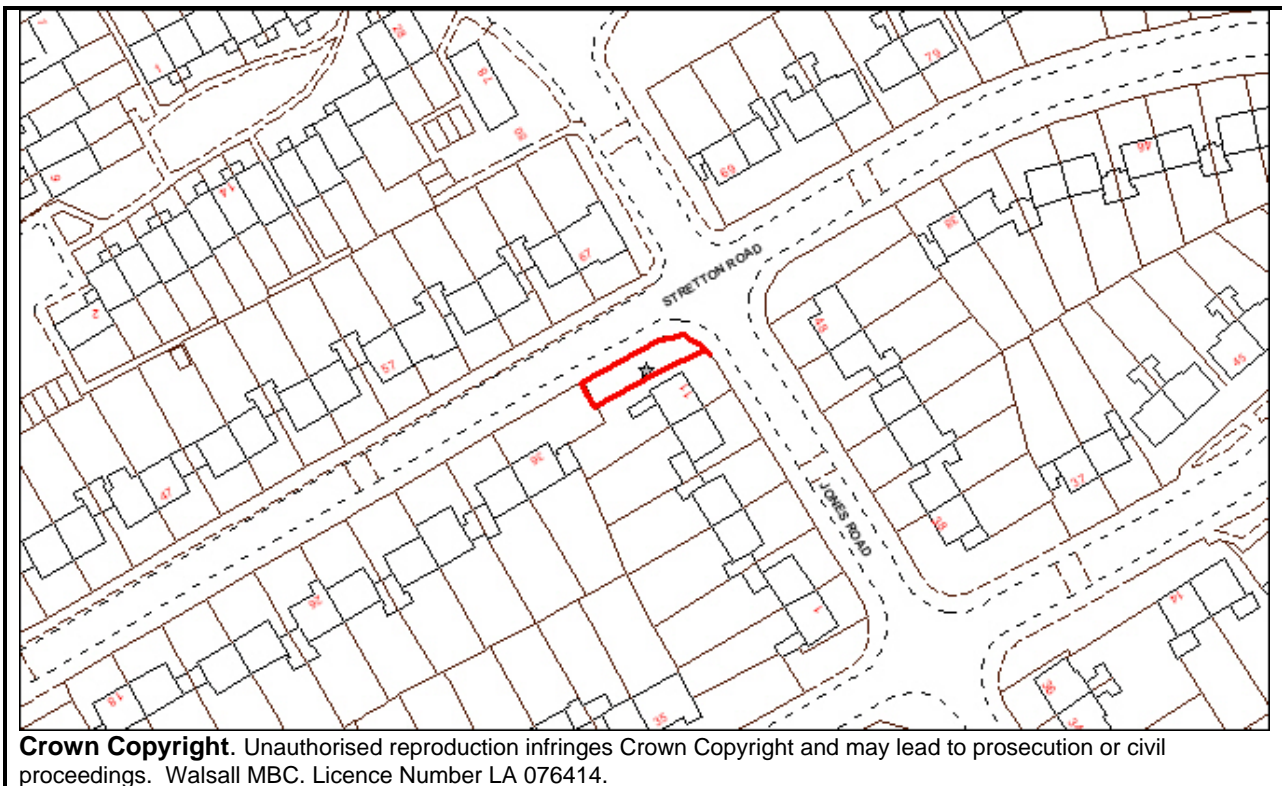
Proposal: Change of use to private garden

Location: LAND ADJACENT
11, JONES
ROAD, WILLENHALL, WALSALL, WEST
MIDLANDS, WV125EL

Ward: Willenhall North

Expired: 22 April 2005

Recommendation Summary: Grant Permission subject to conditions



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Application and Site Details

The site is located on the corner of Jones Road and Stretton Road. The house faces Jones Road.

The proposal is to incorporate the land on Stretton Road into the private garden. There are no proposals to erect a fence to enclose the land in the application. However it could be enclosed by a small fence under permitted development at a later date.

There is an area of land identical to that of the application opposite to the side of number 48 Jones Road. Other areas of garden to the front and side of residential properties in the area are enclosed by 1 metre high fences

Relevant Planning History

04/2557/FL/H5 - Change of use to private garden and erection of 1.8m fence panels - Permission refused 26/01/05 for the reason that the fence would have a detrimental impact on the character of the area due to the loss of openness and the unsuitability of the fence both visually and physically. Furthermore the fence would obstruct the visibility splays of drivers therefore having a negative impact on highway safety

Relevant Planning Policy Summary

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

Adopted UDP

3.6 Development and redevelopment schemes should, as far as possible help to improve the environment of the Borough. Relevant considerations to be taken into account are set out in Policy GP2.

Consultations

Transportation - No objections

Pollution Control - No objections

Fire Service - No objections

Representations

None

Determining Issues

Impact on the neighbouring amenities, the wider area and highway safety

Observations

The land to the side of the garden will change to private garden land without any change to the appearance of the land. There will be no impact on the neighbouring amenities or the

appearance of the wider area as the outlook will remain the same. There are to be no fence panels proposed therefore visibility splays will not be affected maintaining the level of highway safety

There would be the possibility that the land would be enclosed by a small fence at a later date undertaken through permitted development rights. I do not consider a low fence would adversely affect the area, however to protect any impact on highway safety a condition to remove permitted development rights will be imposed

Recommendation: Grant Permission subject to conditions

Grant Permission subject to conditions

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

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

2. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 or succeeding orders, no gates, fences, walls or other means of enclosure, except those included on approved plans, shall be moved or erected without the prior approval of a planning application.

Reason: In the interests of highway safety



To: DEVELOPMENT CONTROL COMMITTEE

**Report of Head of Planning
and Transportation
on 19 April 2005**

REASON FOR BRINGING TO COMMITTEE: The applicant is a senior council officer.

Application Number: 05/0246/FL/H1

Case Officer: Neville Ball

Application Type: Full application

Telephone Number: 01922 652528

Applicant: Anthony W Newton and Marie Newton

Agent: Anthony W Newton and Marie Newton

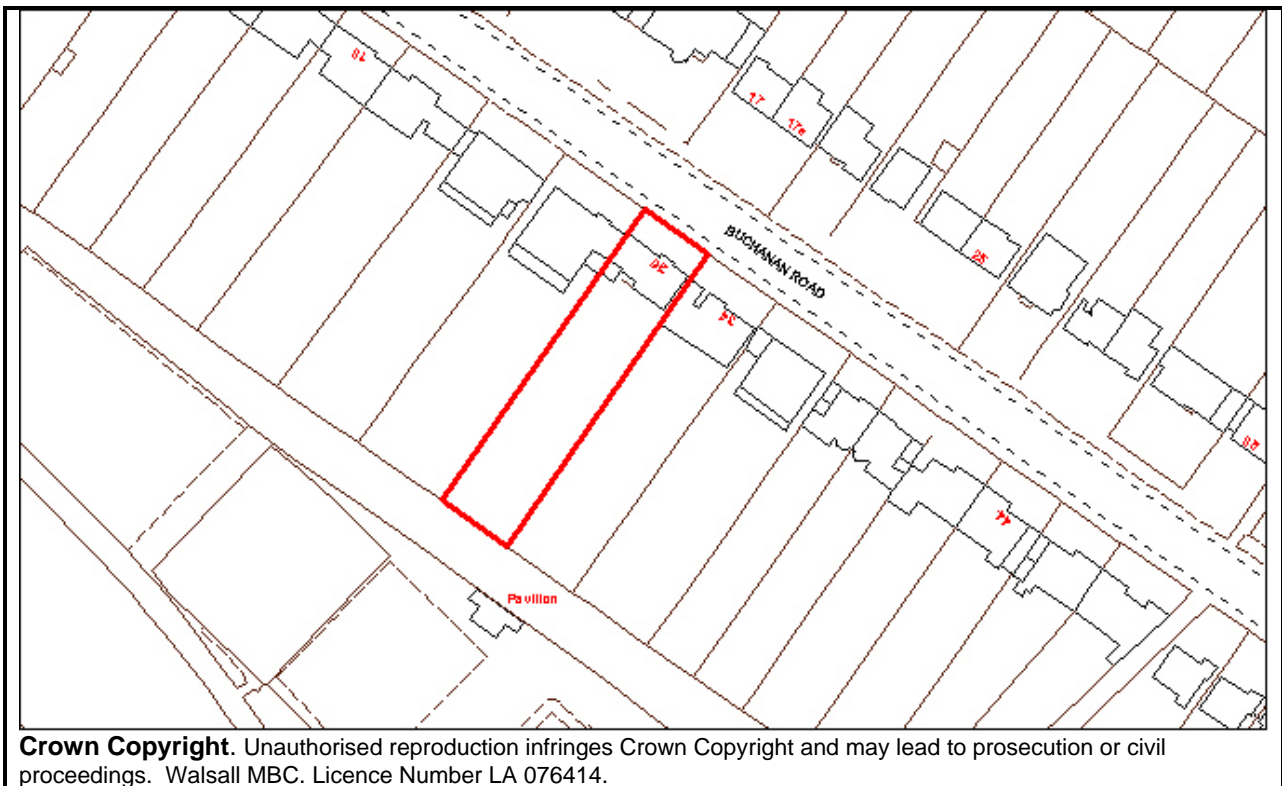
Proposal: Erection of Oriental Garden Pagoda in middle of rear garden

Location: 26, BUCHANAN ROAD, WALSALL, WEST MIDLANDS, WS4 2EN

Ward: St. Matthews

Expired: 06 April 2005

Recommendation Summary: Grant Permission subject to conditions



Application Details

This is for the erection of a pagoda measuring 3.6 metres deep, 4.1 metres wide and 3.3 metres high in the centre of the rear garden of a house in the Arboretum Conservation Area. The garden slopes down towards the Arboretum and the pagoda is to lie between 25 and 30 metres from the house and the neighbours to either side.

Relevant Planning History

None

Relevant Policies

Unitary Development Plan Policies

GP2: Environmental Protection

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

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

ENV29: Conservation Areas.

The Council will determine whether a development preserves or enhances the character of a conservation area in terms of:

I The degree of loss or alteration to property which makes a positive contribution to the character of the area.

II The impact of any new buildings on the special townscape and landscape features within the area.

III The scale, massing, siting, layout, design or choice of materials used in any new building or structure.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

National Policies

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

PLANNING POLICY GUIDANCE NOTE 15 - Planning and the historic environment.

Reminds local authorities of their statutory duty to ensure that proposals in conservation areas preserve or enhance the character of the area.

Consultation Replies

Conservation Officer - No objections

Representations

None

Determining Issues

The determining issues are whether the pagoda preserves or enhances the character of the conservation area, and the impact on the amenity of the neighbours.

Observations

The pagoda will have little impact on the character of the conservation area. The separation from the adjoining houses means there will be no impact on the neighbours.

Recommendation: Grant Permission subject to conditions

Conditions and Reasons for conditions, including relevant policies and proposals in the local development framework

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

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

Summary of reasons for granting planning permission and the policies and proposals in the local development framework which are relevant to the decision

The proposed development is considered to comply with the relevant policies of the local development framework, in particular policies GP2, ENV29 and ENV32, and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk <<http://www.walsall.gov.uk>> .



To: DEVELOPMENT CONTROL COMMITTEE

**Report of Head of Planning
and Transportation
on 19 April 2005**

REASON FOR BRINGING TO COMMITTEE: The application has been called in by
Councillor I. Shires

Application Number: 05/0331/FL/W5

Case Officer: Karon Hulse

Application Type: Full application

Telephone Number: 01922 652436

Applicant: Middleton Property Development
Ltd

Agent: F H & M J Meeson R.I.B.A

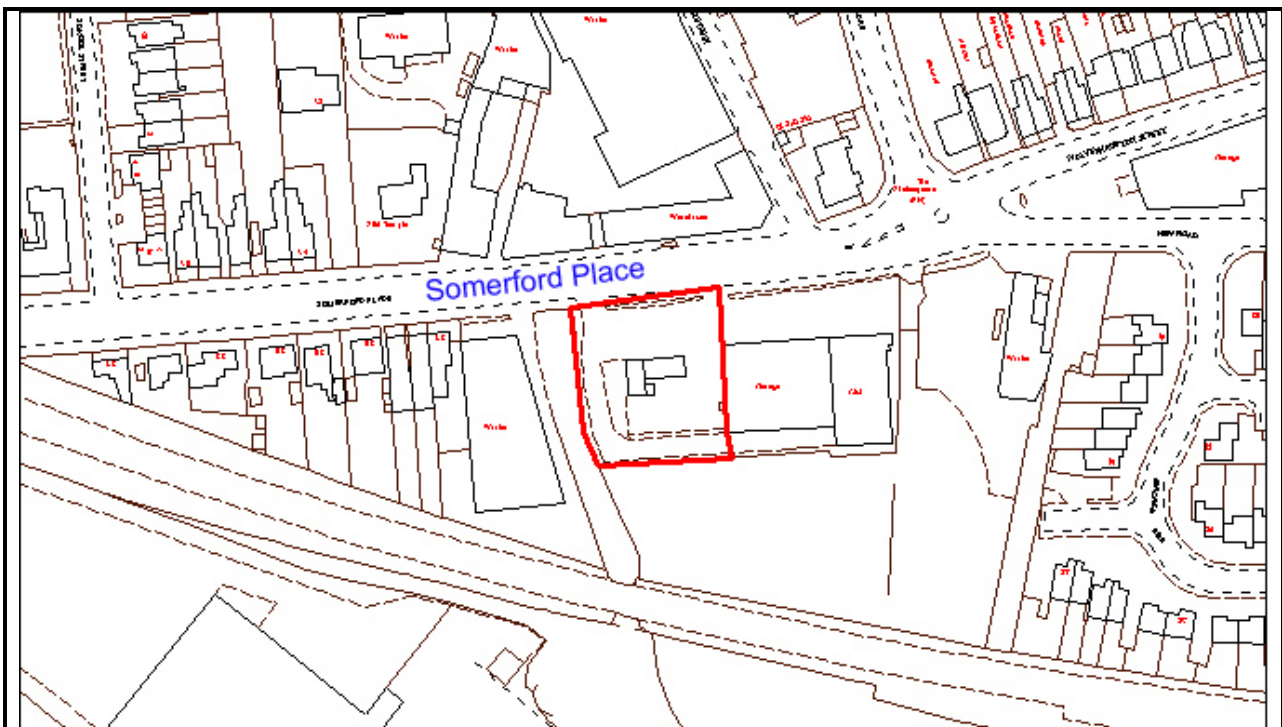
Proposal: Industrial Unit

Location: FORMER SOMERFORD
FILLING STATION, SOMERFORD
PLACE, WILLENHALL, WALSALL, WEST
MIDLANDS

Ward: Willenhall South

Expired: 18 April 2005

Recommendation Summary: Grant Permission subject to conditions



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Application and Site Details

This application seeks consent for the erection of a single industrial unit on the site of the former petrol filling station on Somerford Place, Willenhall.

The unit has a floor area of 600 square metres and would be occupied by a local company which is seeking additional premises in the area.

The use would be a general B2 use class (stainless steel fabrication).

A parking scheme has been submitted which provides for 13 car spaces at the front and side of the unit. The front area is also the service yard.

Relevant Planning History

Since the creation of this petrol station, there has been nothing of significance on the current site.

On land at the rear, and outline application (04/2098/OL/W5) for residential was approved in January 2005. That site ran across the rear of the current site, behind the adjoining industrial units and had its own frontage some distance to the east.

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

Unitary Development Plan

GP2... expect all developments to make a positive contribution to quality of the environment...development having adverse impact on environment will not be acceptable

GP4...promote and encourage comprehensive local area regeneration initiatives which revitalise local economy, create/ safeguard jobs, protect / enhance natural and built environment, bring forward derelict, vacant or underused land and buildings for new uses.

3.6...schemes should help improve the environment of the Borough

3.7...proposals for development or redevelopment should protect people from unacceptable noise, pollution and other environmental problems...encourage relocation of bad neighbour uses from residential and other sensitive areas

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

ENV14...encourage reclamation and development of derelict and previously developed land where feasible,

4.1...seek to improve the local environment and enhance the image of the area, introduce security improvements to reduce crime and vandalism and create new, and safeguard existing, job opportunities.

4.2...promotes investment and diversification to meet the needs of both inward investors and existing firms

National Policy

PPG4...seeks a positive approach to the location of new business developments and assisting small firms....economic growth and high-quality environment to be pursued together....the importance of industrial and commercial development to be considered with that of maintaining and improving environmental quality.

Consultations

Transportation - no objections

Pollution Control - no objection - recommend conditions.

Fire Service - satisfactory

Drainage - no objections

Environment Agency - the site is within flood zones 2 and 3. standard agency response regarding advice.

Representations

Cllr. Shires is concerned that the development of industry is inconsistent with the residential development of the land at the rear. Removal of the industry in its entirety is seen as preferable.

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

Determining Issues

- principle of the development
- acceptability of design and layout

Observations

Principle of the development

The site is currently vacant, in poor visual condition and secured by fencing, it was previously a petrol filling station and is one of several commercial properties located along Somerford Place. Consequently the principle of re-using this site for a further commercial / industrial use is consistent with its surroundings, from that viewpoint.

Outline planning permission was granted for the residential development of land to the rear of this site (see planning history above), though the two are separated by a narrow rear access to the remaining commercial units.

This application raises the issue of the relationship between future residential at the rear, and the use of this site. That is an issue which was considered at the time of determination of the

residential application and it was concluded that a satisfactory environment could be achieved through careful orientation and siting of the dwellings and other measures which could be incorporated into the overall design of the site. It is not justified to allow residential development in such a relationship to a petrol station, and resist it in relation to a factory unit.

I am of the opinion, having fully explored and considered the potential relationship between this site and that to the rear, that a satisfactory environment can be achieved for the site in industrial use, in relation to the potential residential development to the rear. As such the use of this site for industrial / commercial use should not be refused and with appropriate measures such as boundary treatment, landscaping and noise control, the proposal can operate without detriment to the future of any residential development at the rear.

Whilst it would be preferable to see this site included as part of a larger residential scheme, that requires the inclusion of the other two commercial units. Refusing this application, against that possibility is not justified.

Acceptability of design and layout

The UDP Seeks to promote quality of design, while securing proper functioning, etc. The proposed building is a simple, modern factory. It is proposed to be clad in steel on the upper part of the walls (silver panels), and brick.

The street frontage has two roller doors, facing the forecourt.

There are windows on the rear, nearest the proposed housing. Boundary treatment, and possibly noise control measures, e.g. on those windows, would be appropriate in relation to the conditions suggested by Pollution Control.

Recommendation: Grant Permission subject to conditions

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

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

2. No development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the Local Planning Authority. The submitted scheme shall include any internal site divisions. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

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

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

Reason: To ensure the satisfactory appearance of the development.

4. This site has been identified by the Environment Agency as being within Flood Zones 2 and 3 and as such a Flood Risk Assessment is required to be carried out. Therefore no development shall be carried out until a flood risk assessment of the site has been carried out, submitted to and approved in writing by the Local Planning Authority. (The Environment Agency have prepared guidance notes on carrying out assessments and what is required to be included, please refer to the attached notes for further information).

Reason :To ensure the satisfactory development of the site and to ensure that the site can be satisfactorily drained.

5. Prior to any development on the site

- (a) A ground contamination survey and site investigation approved in writing by the Local Planning Authority shall be undertaken having regard to current advice. [Note: Ground contamination and site investigation surveys shall assess the likely hazards of all identified contamination to the proposed development (and its future occupants) and any surrounding development resulting from the presence of potentially toxic materials and the emission of toxic, flammable and asphyxiant gases. The presence of underground fuel storage tanks will need to be addressed and the advice of the Petroleum Officer should be sought. Landscaped areas will need to have an adequate depth of clean cover.]
- (b) the approved survey and investigation shall be undertaken in accordance with the approved details
- (c) the results of the ground contamination survey and site investigations, together with a report setting out proposed remedial measures to deal with any identified and potential hazards arising from any land contamination, and a timescale for their implementation in relation to the development of the site, have been submitted to and approved in writing by the Local Planning Authority.
- (d) The approved measures shall be implemented in accordance with the approved timetable.

NOTE FOR APPLICANT

The ground contamination survey and phased site investigation carried out on the site shall be made in reference to current standards and best practice such as British Standard BS10175:2001 'Investigation of potentially contaminated sites - Code of Practice'; British Standard BS5930:1999 'Code of practice for site investigations'; Waste Management Paper No. 27 'Landfill Gas'; Environment Agency, and the Contaminated Land Exposure Assessment Model (CLEA) 2002. Please note that this is not an exhaustive list.

Reason. To ensure the satisfactory development of the site.

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

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

7. The materials used shall be those indicated on the approved plans.

Reason: To ensure the satisfactory appearance of the development.

8. No materials, goods or refuse shall be stored or deposited in the open on any part of the site other than refuse in a refuse container which shall be positioned to avoid interference with car parking spaces and vehicle manoeuvring on the site.

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

9. No industrial process shall take place in the open on any part of the site.

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

10. No public address facility, tannoy, radio or similar device shall be installed internal or external to any building or structure that is audible at the boundary of the development site immediately adjacent to residential accommodation.

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

11. No materials shall be stored on the site to a greater height than the height of the approved boundary treatment.

Reason: To ensure the satisfactory appearance of the development.

12. Machinery shall not be operated on the premises outside the hours of 0700 to 1900 on Monday to Fridays; 0800 to 1400 on Saturdays; and not at all on Sundays, Public Holidays or Bank Holidays.

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

13. No construction, demolition or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) in connection with the development shall take place on any Sunday, bank holiday or public holiday, and otherwise such works shall only take place between the hours 07.00 to 18.00 weekdays, and 08.00 to 13.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority.

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

14. No external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details.

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

15. Noise from the site monitored in accordance with British Standard BS4142:1997 'Method for Rating industrial noise affecting mixed residential and industrial areas' shall have a rating level above background noise of 5 or less as determined with that standard.

Notes to condition 15

- a) *For the purpose of this condition sound level measuring instrumentation shall conform to 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or BS EN 61672: 2003 'Electroacoustics - Sound level meters - Part 1: Specifications' (or any superseding standard(s) as applicable) which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.*
- b) *Prior to and after all measurements of noise instrumentation shall be calibrated by means of a known acoustical reference source in accordance with the manufacturers instructions.*
- c) *Microphone orientation shall be towards the relevant building(s), item(s) of plant or other noise source(s) being assessed as appropriate; microphone height should be between 1.2 and 1.5m above ground level to assess noise in ground floor rooms. Microphone height shall be increased accordingly to assess noise at other storeys.*
- d) *At all times noise measurements shall be conducted with a microphone windshield in use and preferably under the following atmospheric conditions:*
 - i) *Where a noise measurement position is more than 50 metres from the relevant building(s), item(s) of plant or other noise source(s), a positive wind component of up to 2 metres per second velocity towards the microphone is desirable.*
 - ii) *Where a noise measurement position is between 25 and 50 Metres from the relevant building(s), item(s) of plant or other source(s), either calm or a positive wind component of up to 2 metres per second velocity towards the microphone is desirable.*
 - iii) *Where a noise measurement position is within 25 metres from the relevant building(s), item(s) of plant or other noise source(s), calm or no wind direction is desirable.*
- e) *Where sound measurements can not be undertaken where on account of practical or physical reasons, they should be conducted at an alternative location and calculations carried out where needed to the written satisfaction of the Local Planning Authority.*

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

16. No extraction or exhaust ventilation plant or equipment shall be installed without prior written approval of the local planning authority.

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

17. The site and buildings shall remain in single occupation and shall not be sub divided to form two or more units in separate occupation.

Reason: To ensure the satisfactory provision of off-street parking and servicing.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, GP4, 3.6, 3.7, 3.16, ENV14, 4.1 and 4.2 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk
