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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
On 28 Oct 2008

REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 08/1149/FL

Application Type: Full application

Applicant:

Proposal: Installation of plant equipment compound to the rear of No.27

Ward: Aldridge/Central & South

Recommendation Summary: Refuse

Case Officer: Devinder Matharu

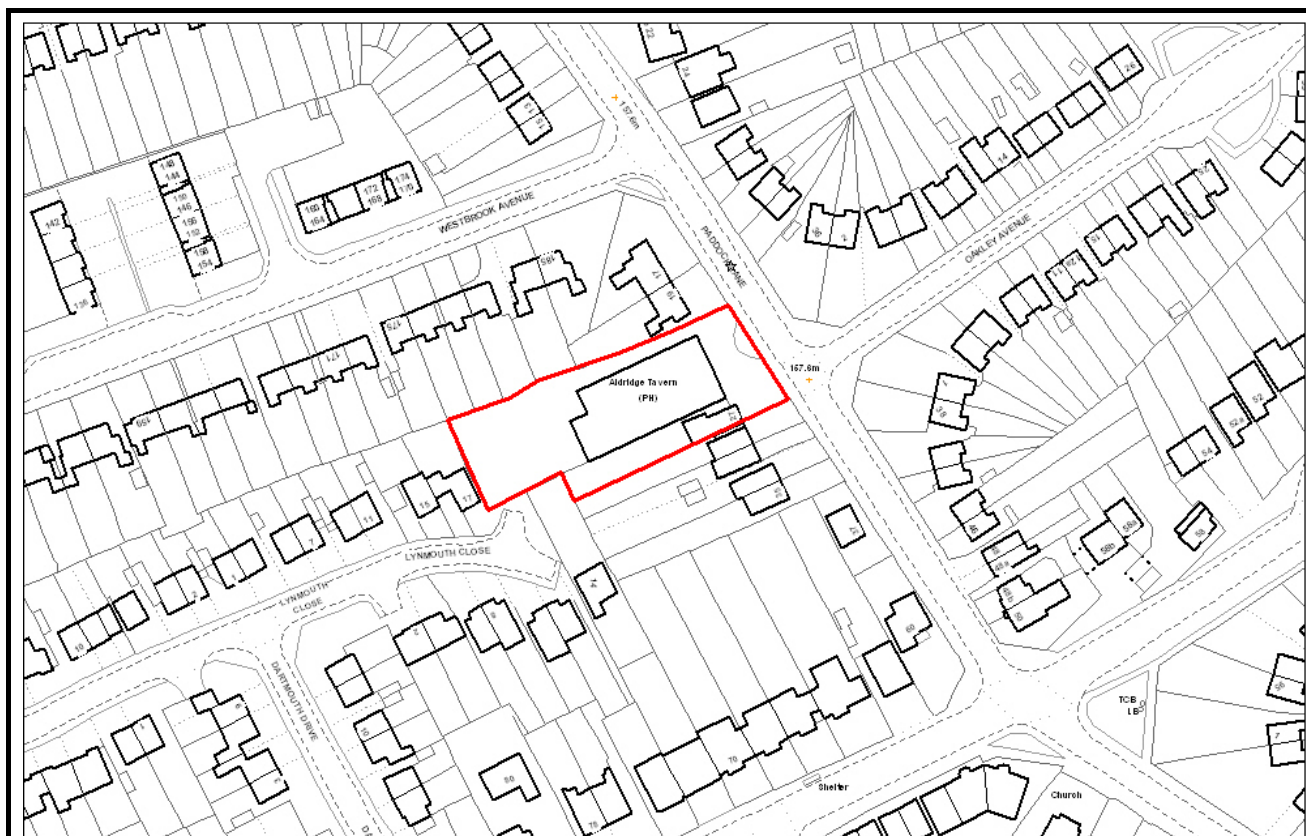
Telephone Number: 01922 652487

Agent: Mr Matthew Roe

Location: ALDRIDGE TAVERN,
PADDOCK

LANE,ALDRIDGE,WALSALL,WS9 0BP

Expired: 09/09/2008



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Current Status

This is one of three applications in connection with the conversion of the Aldridge Tavern PH to a retail store. Under the terms of the Town and Country Planning (General Permitted Development) Order 1995 change of use from a drinking establishment (Use Class A4) to a retail store (Use Class A1) is permitted. Therefore no planning consent is required for the change of use of the premises. The applications submitted relate to the alterations to the premises and comprise applications 1. Installation of new plant equipment, (08/1149/FL) 2. Installation of new shopfront and ATM, (08/1064/FL) 3. New signage (08/1065/AD). which all appear as items on this agenda.

Application and Site Details

The site comprises a single storey rectangular shaped building with a parapet wall and two storey gable entrance feature to the frontage, set back from the road sharing a similar building line to residential properties surrounding. The site is situated on the western side of Paddock Lane between residential properties (19 and 27 Paddock Lane) and has an open frontage. The building is set off the northern boundary from No 19 to accommodate an existing vehicle access with car parking to the rear. To the rear of the site are residential properties in Lynmouth Close including a recently constructed single storey dwelling immediately to the rear of 27 Paddock Lane, within the front garden area of 14 Lynmouth Close.

The site is situated in a predominantly residential area comprising mostly two storey houses set back from the street with front gardens and driveways.

This application proposes the installation of plant and equipment in the rear garden of 27 Paddock Lane; it will be situated 10m away from the rear elevation of this property and 15.7m away from the boundary with the annexe building at the end of Lynmouth Close. The plant would measure 7m by 7m and would incorporate the condenser units and air conditioning units. The plant yard would be enclosed by a close board fence measuring 1.2m with an access gate.

A noise survey has been submitted as supporting information.

Relevant Planning History

BC33302P Various illuminated signs. Aldridge Tavern. Advert consent granted 1991.

BC14741P Change of use to public house from former Labour Club, Granted subject to conditions 17-09-1985. Conditions relating to surfacing of car park, car parking and hard surfaced areas to be retained, boundary treatment and refuse storage.

BAB/3631 extensions and alterations to existing club at Paddock Lane. Granted Subject to Conditions 1972.

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

Unitary Development Plan (UDP)

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

GP2: Environmental Protection

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

- i. visual appearance
- ii. pollution

ENV10: Pollution - Regard should be taken of the unacceptable adverse effect of noise and other pollution.

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 and include:

- vi The visual relationship of the proposal with the adjacent areas, the street and the character of the surrounding neighbourhood
- vii The effect on the local character of the area

National Policy

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

Planning Policy Guidance Note 24: Planning and Noise states local planning authorities must ensure that development does not cause an unacceptable degree of disturbance. A number of measures can be introduced to control the source of, or limit exposure to, noise. Such measures should be proportionate and reasonable and may include engineering, layout and administration.

Consultations

Transportation – Objection to the proposal relating to vehicle access, parking and servicing.

It is assumed the plant compound will be serviced from the rear of the site. A previous permission refers to the car park to the rear must be maintained for car parking. Details for provision for servicing have not been shown, and how this will affect existing parking provision. Details of the existing rear parking layout has not been provided, or the proposed rear parking layout.

Details have not been provided of the existing frontage parking provision, and dedicated parking to serve the adjoining property No.27, and proposed parking to ensure residential parking can be maintained at all times. *The issue regarding the existing parking and parking for 27 Paddock Lane is outside the control of this application.*

It is not clear from the details submitted as part of this application that the rear car park is to be made available for customer use. The submitted plan appears to show the access to the rear of the site as gated. Transportation are concerned that the number of car parking spaces provided at the front of the building (7 including 1 disabled) falls well below the UDP standards normally required for A1 use of this building (46 spaces) and therefore would require the retention of the rear car park and for it to be made available for customer use during the store opening times. *This is not a material planning consideration, as Under the terms of the Town and Country Planning (General Permitted Development) Order 1995 change of use from a drinking establishment (Use Class A4) to a retail store (Use Class A1) is permitted.*

The parking layout to the front does not show cycle storage, or motor cycle provision.

Fire Officer – Satisfactory access for fire appliances

Pollution Control – Scientific Team –

Contaminated Land Team - No specific comments

Environmental Health – The repositioned unit would be acceptable, as the noise readings would not likely to generate noise complaints.

Police Architectural Liaison Officer – No comments

Regeneration Strategy – No comments

Public Participation Responses

One letter has been received quoting application number 08/1065/FL, but refers to objections in relation to the application for plant and equipment. The issues raised by the objector relate to the adjoining bungalow in Lynmouth Close not being notified, this has been addressed and a formal notification letter has been sent out. They also raise concerns about the where the plant room and generators will be and that they will be working night and day.

Objectors sent petitions on applications 08/1064/FL and 08/1065/AD, both of which are items elsewhere on this agenda. Some of the points raised in the petition did not refer to those applications specifically, as they were aimed about the proposal for the plant and equipment at the site. The points relating to this application have been duplicated in this report to be addressed in this report, as they are relevant in this report.

- 27 Paddock Lane is a residential property and the plant area is to be installed at the rear
- how the noise report can state that there is no noise impact when the plant is not installed
- suffered from noise from the public house and don't want to listen to the refrigeration and air conditioning at night.

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

Determining Issues

(BC14741P Change of use to public house from former Labour Club, Granted subject to conditions 17-09-1985. Conditions relating to surfacing of car park, car parking and hard surfaced areas to be retained, boundary treatment and refuse storage.

The car park is not a material planning consideration in this application; however, the car parking is to be retained under planning reference BC14741P (planning condition 1) if the car park is not retained the Council could take enforcement action for breach of condition).

- whether the positioning of the plant and the equipment to be installed would result in loss of amenity for the surrounding residential occupiers
- visual amenity
- Highway issues

Observations

Loss of amenity due to noise and disturbance

The proposed plant would be positioned in the rear garden of 27 Paddock Lane further away from the boundary with the bungalow at 14 Lynmouth Close. As part of the application submission a background noise survey has been submitted. Environmental Health have advised that the specification put forward in this report would not cause noise complaints and that the maintenance, repair and servicing of the plant would not cause nuisance or disturbance to residents.

The plant will be positioned to the rear of 27 Paddock Lane. Opposite number 14 Lynmouth Close is a small bungalow, this bungalow is situated in close proximity to the boundary with 27 Paddock Lane. It is considered that the comings and goings from people accessing this plant would result in loss of amenity for the occupiers of this bungalow, numbers 27 and 29 Paddock Lane, and as such would result in loss of amenity for these adjoining residential occupiers.

Visual amenity

The proposed plant would be positioned 10m away from the rear elevation of number 27 Paddock Lane. On the submitted plans, a residential car parking space has been shown for this property. It is considered that the positioning of the plant in close proximity to the rear of 27 Paddock Lane would result in loss of visual amenity for the occupiers of this property. The plant would also reduce the level of private amenity space that would be available for the occupiers of this property. The adjoining residential occupiers at 29 to 35 (odd numbers) all have long rear gardens and this proposal would significantly reduce the level of amenity that would be available for these occupiers. Furthermore, the sectioning off of the rear garden of 27 Paddock Lane would provide a rear garden length below the minimum standards as set out in Annex E of the Designing Walsall SPD.

The positioning of the plant in the rear garden of number 27 Paddock Lane would also result in loss of visual amenity for the adjoining residential occupiers, as the plant would be visible from the rear habitable room windows of both 27 and 29 Paddock Lane.

Highways

The Highway Officer has objected to the proposal on the grounds that details of the provision for servicing of the plant compound have not been shown and how this will affect existing parking provision. The proposal fails to provide details for the servicing of the plant area to the rear of number 27 Paddock Lane and what impact this will have on the rear car parking area and as such the proposal would be contrary to Policy GP2 of the Walsall Unitary Development Plan.

The Highway Officer has also referred to existing and proposed car parking for A1 uses, customer parking and parking for 27 Paddock Lane. This is not a material planning consideration, as under the terms of the Town and Country Planning (General Permitted Development) Order 1995 change of use from a drinking establishment (Use Class A4) to a retail store (Use Class A1) is permitted.

Other Issues

The retention of the car park is not a material planning consideration in this application; however, if the car parking is not retained under planning reference BC14741P then the Council can take enforcement action due to breach of planning condition 1 of this permission.

Recommendation: Refuse

- 1) The positioning of the proposed plant would be visually detrimental to the occupiers of 27 Paddock Lane due to the close proximity of the plant to the rear elevation of this property. Furthermore, the plant would be seen from the rear habitable rooms of both 27 and 29 Paddock Lane and result in loss of amenity for these occupiers. Furthermore, the proposal would also result in loss of garden space for the occupiers of number 27 Paddock Lane. As such the proposal is contrary to Policies GP2, ENV32, H10 of the Walsall Unitary Development Plan, the Designing Walsall Supplementary Planning Document and the advice given in Planning Policy Statement One: Delivering Sustainable Development.
 - 2) The positioning of the plant to the rear of 27 Paddock Lane with access from the rear of the application site would result in loss of amenity for the occupiers of the annex to 14 Lynmouth Close and numbers 27 and 29 Paddock Lane by way of the comings and goings to the plant site for maintenance, repair and servicing. As such the proposal is contrary to Policies GP2, ENV32, H10 of the Walsall Unitary Development Plan, the Designing Walsall Supplementary Planning Document and the advice given in Planning Policy Statement One: Delivering Sustainable Development.
 - 3) The proposal fails to provide details of the servicing of the plant area to the rear of number 27 Paddock Lane and what impact this will have on the rear car parking area and as such the proposal would be contrary to Policy GP2 of the Walsall Unitary Development Plan.
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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
On 28 Oct 2008

REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 08/1064/FL

Application Type: Full application

Applicant: Tesco Stores Ltd

Proposal: Installation of new shopfront
including an Automatic Teller Machine

Ward: Aldridge/Central & South

Recommendation Summary: Grant Subject to conditions

Case Officer: Devinder Matharu

Telephone Number: 01922 652487

Agent: CgMs Consulting

Location: ALDRIDGE TAVERN, 27
PADDOCK LANE, WALSALL, WS9 0BP

Expired: 26/08/2008



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Current Status

This is one of three applications in connection with the conversion of the Aldridge Tavern PH to a retail store. Under the terms of the Town and Country Planning (General Permitted Development) Order 1995 change of use from a drinking establishment (Use Class A4) to a retail store (Use Class A1) is permitted. Therefore no planning consent is required for the change of use of the premises. The applications submitted relate to the alterations to the premises and comprise applications 1. Installation of new shopfront and ATM, (08/1064/FL) 2. New signage (08/1065/AD) and 3. Installation of new plant equipment, (08/1149/FL) which all appear as items on this agenda.

Application and Site Details

The site comprises a single storey rectangular building with a parapet wall and two storey gable entrance features to the frontage, set back from the road sharing a similar building line to residential properties surrounding. The site is situated on the western side of Paddock Lane between residential properties (19 and 27 Paddock Lane) and has an open frontage. The building is set off the northern boundary from No 19 to accommodate an existing vehicle access with car parking to the rear.

The site is situated in a residential area comprising mostly two storey houses set back from the street with front gardens and driveways.

This application proposes the installation of a new shop front including an automatic teller machine (ATM). It is also proposed to render the frontage of the building and install 6 security bollards. The shopfront would include 3 large display windows with a centrally located automatic access door and the ATM would be located to the right of the frontage.

The agent has advised that the store would be open 0600 – 2300 hrs Monday-Friday and 0700 – 2200 hrs Saturday – Sunday. As the proposed ATM is situated on the frontage it could be available for use from 0700 to 2300 hours.

The agent has confirmed that 4 other ATMs have been identified in the surrounding area, outside of Aldridge Town District Centre at the following locations;

Malthurst, Middlemore Lane, approx 0.4 miles from the site.

Petes Cellar, 24 Myatt Avenue, approx 0.4 miles from the site.

RK News, 202 Walsall Road, approx 0.4 miles from the site.

White House, Bosty Lane, approx 0.7 miles from the site

The automatic doors are sliding doors that will open internally flush with the shopfront and will have a level threshold to enable access for all.

The submitted layout plans show customer parking on the open frontage (including 1 disabled space) and a residential parking space.

Relevant Planning History

BC14741P Change of use to public house from former Labour Club, Granted subject to conditions 17-09-1985. Conditions relating to surfacing of car park, car parking and hard surfaced areas to be retained, boundary treatment and refuse storage.

BAB/3631 extensions and alterations to existing club. Granted Subject to Conditions 1972.

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

Unitary Development Plan (UDP)

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

Policies 3.16, GP7, ENV32 and 3.116: seeks the design of developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Developments should design out crime.

Policy GP6 refers to access for disabled people.

Policy ENV35 The design of frontages to shops and other commercial premises should be appropriate to their setting and sympathetic to the building on which they are situated. In considering proposals for shop fronts, shutters and grilles, canopies, blinds and signs, the Council will take the following factors into account:-

- I. The architectural and historic merits of the building.
- II. The character of the area in which they are located.
- III. The prominence of the building.
- IV. Whether the building is subject to surveillance by CCTV.
- V. Any exceptional justification for the proposal.
- VI. Any proposals and initiatives for the enhancement of the centre in which they are located.

Policy S15: Banking and Cashpoint Facilities

(a) Banking and ATM facilities will be encouraged in Town, District and Local Centres where appropriate. They will also be accepted in out-of-centre developments where a clear need can be demonstrated and they would not place at risk the continued provision of such facilities in any established centre in terms of Policy S7.

(b) In all cases, proposals for these facilities, and particularly for ATM's, should be appropriately located and designed to ensure:-

- I. That the amenities of nearby residents are not adversely affected, and the Council may impose conditions to prevent the facility from operating after 23:00 hours Sunday to Friday and 23:30 hours on a Saturday.
- II. The facility can be used and accessed safely, in accordance with the principles of designing out crime set out in Policy GP7: Community Safety.
- III. Satisfactory, preferably off-street, parking can be provided in the interests of highway safety

Supplementary Planning Document "Designing Walsall" (February 2008)

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

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

National Policy

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

Consultations

Transportation – No objection

Fire Officer – Satisfactory access for fire appliances

Police Architectural Liaison Officer – No objections, the ATM would require to adhere to all of the security guidelines issued by the ATM Security Working Group.

Strategic Policy – No objections. The proposed ATM would be a convenient facility for local people and it is not considered that the facility would have an adverse impact on the facilities in the centre of Aldridge and would accord with UDP policies.

Public Participation Responses

Two letters of objection and 3 petitions have been received objecting to the proposal of change of use to a Tesco Express. One of the petitions has been resubmitted following the submission of revised plans and two petitions have been submitted since the receipt of the amended plans and include additional signatures, in total there are 990 signatures on all three petitions.

Objections include:

- residents already adequately catered for shops
- 27 Paddock Lane is a residential property and the plant area is to be installed at the rear
- how the noise report can state that there is no noise impact when the plant is not installed
- suffered from noise from the public house and don't want to listen to the refrigeration and air conditioning at night.
- major traffic disruption
- increased off street parking, this will cause a hazard to children and elderly
- new store mean that heavy goods vehicles will require regular access in a peaceful residential area
- the road does not have the capacity to carry high volumes of traffic and parking
- store will incorporate a large, lighted shopfront and signage with aesthetics that would be inappropriate for a residential area
- development will have a detrimental effect on the surrounding businesses
- Morrison's, Iceland and Home bargains store in central Aldridge are sufficient for the area.
- residents benefited from the closure of the public house and wish the peace to remain.
- Increase in binge drinking and anti social behaviour
- 8 off licenses already exist within a square mile of the perimeter of the site.
- Drunken youths used to congregate around the pub

(Residents objections relating to the change of use from a public house to a retail shop, traffic disruption, heavy goods accessing the street, increase off street car parking, capacity of the road, impact on surrounding businesses, anti social behaviour, licensing and youth congregating are not material planning considerations in determining the application for a new shop front).

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

Determining Issues

- Design of the shopfront
- ATM need
- Other issues

Observations

Design of the shop front

The proposed shop front is considered to be appropriate and sympathetic to the setting and design of the existing building. The 3 large display windows would break up the frontage of the building equally with a central doorway. The ATM facilities will be located on the right hand side of the front elevation adjacent the existing access drive to the rear of the premises and would be in keeping with the overall design and scale of the proposed shop frontage.

The existing building is set back within the site with an open frontage; this would allow views into the site and into the premises through the large display windows and as such would help with the surveillance and security of the premises. As residential properties look onto the site, it is considered that any anti social activity would be reported to the police by local residents.

The proposed frontage will incorporate automatic doors and a level threshold in the lobby of the premises to allow access for disabled customers.

The proposed brushed stainless steel bollards on the frontage would be 1m high and located around the central part of the entrance of the premises and would work well with the overall shopfront design.

The rendering and painting of the premises would visually enhance the appearance of the building.

ATM Need

In total 4 other ATM's have been identified within close proximity to the site, one of those being located on the Redhouse Estate. The installation of an ATM at this location would provide the local community with a choice of facilities that are convenient. Within Aldridge District Centre there is a greater choice of ATM facilities, it is not considered however that the proposed facility would place at risk the provision of any existing facilities available within Aldridge District Centre.

The ATM will be located within the proposed shopfront and due to the open nature of the site it would benefit from natural surveillance from the street. To protect the amenity of surrounding residential occupiers, a planning condition can be attached to ensure the ATM is only in use when the premises are open. The ATM will be secured by way of a lockable cover which can be installed outside of operation hours. Details of this screen can be sought by way of planning condition. Car parking within the site would be provided to allow customers to use both the retail store and the ATM.

Other Issues

Transportation have raised no objection to the proposal but expressed some concerns over the car parking that would be available for the retail use of the premises. As planning permission is not required for the proposed change of use of the premises the car parking on the site cannot be controlled through this application.

Summary of reasons for granting planning permission

The application meets the requirements of Policies 2.2, 3.6, 3.7, GP2, 3.16, GP7, ENV32, 3.116, ENV35, GP6 and S15 of the Walsall Unitary Development Plan 2005, Policy DW3 of Designing Walsall Supplementary Planning Document and the advice given in Planning Policy Statement 1: Creating Sustainable Communities. The consultee responses and the objectors concerns have been addressed in the report. Some of the points raised by the objectors do not relate directly to the application or they are not material planning considerations.

The objectors concerns regarding the proposed change of use, are not material planning considerations in this application because under the terms of the Town and Country Planning (General Permitted Development) Order 1995 change of use from a drinking establishment (Use Class A4) to a retail store (Use Class A1) is permitted development.

Recommendation: Grant Subject to conditions

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

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

2) The development shall only be carried out in accordance with drawing number aldelev1f#.ai/NA/F submitted on 2 September 2008 and the location plan submitted on 13 October 2008.

Reason: To define the permission.

3) The proposed ATM hereby approved shall only be operational between the hours of 6am till 11pm Mondays to Friday and 7am till 10pm Saturdays and Sundays.

Reason: To protect the amenity of the surrounding residential occupiers.

4) No development shall commence on site until details a screen to protect the ATM when not in use have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details. The screen will be closed when the ATM is not in use.

Reason: In the interests of the visual amenities of the area.

Note to Applicant

The ATM shall be installed in accordance with the security guidelines issued by the ATM Security Working Group, for more information and assistance please contact West Midlands Police Architectural Liaison Officer Darren Robbins on Tel 08451135000 ext 78846950.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
On 28 Oct 2008

REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 08/1065/AD
Application Type: Advertisements
Applicant: Tesco Stores Ltd
Proposal: Installation of 1 internally
illuminated fascia sign and 1 internally
illuminated projecting sign
Ward: Aldridge/Central & South
Recommendation Summary: Grant Advert 5 years

Case Officer: Devinder Matharu
Telephone Number: 01922 652487
Agent: CgMs Consulting
Location: ALDRIDGE TAVERN, 27
PADDOCK LANE, WALSALL, WS9 0BP

Expired: 26/08/2008



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Current Status

This is one of three applications in connection with the conversion of the Aldridge Tavern PH to a retail store. Under the terms of the Town and Country Planning (General Permitted Development) Order 1995 change of use from a drinking establishment (Use Class A4) to a retail store (Use Class A1) is permitted. Therefore no planning consent is required for the change of use of the premises. The applications submitted relate to the alterations to the premises and comprise applications 1. New signage (08/1065/AD) 2. Installation of new shopfront and ATM, (08/1064/FL) and 3. Installation of new plant equipment (08/1149/FL), which all appear as items on this agenda.

Application and Site Details

The site comprises a single storey rectangular building with a parapet wall and two storey gable entrance features to the frontage, set back from the road sharing a similar building line to residential properties surrounding. The site is situated on the western side of Paddock Lane between residential properties (19 and 27 Paddock Lane) and has an open frontage. The building is set off the northern boundary with No 19 to accommodate an existing vehicle access with car parking to the rear. The existing pub signage included individual lettering (externally illuminated) and brewery sign (internally illuminated) above the main entrance door on the frontage and a single post sign on the frontage (externally illuminated), together with various other smaller non-illuminated signs.

The site is situated in a residential area comprising predominantly two storey houses set back from the street with front gardens and driveways.

This application proposes the installation of 1 internally illuminated fascia sign above the main entrance doorway and 1 internally illuminated projecting sign to be erected above the cash machine. The proposed fascia would be 2.3m by 1.4m and 80mm deep and will be made out of acrylic. The hanging sign would be 800mm by 125mm and 650mm, it will be constructed out of the same materials as the fascia and the lettering will replicate the colour on the fascia sign.

The level of illumination for the signs will be 110 candelas per square metre .

Relevant Planning History

BC33302P Various illuminated signs. Aldridge Tavern. Advert consent granted 1991. Signs were to the front elevation of the premises.

BC14741P Change of use to public house from former Labour Club, Granted subject to conditions 17-09-1985. Conditions relating to surfacing of car park, car parking and hard surfaced areas to be retained, boundary treatment and refuse storage.

BAB/3631 extensions and alterations to existing club. Granted Subject to Conditions 1972.

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

Unitary Development Plan (UDP)

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

Policy ENV11: Light Pollution - developments 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. Consideration must be given to the effect of the lighting on neighbouring land and premises and pedestrians.

Policies 3.16, GP7, ENV32 and 3.116: seeks the design of developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Developments should design out crime.

Policy ENV35 The design of frontages to shops and other commercial premises should be appropriate to their setting and sympathetic to the building on which they are situated. In considering proposals for shop fronts, shutters and grilles, canopies blinds and signs, the Council will take the following factors into account:-

- I. The architectural and historic merits of the building.
- II. The character of the area in which they are located.
- III. The prominence of the building.
- IV. Whether the building is subject to surveillance by CCTV.
- V. Any exceptional justification for the proposal.
- VI. Any proposals and initiatives for the enhancement of the centre in which they are located.

Designing Walsall SPD

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

National Policy

PPS 1: Creating Sustainable Communities both emphasise the need for good design.

PPG 19: Outdoor advertisement Control states that all advertisements affect the appearance of the building, structure or place where they are displayed. The main purpose of the advertisement control system is to help everyone involved in the display of outdoor advertising to contribute positively to the appearance of an attractive and cared-for environment in cities, towns and the countryside.

In assessing an advertisement's impact on "amenity", LPAs should have regard to its effect on the appearance of the building or on visual amenity in the immediate neighbourhood where it is to be displayed. They will therefore consider what impact the advertisement, including its cumulative effect; will have on its surroundings. The relevant considerations for this purpose are the local characteristics of the neighbourhood, including scenic, historic, architectural or cultural features, which contribute to the distinctive character of the locality. When it is appropriate to consider how brightly advertisements should be illuminated, LPAs should have regard to the Institute of Lighting Engineers Technical Report Number 5 (Second Edition)

In assessing an advertisement's impact on "public safety", LPAs are expected to have regard to its effect upon the safe use and operation of any form of traffic or transport on land (including the safety of pedestrians), on or over water, or in the air.

Consultations

Transportation – No objection

Public Lighting Manager – No comments

Public Participation Responses

One letter has been received quoting this application number, but referring to objections in relation to the application for plant and equipment. The issues raised by the objector relate to the adjoining bungalow in Lynmouth Close not being notified, this has been addressed and a formal notification letter has been sent out. With regards to the comments made about the generators and coolers, this is dealt with in the report for the plant and equipment application ref 08/1149/FL elsewhere on this agenda.

A petition has been received with 81 signatures objecting to the proposal on the following grounds:

- Major traffic disruption
- heavy goods vehicles would require regular access in a quiet and peaceful area
- potential for increased off street parking causing hazard for children and the elderly
- the large, lighted shopfront and signage have aesthetics that would be inappropriate in a predominately residential area
- detrimental impact on surrounding businesses. – Competition is not a material planning consideration

(Residents objections relating to traffic disruption, heavy goods accessing the street, increased off street parking and competition are not material planning considerations in determining this planning application for new signage).

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

Determining Issues

Visual Amenity
Public Safety

Observations

Visual amenity

The proposed fascia sign would be situated above the main entrance door, as the previous pub signs. The proposed projecting sign would be situated above the ATM and would have a projection of only 800mm. As the existing building is set back from the road it is considered that the proposed signs by virtue of their size, scale and design would neither detract from the character of the area nor result in loss of amenity for the surrounding residential occupiers. Although the residential properties on the opposite side of the road look onto the site at an obscure angle, it is considered that the long front gardens and the road create sufficient separation (35 – 49m at the closest points), so as not impact on the level of amenity for these residential occupiers currently enjoyed.

19 Paddock Lane has a side window at first floor that faces the site. It is considered that neither the proposed illuminated fascia nor illuminated projecting sign would unduly impact on the level of amenity for these occupiers. Furthermore, a planning condition can be imposed to ensure the signs are switched off when the premises are closed.

Objectors have raised concerns that the large signage would be inappropriate for a residential area. However officers conclude that the proposed signs would be appropriate in size, and sympathetic to the setting of the commercial building. The existing public house benefited from signage.

Public Safety

It is considered that there are no public safety issues arising from the proposals for the new signage.

Recommendation: Grant Advert 5 years

1. The proposed internally illuminated fascia, projecting signs hereby approved shall only be illuminated during the store opening hours.

Reason: In the visual amenities of the area and to protect the amenity of adjoining residential occupiers.

2. The development shall only be carried out in accordance with drawing numbers AldrSp1d.dgn/3/D and aldelev1f#.ai/NA/F submitted on 2 September 2008 and the location plan submitted on 15 July 2008.

Reason: To define the permission.

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

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

4. No advertisement shall be sited or displayed so as to-

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

Reason: In the interest of public safety

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

Reason: To ensure the satisfactory appearance of the development

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

Reason: In the interest of public safety and amenity

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

Reason: In the interest of public safety and amenity



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
On 28 Oct 2008

REASON FOR BRINGING TO COMMITTEE: Major Application, called in by Councillor Oliver, and significant community interest

Application Number: 08/0460/FL

Application Type: Full application

Applicant: Gora Developments

Proposal: Erection of 30 apartments with associated car parking and works to the public square to provide a community play area following demolition of existing public house.

Ward: Birchills Leamore

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

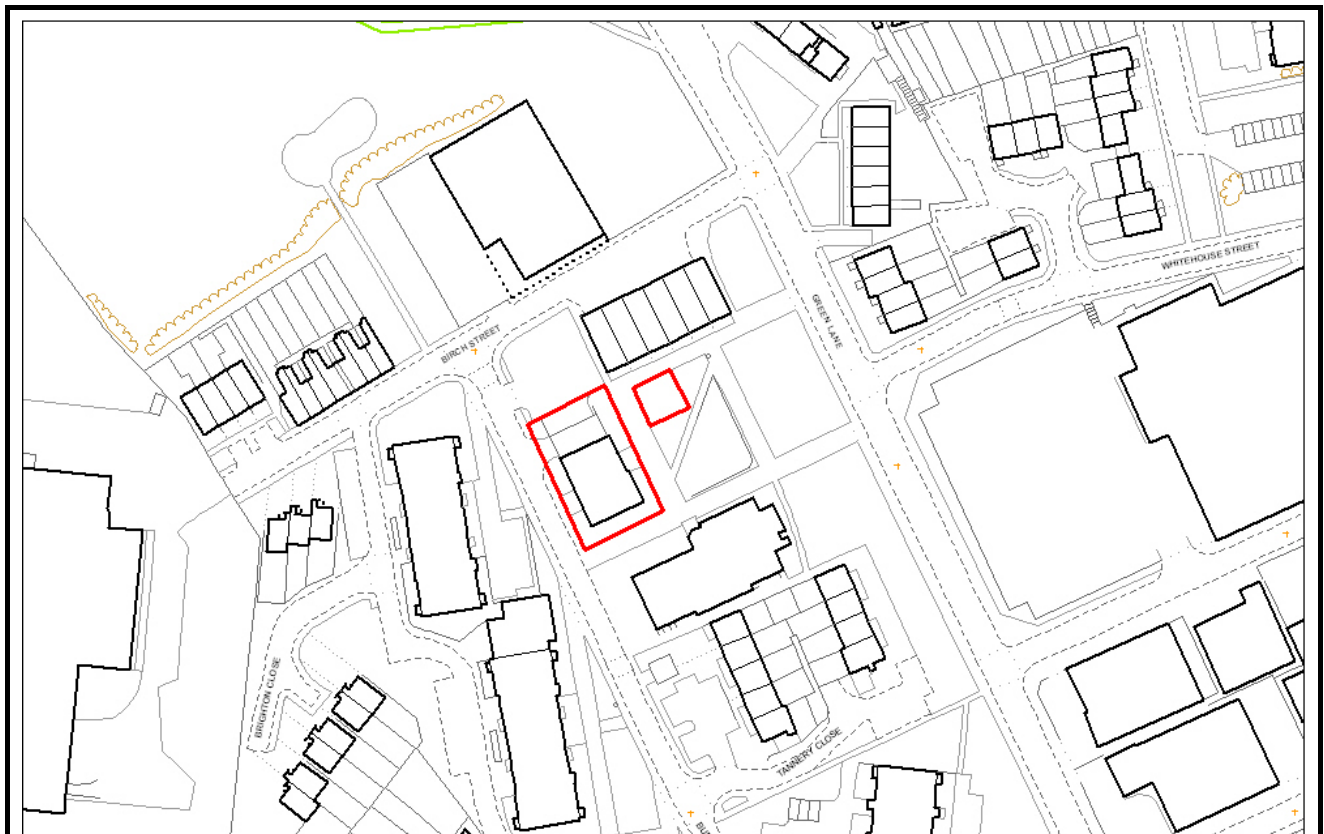
Case Officer: Andrew Thompson

Telephone Number: 01922 652403

Agent: Cousins Wojciechowski Architects

Location: THE TANNERY
P.H., BURROWES
STREET, WALSALL, WS2 8NX

Expired: 03/11/2008



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Status

Councillor Oliver is a ward councillor, as well as the Chair of the Local Neighbourhood Partnership and the Project Reference Group. He has called in the application, concerned at:-

- overdevelopment of the estate
- being out of character
- the effect of proximity to existing buildings
- the risk of escalation of already difficult traffic / parking problems on the estate
- the implications of overprovision of apartments in the local area.

Application and Site Details

The site is off Green Lane, north of Blue Lane West.

The proposal is 30 apartments (twenty eight two-bedroom and two three-bedroom), on the site of the Tannery Public House. The public house has been vacant for at least twelve months. It is boarded up, and is looking shabby.

The building steps up in height in four sections. There has been some confusion about the height of the building, and the definitive position is that there will be:-

- nine floors of residential space
- one storey of car parking (mostly above ground due to the levels)
- one floor of parking below ground level
- at the downhill end of the site the building will be 8.8 metres tall (two storeys of flats, and the above ground car park layer)
- the southern, lowest, section has a roof terrace on top
- the middle section will be 11.4 metres tall (six storeys)
- the middle section also has a roof terrace on top
- at the uphill end it will be 27 metres, about 9.75 storeys (nine residential floors and part of the above ground car park level)
- on the top two floors of the tallest (northern) section there are two dwellings, each being two storeys
- the top floor includes terraces for the two flats, and this is the fourth step
- all terraces have a southern aspect
- the proposed facing materials are engineering brick, coated panels and ceramic brick.

The application includes a play area, for the community, in the existing public square between the proposed building and Green Lane. Excluding that play area, the building effectively fills the site at ground level. The two terraces forming part of the design reflect this, by providing amenity areas designed into the building.

The area of this part of the site is 764sq.m.. Amenity space provision is:-

- 28 flats each have a single balcony
- the two larger flats on the top floors have two balconies each
- 24 of the balconies are a minimum of 6.5sq.m. each, the others are larger
- four flats adjoin the roof terraces on the lowest and middle levels and (as well as the balcony) each has an additional terrace area of about 17sq.m. of private space
- on the lowest and middle level terraces there is also space shared by the flats, each shared terrace being about 112sq.m.

A total of 490sq.m. of amenity space is proposed. This equates to a total of 16.3sq.m. for each unit, and is 51% of the site area) again excluding the play area). This is divided at 321.295sq.m. in private amenity space and 168.71sqm in communal roof terraces.

The proposals also include art works on a number of the walls. These will be applied particularly to the walls of the ground floor car park.

The intention of the developers is to create a high quality design. Features of that design include creating a modern, cohesive, building design integrating modern and traditional materials which also integrates functional elements such as parking.

In addition the proposals are to meet Secured by Design principles. The car park access point will have a control mechanism to control access to the car park. Similar access control will exist for the pedestrian entrances.

The developers also propose to meet Code for Sustainable Homes 3 star standard.

On the north side of the site there is a small car park (corner of Burrowes Street and Birch Street). It might become available for development, but a decision on this application is seen as necessary by the developers / land owners, before there is any commitment to bring it forward. As a result of this possibility, the development has avoided the use of any windows on the north wall of the proposed building (so it does not constrain the development of the adjoining land).

The character of the wider area around the site is dominated by several 7 storey blocks of flats (about 17.2 metres tall) and the large Swimming Teachers Association building (equivalent to 4 or 5 storeys in height). The proposals form the western boundary of a public square which has a 3 storey building (shops on the ground floor, two storey dwellings above) on the north and the Green Lane Baptist Church to the south. Green Lane is the east side of this square. The site and building are corner to corner with the parade of shops.

The total density (ignoring the play area element) would be 392 dwellings per hectare (407, if the site area is only 737sq.m.). There would be 37 car parking spaces (123%) inside the building, on two levels (one underground, one at street level) with parking for 35 cycles. (There have been minor amendments to the application since it was submitted, relating to access details and visibility.)

The existing flats / high density development have typical densities between 352 and 500dph (depending on how much of the surrounding land and landscaping is taken into account in each case).

Larger properties and family housing are limited in the area but are again generally higher than average density:-

- Tannery Close (on the opposite side of the Baptist Church) at 164.5dph,
- properties on Farringdon Street at 137.5dph
- the few houses on Birch Street at a density of 63.7dph.

On the opposite side of Green Lane, uses are more mixed. Northwards, there is housing, some flats, and a school. Southwards is the Green Lane campus of Walsall College, industrial developments, St Patrick's Church and the Police Station.

Green Lane is well served by public transport.

The application is supported by

- a design and access statement
- an environmental noise assessment

- a ground condition study
- a financial appraisal, addressing the issue of contributions, e.g. education and healthcare.

Relevant Planning History

None.

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

Unitary Development Plan (UDP)

The UDP seeks to encourage high quality design, efficient use of land and resources and promotes high density development in sustainable locations, in a range of policies, notably ENV32.

Policy LC8 states that the loss of community facilities will only be permitted if it can be demonstrated that one of a series of tests are met (that there are alternative facilities, other facilities could be provided in equally or more convenient locations, there is no longer a need for the facility, or that the facility is not viable).

The UDP also promotes sustainable parking solutions in sustainable locations, with parking standards expressed as a maximum. The Council will seek to ensure the transport system serves the wider aims of economic revitalisation, urban regeneration, sustainable development, environmental improvement and social inclusion to achieve an integrated and efficient transport network. It will also seek to integrate transport and land use planning as fully as possible.

Development should also take account of the surrounding area and amenities of local residents.

The Council has published several Supplementary Planning Documents (SPD) including Designing Walsall SPD, Housing SPD, Open Space SPD, Education SPD and Healthcare SPD which are relevant in this instance (addressed in more detail in the Consultation and Observations sections of this report).

Regional Spatial Strategy for the West Midlands (RSS11)

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

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities, and (in the context of this scheme) to:-

- a) reverse out-migration accommodating within the Black Country all of the generated household growth from 2011 and meeting at least the levels of housing provision identified in Policy CF3 table 1;
- b) to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix by increasing the proportion of social grades A and B to match the national profile by 2033 or earlier.

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

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

- Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.
- Policies QE1, QE2, QE3, QE4 and QE5 which seek to improve the quality of the environment whilst preserving quality locations. The policies also aim to enhance public spaces and urban green space.
- Policy CC1, EN1, EN2 seeks to conserve energy and address climate change.
- Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

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

National Planning Policy

Planning Policy Statement (PPS) 1 sets out the overarching planning policies on the delivery of sustainable development through the planning system. Policies should promote high quality inclusive design in buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted. Supplementary document published on the need to address climate change.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations. Objectives, through development plans and planning decisions, include high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need / demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

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

Circular 05/2005 (Planning Obligations) is relevant to the level of planning contributions sought.

Consultations

Transportation – No objection. The application proposes 30 apartments and 37 car spaces (standards call for a maximum of 45 spaces). In this location, this level of provision is considered acceptable. The re-cycle, bin and cycle storage provision is acceptable. Conditions are requested on any approval, requiring details of barriers to the parking and method of operation to be agreed before commencement, and the maintenance of visibility splays.

Pollution Control

Scientific Team – no objections in principle. Due to the proximity of Green Lane, have concerns regarding noise. Conditions have been recommended for inclusion in any permission granted.

Contaminated Land Team - support subject to a desk study and site reconnaissance to identify the potential for contaminants and/or ground gases. Should that be identified a survey and site investigation should be carried out to identify risk. Conditions have been provided.

WM Police ALO – The applicants have demonstrated a good approach to security, and how they propose to achieve the Secured By Design award. In its former capacity as a public house, this building did attract some antisocial behaviour, and therefore the Police are pleased to see that efforts are being made to improve the site. The Police support this application as it could benefit the area by providing safe and secure living space with well-defined boundaries.

Education - The level of surplus places is below 10% in both the primary and secondary sectors. The contribution calculation is sensitive to the type and mix of dwellings to be built. It involves combining the expected pupil yield for the development by a Building Cost Multiplier (provided by the DCSF at the start of every financial year). Based on current prices and school use, we would seek a contribution of £76,359.64

Greenspace – Seek £43,462 in accordance with the Adopted Supplementary Planning Document.

Housing Strategy – Whilst additional apartments are not necessarily required, this is a high quality scheme to be welcomed in this area, encouraging diversification of tenure. Recommend 25% shared ownership on site (as offered by the applicants) in accordance with the Adopted Supplementary Planning Document.

Healthcare - Seek £23,826.60 in accordance with the Adopted Supplementary Planning Document. Walsall PCT confirms that there are no plans to develop new healthcare facilities in this area or on the Tannery site, though a meeting has been planned with the Burrowes Street TMO.

Public Art – The ground floor on site works to the value of £10,500 (the amount defined in the SPD) are welcomed.

Delivery and Development Team – Support the proposals. A number of other residential schemes are in preparation in Birchills. This development will complement them and set a benchmark for design quality. Development will bring this land back into productive use, enhance the local environment and create a landmark building on a key route the town centre. The scheme will also increase housing choice by introducing private accommodation into an area with significant social housing and offering affordable housing in line with the Council's SPD.

Regeneration – Landscaping – No objection in principle to the inclusion of improvements to the open space, however there are several detailed design issues that will need to be overcome in order to be brought up to an adoptable standard.

Street Pride – No concerns in principle. Offer comments on detail of play area to take account of maintenance and adoption standards.

Land Drainage – No objection, subject to Severn Trent comments

Fire Service – No objection provided that the construction methodology (e.g. the provision of a dry riser inlet and smoke vents) contained within Building Regulations Approved Document B, fire service access will be satisfactory.

Environment Agency – No objection, the application has a low environmental risk.

Access Officer – The Design and Access Statement does not include reference to Access for all requirements. The statement should be revised to include this and the proposals will need to ensure that the proposals meet the needs of all persons and are DDA compliant in line with approved Building Regulations documents.

Centro – No objection. Within minimum standards. The proposals would benefit from a Travel Plan.

District Valuers Service (DVS) – financial appraisal has been done on the basis of 8 affordable housing units. With all the other contributions normally governed by section 106 agreement “ ... there is ... a very substantial loss on this project even when no affordable or Section 106 contributions are included ... It is therefore evident that any ... contributions will compound the loss and if the applicant is offering to provide affordable housing within the development, then this would appear to be generous. The scale of the deficit between development costs and projected revenue is of such a size that it is difficult to see how this project can be viable.”

Public Participation Responses

There has been one letter, expressing disinterest in what happens to the site.

A petition with 173 signatures has been received objecting to the application. Some of the signatories have also written in separately.

There have been 10 letters of objection from local residents including the neighbouring Baptist Church. Collectively, the petition and letters raise objections about:-

- one respondent says the estate is perfect as it is, changes will make it ugly, all others recognise there is a need to improve the existing site
- not enough parking on site so some will be on street to detriment of area
- church users already have problems finding parking (especially when there are funerals) and this will make it worse
- Traffic impact and congestion in a cul-de-sac (Burrowes Street) and this could also affect emergency services
- traffic noise, particularly at night;
- The impact of the proposed development during construction;
- Loss of privacy;
- Loss of daylight;
- too close to other flats;
- Overlooking;
- Loss of view;
- Anti-social behaviour in the area so the proposals, in particular the underground car park and the play area, will be a magnet for drug users and prostitution and a simple entrance barrier will not keep them out;
- proposal will recreate the drug and prostitution problems which were prevalent before the TMO was created;
- teenagers with drink and drug problems will gather here, and intimidate the neighbours;
- No need for flats as many are unsold in the area;

- Too high a density and not enough space;
- should be built elsewhere, with more space around them;
- The Council are demolishing other high rise flats in the area;
- Will be an eyesore;
- Out of character with existing buildings / will make the existing flats look dated.
- there will be problems with construction process
- loss of car park on northern edge of site would detract from shops and trading pattern
- The development description is misleading in not referring to the height of the buildings and there appears to be confusion about the height (9 or 10 storeys).
- is a ten storey block acceptable within 3 metres of the dwellings above the shops
- officers have prejudged the development

Bruce George M.P. supports the residents on the basis that the proposed development is in the wrong place, would create adverse impact on privacy and environmental quality and its size would dominate the street scene. He concludes it is inappropriate and should be refused.

Letters have also been received from the Burrowes Street Tenant Management Organisation Ltd, objecting to the proposals on the grounds:-

- height and massing will have an overbearing impact on existing estate (particularly Tibbits House by restricting views of the square), and on the street and the amenity space
- area is characterised by medium rise blocks surrounded by green space
- will create the effect of a city street on Burrowes Street, with restricted light and views detracting from the open plan environment,
- will be one and a half times the height of the existing flats
- car park on ground floor will create blank, harsh and aggressive edge to the space / street – particularly intrusive on the edge of the square and is contrary to UDP policy and Designing Walsall
- actively excludes local residents by its design
- will be within 3 metres of the shops and dwellings over, will impact on their light and views, and have an overbearing impact
- Will impact adversely on the church and the public square
- Anti-social behaviour in the area so the proposals, in particular the underground car park and the play area, will be a magnet for drug users and prostitution and a simple entrance barrier will not keep them out;
- Similar parking areas existed on this estate but were demolished by the Council as a problem area;
- There is a lack of parking provision and this is a reason for refusal,
- vehicular access too close to the junction of Birch Street and Burrowes Street, which is very busy – could be a conflict with other road users and particularly with emergency services, contrary to the advice on visibility displays in Manual for Street, as is the location of the access opposite another car park access
- The proposed amenity space on terraces will overlook existing flats
- Proposed play area too close to shops – will promote anti-social behaviour
- an unspecified concern at the potential future development of the car park to the north
- Council, elsewhere in the Borough has concluded high rise blocks are not sustainable and is demolishing
- There is an abundance of flats in the area which are not selling
- Walsall has ample land to meet housing demand so there is no justification for this development
- Appreciate the pub has become an eyesore and needs something to be done there is no justification for removing a local facility in this application
- they would prefer a community meeting place and health facilities on the site.

- Scheme makes no provision for renewable energy provision – Designing Walsall requires level 4
- Developer has not engaged the community in design process, as expected by Designing Walsall
- application says nothing on wind turbulence or sunlight
- officers are so keen to see this approved they are prepared to hand over to the developers land for the play area and the northern car park
- construction problems must flow from such an over developed site
- officers are not judging the application and objections impartially

Further objections have been received from the TMO, and Watmos in a joint submission (and in an individual letter from Watmos) on the following grounds:-

- the Tannery closed because “ .. the housing strategy and improvements on the estate, together with changes in resident’s lifestyles, rendered the existing public house surplus to the communities requirements, particularly given the site’s rather unappealing history, not (as the developers argue) because of poor building design
- proposal is out of keeping with the character of the area
- too high
- car park at street level will not be an active elevation
- would so damage the public square’s character that it would cease to be of value
- mass of building is 50% greater than largest neighbouring building, will dwarf the block of shops (6 storeys taller than they are) and will eliminate sunlight from them (e.g. from 11 a.m. in October)
- there is no objection to the architecture proposed, the issue is overdevelopment
- too dense, existing area is about 250 dph – the proposal would be 350 – the highest in the area
- UDP policy argues densities should generally be 30 to 50 dph
- does not have adequate amenity space and what is there is not evenly available to occupiers
- Does not respect the square and its surroundings as does the existing building
- too close to other properties and the shops
- would not have adequate spacing to neighbouring residents
- develops up to the boundaries
- north elevation (10 storeys) denies the opportunity to develop the car park adjacent to the northern boundary, and threatens its security by not providing any surveillance from the largely blank elevation
- would have an adverse impact on sunlight to neighbouring residents
- photos and drawings showing the perceived impact of the proposals on sunlight, and on street scene views are submitted
- would have an adverse impact on views
- threatens the future of the existing trees around the site
- fire escape opens direct on to public footpath
- openings from building (windows etc) effectively on boundary calls into question whether it can meet fire regulations and be capable of being built
- should provide a health centre or community use
- area of high quality design and that the existing building is of poor quality.
- would not provide enough amenity space
- facing windows are 23.5m apart as opposed to 24m in planning guidance, and not the 26 metres stated by the applicants
- would not provide enough car parking –7 - 8 spaces short
- would increase traffic to the area and harm the safety of residents pedestrians and highway users

- existing dwellings cause on-street parking especially in evenings, and the road is very congested as a result (whereas applicants argue this is a quiet cul-de-sac)
- bins storage is only 3 Euro bins (not the 5 needed) and refuse collection vehicle will hamper traffic movements while collecting (*bin access for collection is at back of pavement, adjacent to the car park entrance*)
- security door for car park is at back of pavement, so vehicles will have to wait on the road while it opens
- should be accompanied by a transport assessment
- does not provide enough affordable housing – proposals are for 7 (23%) – should be rounded up to 8
- Scheme makes no provision for renewable energy provision / sustainability
- the proposed play area is inappropriate
- is contrary to national, regional and local planning guidance
- will increase anti-social behaviour most likely from drugs or alcohol (prevalent in area, but currently controlled and managed by patrols and CCTV on the Burrowes Street estate)
- would increase the number of flats on the estate (currently 275) by 10%
- over recent years, density of existing estate has been offset by creating pleasant open spaces
- would have an overbearing impact on the estate, the street scene and the neighbouring residents in particular Tibbits and Richards House
- will result in additional anti-social behaviour
- contrary to applicant's statements about promoting social inclusion, this secured, largely owner occupied development will not do that
- will result in parking problems and impact on highway safety
- there is no demand for flats so there is a risk of unoccupied units, or of short term letting (which would undermine the present stable community)
- the site would be better used for a health centre or similar facility for residents
- developers met with the TMO several times in 2007, to discuss possible schemes, but none were as large as the present application, and the present scheme was never discussed with the TMO

Three letters of objection have been received from the Green Lane Shopping Precinct Association (6 privately owned shops with 2 storey dwellings above) commenting that :-

- whilst they recognise the Tannery has become an eyesore and that redevelopment needs to occur they feel that the development is too overbearing,
- there is anti-social behaviour in the area so the proposals, in particular the underground car park and the play area, will be a magnet for drug users and prostitution and a simple entrance barrier will not keep them out so residents will park elsewhere (this is specified to be their biggest concern),
- on street car parking will damage trading,
- similar parking areas existed on this estate but were demolished by the Council as a problem area
- will be within 3 metres of the shops and dwellings over, will impact on their light and views, and have an overbearing impact
- Council, elsewhere in the Borough has concluded high rise blocks are not sustainable and is demolishing
- There is an abundance of flats in the area which are not selling
- would welcome a facility for the community on the site.
- Proposed play area is not needed (there is an existing play area nearby)
- Another nearby play area had to be removed due to vandalism and anti-social behaviour, and the proposed play area will have the same problems

Further individual letters (6 in total) have been received from each member of the Association in relation to the application and objecting:-

- the size of the proposed building will have an overbearing impact on the dwellings and the open space
- loss of light – they have a right of light
- fails the Council's 45 degree code
- loss of privacy
- whilst they recognise the Tannery has become an eyesore and that redevelopment needs to occur they feel that the development is too overbearing,
- there is anti-social behaviour in the area so the proposals, in particular the underground car park and the play area, will be a magnet for drug users and prostitution and a simple entrance barrier will not keep them out so residents will park elsewhere (this is specified to be their biggest concern),
- on street car parking will damage trading,
- similar parking areas existed on this estate but were demolished by the Council as a problem area
 - will be within 3 metres of the shops and dwellings over, will impact on their light and views, and have an overbearing impact
 - Council, elsewhere in the Borough has concluded high rise blocks are not sustainable and is demolishing
 - There is an abundance of flats in the area which are not selling
- would welcome a facility for the community on the site.

The St Matthews and Birchills LNP have stated their objection to the proposals. The minutes of the LNP meeting on 23rd April 2008 included the following comments:

- other multi-storey blocks of flats in the Borough were being demolished.
- the proposed building would be within 3 metres of the parade of shops adjoining the public house (*N.B. this is corner to corner*)
- would be within 3 metres of Tibbits House and would spoil the outlook.
- reservations as to how they would be able to undertake the construction.
- underground car park proposed could have an impact on residents and traders.
- each apartment should have 1.5 spaces per apartment. Only 1.25 spaces were proposed.
- Birch Street would be the only entrance to the car park.
- out of keeping with the area, and would not fit in, given the layout of the estate.
- loss of privacy.
- the proposals are building dereliction.
- flats in the area are not selling and it is about time that the Council stood up and took notice and halted proposals for building more and more flats. Also, between three and four hundred flats are being built in the area and Councillors needed to force planners to take notice of resident's views and concerns on this issue.
- there is anti-social behaviour in the area and while secure car parking is proposed but this does not extend outside the car park and that this could create a 'no-go' area of drugs and prostitution.
- the TMO would have no control over who moves in, which would undermine the work done in the area by the TMO.
- the proposals for the car park do not meet the Development Plan.
- the proposed development would block views.
- should be a Community Centre, Health Centre, chemist or gym for the children of the area built on the site.
- Once the construction of the development and the underground car park started, it would jeopardise the safety of residents.
- more need for adapted properties and large family properties than the proposed development.

Determining Issues

- Design
- Loss of community facility
- Principle of residential / flats or housing / area character / height, density and design
- Impact on existing, neighbouring residents and other occupiers
- Traffic Impact, car parking provision and security
- Other public participation comments
- Affordable Housing, Education, Urban Open Space, Healthcare, and Public Art contributions

Observations

Design

The character of the area is substantially defined by Tibbits House, Richards House and Winn House. These are on the opposite side of Burrowes Street, and are approximately 19 metres in height (7 storeys).

The height of the proposed building would be 28 metres, at its highest point. However, that point is not definitive in terms of the design of the building. Much more significant will be the roof terraces on the 3rd and 6th floor being at 10m and 18m creating a distinctive stepped design. A significant proportion of the building would, as a result, be lower than the neighbouring buildings on Burrows Street.

However, the relative heights are not the key to this proposal. The use of a striking profile in the stepped design, the use of colour and texture in the choice of materials, the use of balconies to articulate the elevations, and the strong relationship to the space around it have created a design which embodies the objectives of the UDP to create a new environment for the town and its residents.

There is one feature of the development which requires careful consideration. Adjoining the car park to the north side of the site is the north wall of the proposed building. This wall is over nine storeys in height. Because of the uncertainty over the scope for development of the car park, no windows can be used in this wall (and in any event, much of the inside of the wall is staircase and lift shaft). Carefully handled, this wall has huge potential to be a striking featured of the scheme. There are, however, two approaches to the design. As it stands it is a bold, architectural, even sculptural feature, of great drama, and which deserves to be supported. Conversely, it has the ability to be plain and dull, which would massively damage the character of the area.

The choice between these two ways of seeing the scheme is a matter of judgement. Officers have concluded that there is, in fact, a third way, which they recommend. A condition is proposed to secure the decoration of this wall with a suitable element of public art, over and above that expected in the Designing Walsall SPD. This reflects and continues the approach to the ground floor walls (already intended to be decorated in this manner). This should have the effect of delivering a suitable feature.

Overall the design of the proposed development is high quality and an exemplar development with good design at the core of the scheme.

Loss of community facility

The loss of a public house (a community facility as controlled by Policy LC8) will only be permitted if one of a series of tests is met. In this case, the site is opposite the College campus on Green Lane, within walking distance of the town centre and the Stafford Street Local Centre and there are good public transport connections to the Town Centre.

The existing public house was closed in 2007 and has remained closed. The comments of the police are important in this regard. There are a number of other public houses within walking distance. There are a number of potential restaurants/cafés in the Waterfront redevelopment as well as those existing in the town centre which would provide an alternative to this public house. The facilities in the Stafford Street local centre are also important. There are a number of public houses in the wider area around the site.

The proposals are consistent with, and acceptable under, the policy. It is the view of officers that the loss of the community facility is justified and that the loss would not be contrary to policy.

A key issue for the objectors is the preference for a community meeting place, health centre or similar facility on the site. Policy LC8 does have the potential to judge a site must be retained for a community facility, but only where the tests in the policy require that to happen. In relation to the present application, that is not the situation. The area is well provided for in terms of community facilities. In addition, the comments of Walsall PCT that they do not intend a health facility in this vicinity are important.

Principle of residential / flats or housing / area character / height / density

The LNP, Burrowes Street TMO and local residents have questioned the need for flats and that the site should be developed for larger family housing. Whilst the need for family housing is acknowledged (and is being delivered on other sites), each site must be considered on its characteristics.

This site is constrained by the need to ensure activity on all sides. This could not easily be achieved with family housing (for example, the need to provide private back gardens). In addition a development of family housing would not be the most efficient use of land in this sustainable location.

The area has been the subject of anti-social behaviour, touched on particularly by the Police. The existing public house is poorly designed by modern standards. Officers would not encourage the conversion of the building.

The proposed density of around 400 dwellings per hectare is high, but Tibbits House, Richards House and Winn House have a density of between 352 and 500dph (depending on how much of the surrounding area and landscaping is taken into account). It would be hard to argue that the development is out of keeping with the surrounding area.

In addition the location of the site is close to local facilities and public transport. The density therefore would be entirely appropriate (in locations such as this developments are encouraged to achieve higher densities by national and local planning policy) and the proposals are entirely consistent with such guidance.

It is possible to argue that some of these issues are in fact reasons to refuse the application. In isolation, that may be the case, however, it is important to consider all the facets of the scheme. Any individual feature must be weighed against, for example, the quality of the design.

Impact on existing, neighbouring residents and other occupiers

The spacing between the nearest dwellings (Tibbits House) and the proposals is 23.5m while Designing Walsall seeks 24 metres. However the two buildings slant away from each other on an angle and therefore do not directly face each other. The 24m figure is not prescriptive to the degree that would prejudice good quality design, and that is a key issue for this development.

Good design does not come from strict adherence to numerical figures. The main focus should always be on delivering the right solution for the site. Careful design rather than a blanket application of numerical standards can often address concerns such as privacy and amenity. The objective behind the standards is what is important rather than the standards themselves. In this case, a minor variation from the guideline figure, with the buildings angling away from each other is not seen as a significant issue for the decision on this application.

The proposals are only 3m from the shops on the northern boundary of the square, though this is a corner to corner relationship. It has raised concerns among the objectors, as has the size of the proposed building and its effects on the maisonettes over the shops. It is clear that the scheme will make a significant change in the nature of the environment of these occupiers. However, this is an urban area, and such changes are warranted in some cases, when other factors are balanced in.

Officers have also considered the objector's submitted sunlight assessment. and the impact of the scheme in these terms. The assessment shows modest changes in sunlight in the square at most of the tested times, though there will be a more marked effect on the shops in winter months, in the afternoon / early evening.

The proposals do not totally exclude sunlight to any property throughout the day and properties affected would still benefit from sunlight for a significant proportion of the day as the sun moves through the sky.

It is therefore considered that the proposals would not cause material harm to the amenity of neighbouring residents by reason of loss of sunlight. Overall, the proposals create a strong sense of enclosure to the public space. It would not have so serious an adverse impact on the amenity of adjoining occupiers to warrant refusal.

Amenity of occupiers

The terraces are a key component providing amenity space for the residents. The proposals incorporate 490sqm of amenity space, This equates to 16.3sq.m. for each dwelling with 321.3sqm in private balconies and 168.7sqm in communal terraces. Designing Walsall seeks 20sqm per dwelling, however given the location and the type of dwelling proposed this would be an appropriate level of amenity space for the development.

Traffic Impact, car parking provision and security

It is noted that the proposals include 37 car parking spaces at 125% provision. The proposals are in a sustainable location, close to facilities and public transport as well as being a walkable distance to the town centre. The level of car parking is therefore considered to be entirely appropriate and in accordance with the Unitary Development Plan policy.

The comments of Transportation Officers are noted and it is also noted that the development proposed is not large enough to require a transport assessment. Officers consider that the capacity of the road is sufficient to cope with the relatively small increase in traffic from 30 flats. It is therefore considered that the proposals will be acceptable.

The comments of the Police are noted with regard to the security of the proposals. The development will meet the Secured by Design principals and the car park will be secure and accessible only to residents of the proposals. The scheme and the car park would be secure from anti-social behaviour.

Having considered the comments of members of the public on these issues, it is considered that the proposals would not have an adverse impact on traffic safety.

Other public participation comments

The resistance to building further apartments in Walsall as a whole, preferring to see family housing as an alternative is noted. As stated previously in this report, the site is constrained in size and needs to ensure that the proposals are designed in a manner to overlook all viewpoints from the development. It is considered that family housing would not achieve this aim and achieve garden space, car parking and would not achieve the most efficient use of land in this location or make a viable alternative to the proposals. It is therefore considered that the aspirations for family housing are not appropriate in this location.

With regard to antisocial behaviour, the comments of the Police are noted and it is considered that given the high quality design that the proposals bring, this would result in uplift in the area and help aid the regeneration and improvement of the area, thereby reducing antisocial behaviour. In addition it is considered by officers that the proposals will improve the open space in front of the site to Green Lane, with the removal of the Tannery and the physical improvement to the site, the proposals will improve the physical and built environment.

Therefore whilst the comments of neighbouring residents are noted, officers continue to commend the high quality design and consider that the proposals will have a positive impact on the local area.

Affordable Housing, Education, Urban Open Space, Healthcare, and Public Art contributions

As set out elsewhere, the advice of the DVS is that the proposals are offering as much as possible, within the limits of viability.

Due to £104,000 of abnormal costs associated with the development, the applicant is offering no contribution towards Education and Healthcare. DVS agree with the applicant that there is no scope to offer contributions in this instance towards Education and Healthcare without adversely affecting the viability of the scheme. It is noted however that on site Affordable Housing, Urban Open Space and Public Art will be provided.

The policy requirement is 25% affordable homes. That equates to 7.5 dwellings. The actual offer in this scheme is seven apartments. One of the objections to the scheme from local people is that the development does not make enough provision to meet the policy.

Seven units provide 23.3% of the total development whereas 8 units would be a provision of 26.7%. The policy does not sanction rounding up to 8, and therefore 7 units is considered the appropriate number to seek. Housing Officers support the proposal on the submitted basis that they consider this to be a high quality scheme which would improve the quality of affordable housing in the area. This element of the scheme is supported.

On site public art will be to at least the level of £10,500 (the amount that would be sought under the Adopted Supplementary Planning Document) and will be developed with the Creative Design

Team. However, it is necessary to secure a solution to both the ground floor walls, and the north wall, a set out elsewhere in this report. The SPD contribution will not be allowed to adversely affect the provision of the art work, as the design needs of the site take precedence.

The proposals include an improvement to the square in front of the proposals which would meet the Urban Open Space contribution requirements and therefore provide this element of the Section 106 on site.

Conclusion

Overall, the proposed development has been designed to a high standard incorporating many of the initiatives that the Council endorses in good quality design and sustainability, for example, the use of balconies, roof terraces and modern, innovative designs. The proposals make effective use of previously developed land, providing an appropriate level of car parking and use of a site that has become a target for anti-social behaviour. In addition a significant proportion of SPD requirements will be delivered by the development on site. For these reasons Officers consider that the proposals overcome the objections of the public participation responses and consider that the scheme would be a significant and positive landmark development in the area.

Reasons for Approval

The proposals have been considered with the aims and objectives of the Development Plan (as set out by Section 38(6) of the Planning and Compulsory Purchase Act (2004). These are Regional Spatial Strategy for the West Midlands (RSS11) and the Unitary Development Plan (March 2005).

The loss of the public house for a residential development has been considered with regard to Policy LC8 and the tests of viability. In addition the availability of other facilities in the area have been considered.

The Local Planning Authority have considered the design of the proposals, the impact of the proposals on the character of the area, the density, height and amenity space to be provided as part of the proposals.

The impact on the amenities of nearby residents has been considered in terms of daylight, separation distances, and impact on their amenities.

The impact and relationship to the square in front of the proposals has also been considered as acceptable.

S106 contributions have been sought on site in terms of affordable housing and the provision of public art and urban open space, and the proposals will deliver these in line with the Council's policy. The applicant has had the viability independently assessed and the offer has been considered reasonable.

As such, the proposed development, having considered all relevant public participation responses and consultation comments is considered to comply with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. In particular policies GP1, GP2, GP3, GP4, GP5, GP6, GP7, T1, T2, T3, T4, T5, T6, T7, T8, T9, T10, T11, T12, T13, ENV9, ENV10, ENV11, ENV13, ENV14, ENV17, ENV18, ENV19, ENV21, ENV22, ENV23, ENV25, ENV26, ENV27, ENV29, ENV31, ENV32, ENV33, ENV34, ENV35, ENV40, H3, H4, H9, H10, LC8, WM1 and WM4 and paragraphs 4.6, 4.13 and 4.14 of Walsall Unitary Development Plan, March 2005; Policies PA1, PA2, PA3, PA4, PA5, PA6, PA10, PA11, UR1,

UR3, UR4, QE1, QE2, QE3, QE4, QE5, QE7, EN1, EN2, T1, T2, T3, T4, T5, T7, T8, T9, CF1, CF4, and CF6 of the Regional Spatial Strategy for the West Midlands (RSS11); Adopted Supplementary Planning Documents including Designing Walsall SPD, Affordable Housing SPD, Open Space SPD, Education SPD, and Healthcare SPD on balance, having taken into account all material planning considerations, the proposal is acceptable.

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

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

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

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

Reason: To ensure satisfactory development of the site.

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

Reason: To ensure satisfactory development of the site.

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

Reason: To ensure satisfactory development of the site.

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

Reason: To ensure satisfactory development of the site.

6. Prior to development commencing, a noise survey shall be undertaken to the written satisfaction of the local planning authority. The results of this survey, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the local planning authority within 2 months of completion.

Reason: To ensure satisfactory development of the site.

7. No development shall take place until suitable noise mitigation measures to protect the dwellings have been agreed in writing with the local planning authority, and the dwellings shall not be occupied until such measures have been fully completed.

Reason: To ensure satisfactory development of the site.

8. a) This development shall not be carried out until:-

i) an art work scheme for the ground floor walls and the north wall has been submitted to and approved in writing by the Local Planning Authority.

ii) samples of the facing materials to be used have been approved in writing by the Local Planning Authority.

b) The art work approved under part (a) of this condition will be implemented and completed before the first dwelling on the site is occupied, and thereafter retained..

Reason: To ensure the satisfactory appearance of the development.

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 otherwise such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 13.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: In the interests of the amenity of adjacent occupiers.

10. No development shall be carried out until drainage details, incorporating:-

a) sustainable drainage principles

b) an assessment of the hydrological and hydrogeological context of the development

c) the provision and implementation of a surface water run-off limitation and on site attenuation as appropriate, and a programme for implementation and completion

have been submitted to and approved in writing by the Local Planning Authority and in consultation with the Environment Agency. The scheme shall be implemented and completed in accordance with the approved details.

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

11. Unless otherwise agreed in writing by the Local Planning Authority, no development shall be carried out until details of security oriented design measures and physical security measures for the building have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the first dwelling is occupied, and thereafter retained.

Reason: To ensure the safety of the occupiers and users of the development

12. Prior to the occupation of the building hereby approved, the location of a communal satellite dish to serve the apartment units shall be submitted to and agreed by the Local Planning Authority. No other satellite dish shall be installed on the building at any time.

Reason: To ensure the satisfactory appearance of the building, to ensure amenities of future residential occupiers, to prevent a proliferation of satellite dishes on the building and to ensure satisfactory functioning of the development.

13. The building shall not be commenced until design of window cleaning arrangements have been submitted to and approved in writing by the Local Planning Authority. The building will be implemented in accordance with the approved details.

Reason: To ensure a satisfactory design for such works, in keeping with the building.

14. Prior to the first dwelling being occupied, a Residential Travel Plan developed in partnership with this Council's Travel Wise co-ordinator shall be submitted to, and agreed in writing by the Local Planning Authority. This shall identify a package of proposed measures consistent with the aim of reducing reliance on the car, and should include details on:

- a) Public transport information and ticket details;
- b) Cycle provision; and
- c) Walking initiatives.

The approved measures shall be developed and implemented during the first six months following the occupation of the premises for the use hereby approved. Following the expiry of this period of time, a review of the Plan shall be submitted to, and agreed in writing by, the Local Planning Authority. This will identify any refinements and clarifications deemed necessary to the Plan. The approved, revised plan shall thereafter be implemented in conjunction with the use approved under this permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory functioning of the development and to promote sustainable modes of transport.

15. Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority for the conservation and efficient use of energy and natural resources and sustainable development, to seeking to achieve a minimum of 3 stars standard as amplified by the Code for Sustainable Homes (December 2006) or subsequent document, micro energy generation, on site composting, grey water systems, SUDS and locally produced building materials. The development shall then be implemented in accordance with the approved details.

Reason: In order to comply with guidance within policy ENV40 of Walsall's Unitary Development Plan, Policy CC1, EN1 and EN2 of RSS11 and PPS1 in terms of sustainable development and use of natural resources.

16. Prior to the commencement of development, details of the proposed roller shutter doors (including the mechanisms to allow access and exiting) to the proposed car park shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that there is satisfactory development of the application site and to ensure that the site is secured.

17. Details of the proposed landscaping to the roof terraces and balconies (including surfacing, details of railings and boundary treatment) shall be submitted to and approved in writing by the Local Planning Authority. The built elements of the scheme shall be implemented before the first dwelling is occupied, and the planted elements of the approved 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. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

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

Reason: To ensure the satisfactory appearance of the development.

18. Prior to the first occupation of the development the cycle stores and bin stores shown on the approved plans shall be implemented and made available for use unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

19. No development shall be carried out until a scheme for external lighting and lighting to the car park has been submitted to and approved by the Local Planning Authority. The approved scheme shall be installed and thereafter retained in accordance with the approved details within 6 months of the first occupation.

Reason: To safeguard the amenities of the occupiers of adjoining premises, security for proposed residents and highway safety.

20. Prior to the commencement of development the applicant shall submit full details to the play area shown on the approved plans unless otherwise agreed in writing by the Local Planning Authority. The details shall be in accordance with the Council's standards for play areas and take into account Health and Safety legislation, accessibility requirements; provide appropriate surfacing materials,

Reason: To ensure the satisfactory development of the application site.

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 GP1, GP2, GP3, GP4, GP5, GP6, GP7, T1, T2, T3, T4, T5, T6, T7, T8, T9, T10, T11, T12, T13, ENV9, ENV10, ENV11, ENV13, ENV14, ENV17, ENV18, ENV19, ENV21, ENV22, ENV23, ENV25, ENV26, ENV27, ENV29, ENV31, ENV32, ENV33, ENV34, ENV35, ENV40, H3, H4, H9, H10, LC8, WM1 and WM4 and paragraphs 4.6, 4.13 and 4.14 of Walsall Unitary Development Plan, March 2005; Policies PA1, PA2, PA3, PA4, PA5, PA6, PA10, PA11, UR1, UR3, UR4, QE1, QE2, QE3, QE4, QE5, QE7, EN1, EN2, T1, T2, T3, T4, T5, T7, T8, T9, CF1, CF4, and CF6 of the Regional Spatial Strategy for the West Midlands (RSS11); Adopted Supplementary Planning Documents including Designing Walsall SPD, Affordable Housing SPD, Open Space SPD, Education SPD, and Healthcare SPD 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 the application was approved by the Development Control Committee, the report can be viewed on the Council's website at www.walsall.gov.uk <<http://www.walsall.gov.uk>>.

NOTES FOR APPLICANT:

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

B) The survey (referred to in Condition 3) should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Waste Management Paper No. 27 "Landfill Gas"; or any relevant antecedents of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

C) When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

D) When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

E) With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

- i). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, $L_{Aeq(8 \text{ hours})}$, of 35 dB together with a maximum instantaneous level of 45 dB L_{AFmax} , between the hours 23.00 to 07.00;

ii). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, $L_{Aeq(16 \text{ hour})}$, of 45 dB between the hours 07.00 to 23.00.

F) Sound level measuring instrumentation shall conform to either '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 Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards 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.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994; Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005; British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise"; British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures; British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use; British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits; British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas; Calculation of Road Traffic Noise, 1988; Calculation of Railway Noise, 1995

This is not an exhaustive list.

G) Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

H) Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

I) With regard to condition 17 The Housing Act 2004 (Commencement No.11) (England and Wales) Order 2008 was made on 13 March and came into force on 6 April 2008. This completes the application of Home Information Packs (HIPs) to all new build properties. The HIP duties currently apply to all types of property sale, including the sale of new homes but excluding homes built under the most recent Building Regulations (i.e. Regulation 17C of the Building Regulations 2006). The Government have previously announced the intention to extend the HIP duties to these properties from 6th April, when the requirement under the 2007 EPBD Regulation for all new homes to have a SAP-based EPC on construction come into effect, and the Order achieves this.

For marketing a home off-plan, the developer will need to have a PEA (Predicted Energy Assessment) in the HIP to provide to potential buyers. Once the home is physically complete the PEA in the HIP should be replaced with an Energy Performance Certificate (EPC) and Recommendation Report.

PEAs should be based on the predicted SAP rating for the home. This will be available from calculations done at the design stage and is a number between 1 and 100. A spreadsheet template is available to be able to represent the rating in a graphical form for potential buyers with more information to be found at www.homeinformationpacks.gov.uk.

Each building within a development will require its own EPC (although reports can be cloned for identical dwellings and will not need to be inspected individually).

Therefore it is suggested that in order to discharge the condition the PEA should be submitted to the Local Planning Authority and that this should be followed through into the EPC showing a minimum of the 3star standard being achieved.

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

K) Your attention is drawn to the Party Wall etc. Act 1996. If you intend to carry out building work which involves:

- Work on an existing wall shared with another property;
- Building on the boundary with a neighbouring property;

You must find out whether that work falls within the scope of the Act. If it does, you must serve the statutory notice on all those defined by the Act as adjoining owners. You may wish to seek professional advice. However, two guidance booklets have been published entitled 'The Party Wall etc. Act 1996: Explanatory Booklet' or 'A Short Guide to the Party Wall etc. Act 1996', both are available from the DOE Publications Despatch Centre, Blackhorse Road, London, SE99 6TT. Tel. 0181 691 9191. Fax. 0181 694 0099.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
On 28 Oct 2008

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 08/1373/FL

Application Type: Full application

Applicant: Mr. Tayo Bilewu

Proposal: Provision of 60 no. extra care
apartments and associated facilities

Case Officer: Paul Hinton

Telephone Number: 01922 652420

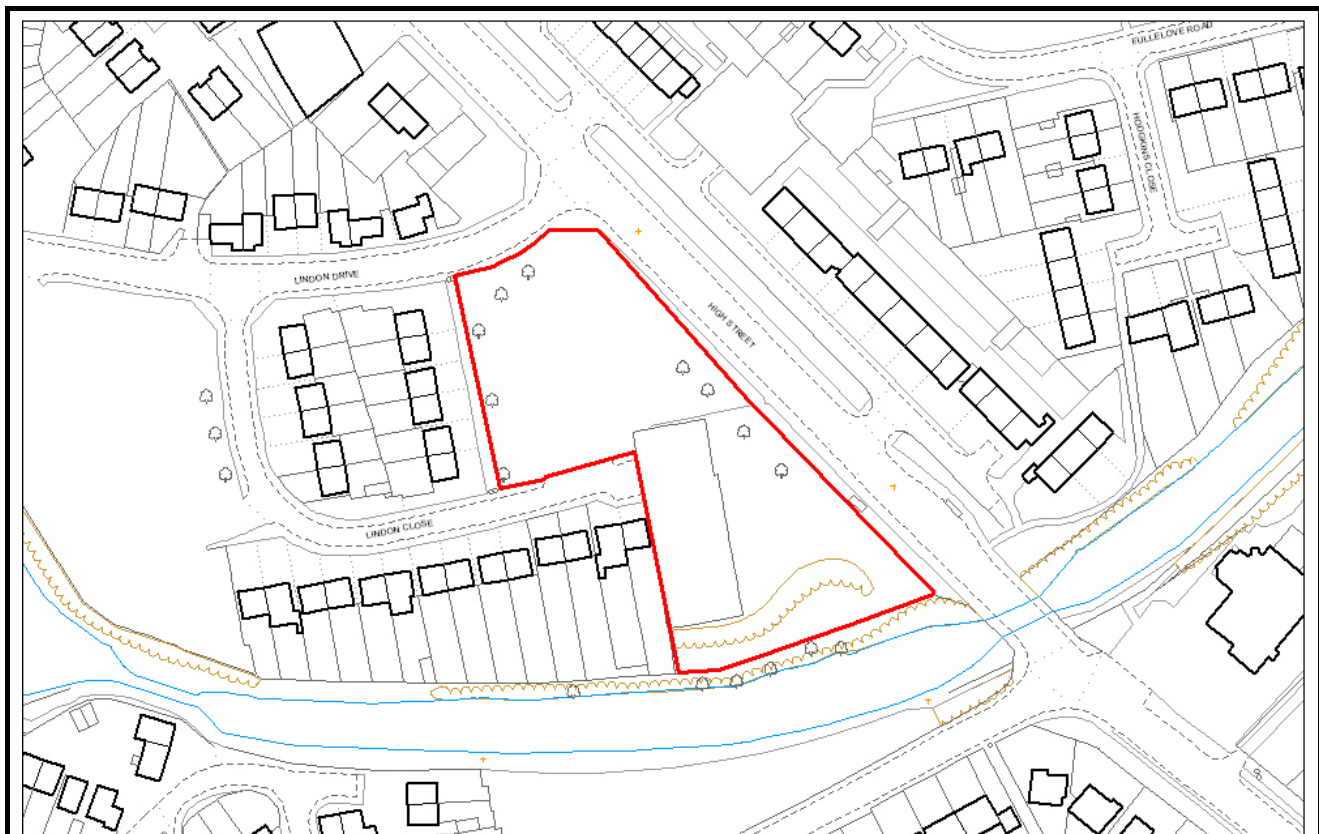
Agent: Mrs. Joanne Ellson

Location: HIGH STREET/LINDON
DRIVE, BROWNHILLS, WALSALL,
WS8 6HA

Ward: Brownhills

Expired: 01/12/2008

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

This application proposes the redevelopment of this vacant site with 60 extra care apartments with associated facilities and day centre. Forty-five apartments would be social rent and fifteen would be shared ownership.

The proposals form part of Housing 21's partnership scheme with the Council for the re-provision of residential and day care facilities for older people in Walsall, split over 5 identified sites to provide 322 residential units and 125 day care places. The main criteria for site selection has been the transfer of residents from existing locations to new sites within reasonable distance, to minimise disruption and available sites.

Extra care provides affordable housing for older people through independent living with care support, tailored to the individual needs, to enable the residents to stay in their own home for as long as possible, as an alternative to residential care.

The site is situated on the corner of Lindon Drive and High Street. The site is 325m to the south of Brownhills District Centre. To the west are two storey semi-detached dwellings forming Lindon Close which is accessed off Lindon Drive. To the east across the High Street are a long block of four storey flats. Directly to the south is the Wyrley and Essington Canal which is approximately 2m lower than the application site and screened by a densely planted area of mature trees. Immediately to the north across Lindon Drive is an electric sub station.

The site was formerly occupied by Waine House, a fourteen storey tower block of flats, and a garage block both demolished in 2004. The site is now vacant with landscaping to the south unmanaged and overgrown. The former garages are secured by 1.8m fencing to prevent unauthorised parking.

The proposal includes 32 x 1 bed and 28 x 2 bed apartments, independent living, restaurant, lounge facilities and day centre, hobbies, well being, hairdressers and kiosk/shop which would be open to the local community, staff zone incorporating welfare/meeting room, with car parking to the rear of the building.

The facilities would be accommodated within an oblong building, a mix of three to four storeys, with the three storey element to the boundary with the canal rising to four stories on the junction with the High Street and Lindon Drive. The building would measure 101m by 17.4m, with a height between 9.6m and 15.4m. Three and four storey flat roof portions flank the central curved roof entrance feature with staircases breaking up the three and four storey portions.

Vehicle access and parking would be from Lindon Drive, partly using an existing vehicle crossing. The 30 car parking spaces (including 3 disabled spaces) would be located to the rear of the site with a mini bus drop off area. Cycle racks are also proposed beneath the covered entrance at the front and rear. All communal facilities would be provided on the ground floor just inside the main entrance door of the eastern wing of the building with the main entrances from both High Street and the parking area. The proposal includes progressive privacy scheme provided from the 'public' area to the private apartment area, to ensure security for the residents. Staffing levels for the facility would be approx 15, with 8 or so on duty at any one time.

The existing group of trees to the south of the site adjacent to the canal would be retained, with a stand off zone between 1m and 8m to ensure a buffer is maintained with the canal interface. Trees to the boundary with 13-22 Lindon Close would be retained and the overgrown hedge to part of the boundary with High Street would be retained and re-shaped. Additional trees and

defensive hedge planting are proposed to the boundaries to increase security. A terrace, pergola and lawn area with wild flora are proposed in the south-western corner to provide private amenity space for residents.

The application site falls gently from east to west and is approximately 0.59 hectares which would result in a density of 102 dwellings per hectare.

Relevant Planning History

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

Unitary Development Plan (UDP)

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

GP2: Environmental Protection

The Council will not permit development which would have an unacceptable adverse impact on the environment.

GP3: Planning Obligations

These will be used, as appropriate, to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by the development.

Policy 3.6 seeks environmental improvement resulting from development.

Policy 3.9 high priority will be given to maximising the re-use and reclamation of derelict and previously developed land.

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

H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings.

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

H4: Affordable Housing

25% of total dwellings shall be affordable homes.

H5: Housing for People with Special Needs

The Council will promote and encourage the provision of housing for people with special needs, including single people, the elderly etc.

H9: Minimum Densities

Densities exceeding 50 dwellings per hectare will be encouraged within or close to local centers with good means of transport and for provision of small units for single people or the elderly.

H10: Layout, Design and Dwelling Mix

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

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

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

ENV14: Development of Derelict and Previously-Developed Land.

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

ENV18: Existing Woodlands, Trees and Hedgerows

The Council will ensure the protection and enhancement of existing woodlands, trees and hedgerows. Where any loss is necessary appropriate planting of commensurate planting will be required.

ENV23: Nature Conservation and New Development – The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology.

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.

3.17, 3.18, ENV39 and ENV40 seek to encourage the efficient use of energy and the conservation, protection and use of water resources.

Policies 8.4 and LC5 promote the provision of a greenway network along linear features such as canals and 8.6 seeks to safeguard and enhance the waterway network.

Policy LC9 encourages facilities and environmental improvements to enhance the attractiveness and recreational potential of the canal network.

T7 – Car Parking

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

T13: Parking Provision

Flats with communal parking	1.5 spaces per unit
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Residential Care homes	1 space per 3 beds
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Nursing Homes	1 space per 2 beds
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Policy 7.63 of the UDP does indicate that if housing schemes are to be occupied by a greater proportion of non-car users than average (eg affordable housing or elderly accommodation) then a lower level of parking provision may be appropriate.

Supplementary Planning Document (SPD)

Designing Walsall SPD

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

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

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

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

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

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

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

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

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

Conserving Walsall's Natural Environment SPD - advises on the information requirements and survey standards for protected species to accompany planning applications.

National Policy

PPS 1: Delivering sustainable development emphasis the need to reject poor design and the need for sustainable development.

PPS 3: Housing

- Support further increased housing needed across the country
- Bring additional brownfield land back into use
- Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development

PPG 13: Transport, promotes sustainable patterns of development, which reduce the need to travel, especially by car.

PPS23 Planning and Pollution Control: Seeks to control the effects of pollution.

PPS24 Planning and Noise: Seeks to minimise the adverse impact of noise.

Consultations

Transportation – full comments to be reported in the supplementary paper.

Pollution Control (Scientific Team) – no objection with the proviso that measures are put in place to address noise arising from Brownhills High Street. Conditions have been recommended.

Pollution Control (Contaminated Land) – no objection subject to the use of recommended conditions. A desk study and site reconnaissance will be required prior to development commencing.

Strategic Policy – no objection. Residential use is acceptable, and would make a valuable contribution towards meeting affordable housing needs.

Natural Environment – full comments to be reported in the supplementary paper.

Natural England – no objection.

Environment Agency – no objection.

Landscape – no objection subject to the use of a landscape condition to confirm planting details.

Trees – no objection subject to the use of recommended conditions.

Urban Design – no objection subject to the use of conditions to revise the landscape plan to achieve a view from the site to the canal, samples of materials and details of boundary treatment.

Housing – fully supports the scheme as an integral part of the Council's Older Person Extra Care reprovion programme.

District Centres Manager – no objection.

British Waterways – no objection subject to the use of recommended conditions in regards to lighting, landscape management plan, fencing and its foundation design, amphibian and water vole culverts, surface water drainage and a note for applicant in regards to obtaining necessary consents.

Inland Waterways – no objection, but the canal side woodland area could be partly opened up to provide additional amenity.

Access and Disability – no objection.

Centro – no objection. The application site is well served by public transport. There are bus shelters adjacent to the application site. The developer should fund the upgrading of these shelters to bus showcase standard.

Police Architectural Liaison Officer – raises concern. The proposed gates to the car park need to have access control measures in place to reduce the risk of unauthorised persons coming onto the site, 2m secure perimeter fencing should also compliment this. CCTV would provide additional security but would not negate the need for these measures.

Building Control – no objection.

Fire Services – satisfactory for fire services access provided the dry riser in the cleaners store is repositioned into the staircase enclosure. There should be a fire hydrant within 90m of all dry risers.

Public Participation Responses

One letter on behalf of three residents raises concerns about adequate parking.

One letter received objects to the application on the grounds of:

- The application not stating who the users of the building would be
- Extra traffic and noise

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

Determining Issues

- The principle of residential development.
- The design and layout of the proposals
- Impact on the surrounding occupiers and the street scene
- Access and parking
- Trees and Landscaping
- Community safety
- Planning obligations
- Summary of reasons for granting planning permission

Observations

Principle of residential development

The application site comprises previously developed now vacant land and would therefore satisfy the objectives of policies 3.9 and ENV14 of the UDP which encourage the reclamation and development of derelict and previously developed land. Policy H3 further encourages the

provision of additional housing through the reuse of previously developed windfall sites and PPS 3 – Housing, encourages development of brownfield sites for residential purposes.

The site is situated in a predominantly residential area, just outside Brownhills District Centre and is therefore considered a sustainable location with good public transport and local facilities in close proximity. The principle of residential development on the site is therefore considered appropriate.

Policy H9 encourages densities in excess of 50 dwellings per hectare within or close to local centres, with good means of transport and where it would provide small units for single people or the elderly. PPS 3 encourages a mix of housing types, both market and affordable and development in suitable locations which offer a good range of community facilities, key services, jobs and infrastructure. The proposals would provide small self contained units for the elderly just outside a District Centre with good public transport, therefore the proposed density of 102 dwellings per hectare is considered acceptable and would comply with policy.

Design and Layout.

The proposed use would be accommodated in an oblong shaped building between three and four stories in height with a central curved roof alongside the predominant flat roof. The proposal would be set in from the boundaries, being set back from the pavement along the High Street by 6.4m. Although outside the application boundary as not within the ownership of the applicants, the applicants propose to re-shape and top the existing mature hedge (subject to appropriate agreement with the Council as landowners) which would be supplemented with 2m high steel fencing behind. Provision of a private landscaping/amenity space to the rear of the site is to be supplemented by additional trees and hedging. The boundary to the corner of High Street and Lindon Drive is proposed to be 1m railings, which would also be used at the rear of the site to the car park at the boundary with 13-22 Lindon Close to provide views into and out of the site and would retain the existing Rowan trees and supplement them with a defensive hedge. To the boundary with 28 Lindon Close a 2m high steel fence is proposed next to an existing brickwall which would run to the canal boundary and supplemented by a hedge. The existing concrete fence to the canal boundary would be reinforced with a new 2m high weld mesh fence. A 1.2m post and mesh fence would be set off from the canal boundary between 1m and 8m to create a stand off ecological buffer.

Public services (including the day centre and restaurant) would be provided within the ground floor of the building, just inside the main entrance on High Street and secondary entrance from the proposed car park, this would maximise surveillance of the entrance features by focusing activity in these areas.

A security system would be provided for entry to the private residential element of the building with 2 lifts to give access to the upper floors. The scheme is designed with a central corridor with flats either side. Whilst not ideal, providing only single aspect units, the requirements for level, internal secure access to all units is a priority for the residents so they can use the restaurant, shop, hairdressers etc without leaving the building or using any steps.

Each flat would be independent with its own front door and be fully accessible for people with restricted mobility. Tall windows would be provided to each apartment with low window cills to allow views out from a sitting position and provide interest to each elevation.

The overall design and layout of the building has been determined by the use and requirements of the end users as well as the 'not for profit' build restrictions for the provision of affordable accommodation.

This is a large development but has been softened by the use of the curved roof entrance flanked by glazed staircases and with two other staircase features which would break up this massing, further relief is provided by the use of brick, render and timber cladding which would create a contemporary gateway feature at the end of the High Street. It is considered that the layout, scale and massing of the proposal is appropriate to this site and would be a key feature to further the regeneration work within Brownhills.

Impact on the surrounding occupiers and the street scene

The proposal would have a positive impact upon the street scene. It would create a gateway feature at the entrance to Brownhills District Centre and by its contemporary nature would be an improvement to the visual amenities of the area.

The front of the nearest residential properties, 13-23 Lindon Close would be 9m from the fence and hedge boundary of the proposed car park and between 27m and 52m from the rear elevation of the building. The use of an appropriate designed fence and a hedge to the car park boundary would create a positive outlook for these properties with the existing trees being retained. The detailing of the fence is to be secured by condition. The separation distance between the properties and the building would meet the guidelines of Designing Walsall SPD and at four stories (approximately 6m taller than the adjacent house) would provide a lower development with greater separation than the fourteen storey tower block that was in place until 2004.

The house 28 Lindon Close would have its side elevation 23m from the rear of the proposal, ensuring an appropriate separation distance and that there would be adequate space between the building and the private amenity space of number 28 to avoid issues of overlooking from the three storey part of the building.

It is considered that due to the orientation and the adequate separation distance between the building and the adjacent dwellings, the proposal would not cast a significant shadow over the adjacent private amenity areas.

The retention of the group of trees at the southern boundary of the site would maintain the existing environmental quality within the general street scene and to the surrounding occupiers.

It is therefore considered that the proposals would have no adverse impact on the amenities of the surrounding residential occupiers and would maintain and enhance the general street scene through landscaping and environmental contributions.

Access and parking

The scheme would use part of the vehicle access serving the former tower block at Lindon Drive. Thirty parking spaces would be provided. Policy T13 of the UDP does not provide any guidance on parking provision for the proposed use. Whilst flats with communal parking would require 1.5 spaces per unit, residential care homes require 1 space per 3 beds and nursing homes require 1 space per 2 beds. The proposed use is seen as a hybrid of the above uses providing residential care to the elderly within independent living units. Paragraph 7.63 of the UDP does indicate that if housing schemes are to be occupied by a greater proportion of non-car users than average (eg affordable housing or elderly accommodation) then a lower level of parking provision may be appropriate.

Housing 21 have provided some data on their experiences elsewhere regarding car ownership. In general only 5% of rented residents own vehicles and approx 40% of shared ownership

schemes own vehicles. Using these percentages the proposals for 45 rented and 15 shared ownership units would require only 8 parking spaces. This would allow more than adequate additional parking for staff and visitors as well as users of the day care centre. The proposal also includes cycle racks beneath the covered area to the front and rear entrances. Users of the day care facility would usually arrive by minibus/community transport hence the provision of a mini bus drop off area adjacent to the front door.

Full transportation comments will be provided in the supplementary paper.

Trees and Landscaping

The group of existing trees to the boundary with the canal would be retained and protected during construction, with improvements to the existing unkept hedge on the High Street frontage. Additional tree and defensive hedge planting is proposed to the site boundaries and within the parking and private amenity space areas. The private amenity area would have a terrace, pergola, gazebo and main lawn, while at the back of the building; it would be screened from the parking area by planting to ensure privacy and security.

There are no objections from Landscape or Tree Officers subject to the use of recommended conditions to provide a full specification landscape scheme and the protection of the existing trees during construction as per the recommendation in the arboricultural report submitted with the application.

Urban Design and Inland Waterways have recommended that part of the tree belt be thinned to provide the future residents of the building an opportunity to sit in the amenity area and enjoy the canal views. The Tree Officer advises against this as the trees should not be thinned. The use of an ecological stand off area and the canal being 2m lower than the application site would mean that there would be limited views of the canal from this position. Therefore it is not recommended to provide this feature.

Community safety

The proposal would increase the level of activity in this part of the High Street and therefore increase surveillance in the immediate vicinity. The proposal would also provide greater security to the rear garden of 28 Lindon Close.

The Police Architectural Liaison Officer raises concern over the security of the car park. While both vehicle and pedestrian access gates are proposed to the car park, the rest of the boundary would be secured by 1m fencing and the gates do not have access control measures. The applicants have been advised of this during pre-application discussions and in their design and access statement say that the security measures would be at odds with the Housing 21 model of open access and consider that with strategic planting and careful positioning of CCTV and natural surveillance of the site, this area can be policed without the visual keep out affect of a 2m high compound.

It is considered that the proposed gates to the car park need to have access control measures in place to reduce the risk of unauthorised persons coming onto the site. High perimeter fencing to the car park should also compliment the access control to reduce the ease of access onto the site. While CCTV would provide additional security it would not negate the need for these measures. The Police confirm that as a result Secure by Design accreditation would not be given. Security in this location is very important; the lack of an appropriate boundary would leave the site extremely vulnerable to unauthorised access and an attraction to opportunist crime, which could be furthered by the creation of hiding places through the proposed landscaping. This could be resisted by appropriately designed 2m fencing, on this basis the applicants will

need to provide a more robust boundary to the site and further clarification on proposed security measures; this can be achieved by condition.

Planning obligations

A residential scheme of this size would normally require contributions secured through a Section 106 agreement towards: Education, Public Open Space, Healthcare, Affordable Housing and Public Art.

Housing 21, the Council's partner in this scheme are a registered social landlord housing association and a 'not for profit' organisation. The scheme would provide part of the re-provision of accommodation for the elderly on behalf of Walsall Council and would be funded through public monies which have been specifically approved and ringed fenced for this purpose only and include Supporting People Funding, Housing Corporation Grant, funding from the PCT and Central Government grant.

The restricted funding resources available would make Section 106 contributions impossible and inappropriate in this instance. The scheme would be funded by the Council through a re-provision contract and through the contract the Council would have all nomination rights for the units.

The scheme would however provide 100% affordable housing, with social rented and shared ownership, and more than adequate amenity space for residents within the site as well as retaining an important group of trees that provide amenity value to the local vicinity and would therefore not require any further contributions towards open space. The scheme would provide accommodation for the elderly only and therefore a contribution towards local education facilities would not be appropriate. The scheme would provide its own care provision for residents and would therefore have no additional impact on local facilities. The proposed building is visually attractive and is a gateway feature at the entrance to Brownhills District Centre, as a consequence the building with its own unique character and distinctive attributes would, with its landscaping, address the public realm and negate the requirements of a contribution towards public art.

It is therefore considered that there is a full justification for no Section 106 contributions on this particular scheme.

Other issues raised as part of the consultation

One letter of objection refers to the application not stating who the users of the building would be. While the description put forward by the applicants does not specifically define the end user, this is clear from the application documents. The objection also refers to increased noise. Pollution Control raise no objection to the application and it is considered that the location of the building and its use would not cause a significant increase in noise.

Centro have requested that the applicants fund the replacement of two bus stops within the locality. One bus stop is across the road and would not be affected as a result of the application. The other bus stop is a bus shelter and lies just outside the application boundary. The applicants have raised concern about this shelter as it may create disturbance and anti-social behaviour. The applicants have suggested they will work with Centro in order to reduce the bus shelter to a bus stop. This would be a matter between the parties involved and is not considered to call for action as part of this application.

The Fire Services concerns have been passed on to the applicant and would need to be addressed at the time of the Building Regulation application.

Summary of reasons for granting planning permission

The proposal makes best use of previously developed land within a sustainable location on the gateway to Brownhills District Centre. Neighbour concerns have been addressed as the users of the proposed building are clearly set out in the planning application documents, this report and the age of the occupiers would be restricted by condition. Appropriate onsite parking provision has been provided and the level of traffic to this location is considered not to have a detrimental impact upon the existing highway network. The level of noise arising from the development would be contained within the building and would not have a significant impact upon adjacent residents. It is therefore considered that the proposed development of 60 extra care apartments and associated facilities is acceptable. Consultations and all material considerations have been considered and addressed in the report or addressed through safeguarding conditions; therefore a balanced recommendation is put forward. Accordingly the proposal meets the requirements of the Unitary Development Plan policies 2.1, 2.2, 3.6, 3.9, 3.16, GP2, GP3, ENV14, ENV18, ENV32, H3, H4, H5, H9, H10, LC9, 7.63 and T13.

Recommendation: Grant Subject to conditions

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

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

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

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

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

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

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

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

5. No development shall be carried out until full details of the proposed boundary treatment of the site, including high fencing to the car park boundaries, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason: To ensure the satisfactory appearance of the development and in the interests of community safety.

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

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

7. No development shall commence on site until surface materials of the proposed car parking and manoeuvring areas have been submitted to and approved in writing. The development shall be completed in accordance with the approved details.

Reason: To ensure the satisfactory development of the site.

8. No development shall commence until details confirming measures used to ensure that the development shall be constructed in accordance with the Code of Sustainable Homes (Level 4) or equivalent relating to energy efficiency / CO₂, water efficiency, surface water management, site waste management, household waste management and use of materials, has been submitted to and approved in writing by the Local Planning Authority.

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

9. No development shall commence until details of proposed external lighting has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of visual amenity and to avoid an adverse impact upon the canal.

10. No development shall commence until details of the foundations of the proposed fencing adjacent to the canal boundary has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: The construction of the foundations of fencing has the potential to impact on the integrity of the waterway structure.

11. No development shall commence until details of protective fencing to be erected to safeguard the canal bank during construction has been submitted to and approved in writing by the Local Planning Authority.

Reason: The ecological environment in this location is sensitive and should be protected from disturbance, dust, run off waste etc entering the canal.

12. No development shall commence until details of the proposed amphibian and water vole culverts to be provided have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and retained thereafter.

Reason: In the interests of retaining and enhancing local ecology.

13. No development shall commence until details of crime prevention methods to ensure security to the car park and access points of the dwellings hereby permitted, including lighting, CCTV and access control measures have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of community safety.

14. The approved tree protection measures detailed in the Arboricultural Impact Assessment by Middlemarch Environmental Ltd dated May 2008 shall be fully implemented prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2005

Reason: To safeguard the retained trees on the site.

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

Reason: To safeguard the retained trees on the site.

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

Reason: To safeguard the retained trees on the site.

17. No development shall take place until suitable noise mitigation measures to protect internal and external areas of the residential development north of the site have been submitted to and agreed in writing with the Local Planning Authority, and the development shall not be occupied until such measures have been fully completed.

Reason: To safeguard the amenity of future occupiers of the premises.

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

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

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

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

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

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

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

21. 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 otherwise only take place between the hours of 07.00 to 18.00 weekdays 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; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).

Reason: In the interests of adjacent residential occupiers.

22. Prior to the development being brought into use parking bays will be demarcated on the ground and shall be used for no other use.

Reason: To ensure the parking spaces are available for use by occupiers and visitors.

23. The extra care apartments hereby approved with the exception of the guest suite shall be occupied solely by persons of 60 years of age and over.

Reason: To ensure functioning of the site in the provision of reduced car parking for the apartment block.

24. Vehicle access from the High Street as shown on the approved plans shall be for emergency vehicle access only.

Reason: In the interests of highway safety and to define the permission.

25. Sustainable urban drainage systems shall not be used on the site.

Reason: Given the proposed redevelopment of the site the escape of pollutants into the waterway and large amounts of water entering the waterway must be prevented. Potential contamination of the waterway and ground water from wind blow, seepage or spillage, and high volumes of water entering the canal should be avoided to safeguard the canal environment and integrity of the canal infrastructure.

26. This permission relates to the following plans and documents: Drawing number 002 received by the Local Planning Authority on 19th August 2008, 006 Rev B, 001, 007 Rev D and 008 received by the Local Planning Authority on 20th August 2008, 003 Rev E and 009 Rev A received by the Local Planning Authority on 2nd October 2008 and 888.01 Rev A received by the Local Planning Authority on 8th October 2008. Air Quality Assessment, Arboricultural Survey, Initial Bat Survey, Environmental Noise Assessment and Design and Access Statement received by the Local Planning Authority on 20th August 2008 and Geotechnical and Geo-Environmental Report received by the Local Planning Authority on 23rd September 2008.

Reason: In order to define the permission.

Summary of reasons for granting planning permission

The proposal makes best use of previously developed land within a sustainable location on the gateway to Brownhills District Centre. Neighbour concerns have been addressed as the users of the proposed building are clearly set out in the planning application documents, this report and the age of the occupiers would be restricted by condition. Appropriate onsite parking provision has been provided and the level of traffic to this location is considered not to have a detrimental impact upon the existing highway network. The level of noise arising from the development would be contained within the building and would not have a significant impact upon adjacent residents. It is therefore considered that the proposed development of 60 extra care apartments and associated facilities is acceptable. Consultations and all material considerations have been considered and addressed in the report or addressed through safeguarding conditions; therefore a balanced recommendation is put forward. Accordingly the proposal meets the requirements of the Unitary Development Plan policies 2.1, 2.2, 3.6, 3.9, 3.16, GP2, GP3, ENV14, ENV18, ENV32, H3, H4, H5, H9, H10, LC9, 7.63 and T13.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As 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

Note for applicant

For Condition 17:

With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

- a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(8 hours), of 35 dB together with a maximum instantaneous level of 45 dB LAFmax, between the hours 23.00 to 07.00;
- b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(16 hour), of 45 dB between the hours 07.00 to 23.00.

Sound level measuring instrumentation shall conform to either '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 Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards 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.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994; Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005
British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise". British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures;
British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use
British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits. British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas
Calculation of Road Traffic Noise, 1988
Calculation of Railway Noise, 1995

This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British

Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

For Condition 18:

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

For Condition 19:

This survey should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Waste Management Paper

No. 27 "Landfill Gas"; or any relevant antecedents of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

British Waterways

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

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

The applicant is advised that in regards to boundary treatments (fencing) should be either black or dark green in colour.

The applicant is advised that an agreement would be required for the erection of fencing, barriers, foundations, landscaping etc on or encroaching onto British Waterways' property.

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

The application is advised that permission would be required for any works to trees and landscaping sited on British Waterways' property.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
On 28 Oct 2008

REASON FOR BRINGING TO COMMITTEE: Application requiring delicate judgement

Application Number: 08/1262/FL

Application Type: Full application

Applicant: First Base Walsall

Proposal: Change of use from 16 warden controlled units for elderly persons to 8 self contained units in supported accommodation for vulnerable young persons aged 16-25

Ward: Bentley & Darlaston North

Recommendation Summary: Grant Subject to conditions

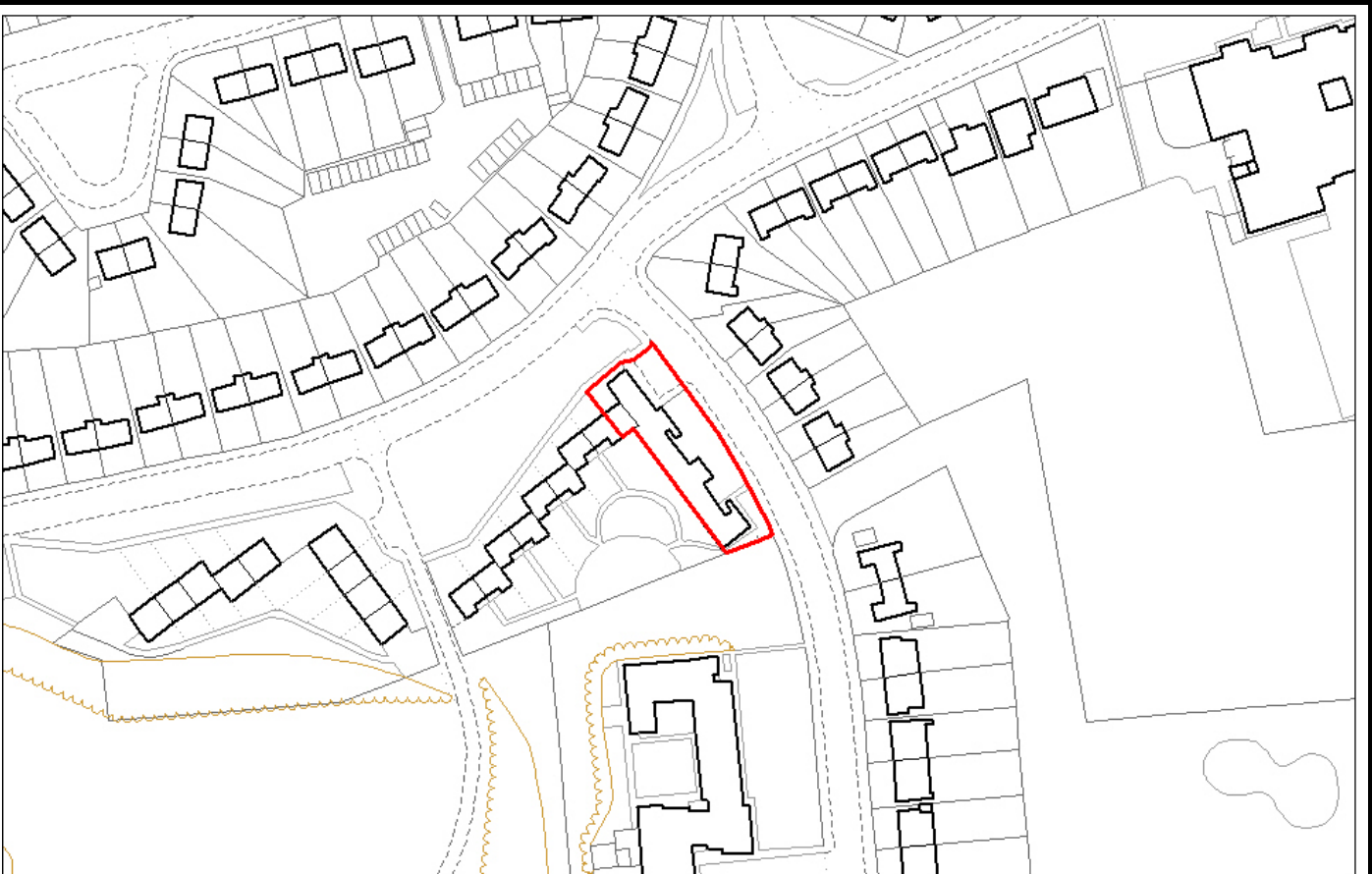
Case Officer: Andrew Thompson

Telephone Number: 01922 652403

Agent:

Location: HEATH VIEW, WILKES AVENUE, WALSALL, WS2 0JF

Expired: 23/10/2008



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Application and Site Details

The application site comprises a former elderly persons' residential care home, previously offering 16 bedsit units on the corner of Wilkes Avenue and Churchill Road. The application under consideration is to convert the premises to 8 self contained flats with associated management facilities to provide a Supported Housing Service for vulnerable people aged 16-25. It is also understood that the site was also previously used to house asylum seekers in the Borough.

The proposals will be run in partnership with Caldmore Housing Group by First Base Walsall (a church based charity). The proposals would be the relocation of an existing facility on Small Street Centre in Caldmore which has been closed due to the end of the lease.

The proposals will include a new disabled ramp to the front of the premises but will not involve any other external changes. The proposals include 4 car parking spaces.

In terms of pre-application consultation the applicant has undertaken two local events on 24th and 28th July 2008 with letter drops to local residents. As a result of these it is understood that the applicant has received several letters and a petition to which they have responded which have been submitted as part of the application. The applicant has also presented to the Project Reference Group on 18th September 2008.

Relevant Planning History

No recent planning history is recorded.

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

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

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

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses. 3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

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

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character.

Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

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

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

Supplementary Planning Documents (SPD)

Designing Walsall SPD

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

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

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

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

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

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

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

Natural Environment SPD

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

Regional Spatial Strategy for the West Midlands (RSS 11)

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

The focus for the Black Country policies are to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities and to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix.

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

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

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

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

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

National Policy

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

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

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

Consultations

Transportation – No objection subject to condition on cycle storage being provided.

Pollution Control (Contaminated Land) – No objection

West Midlands Police – No objection

Fire Service – Satisfactory for fire access

Environmental Health – No objection

Public Participation Responses

1 letter from Monarch's Way Association raising no objection subject to the proposals having no impact on the existing thoroughfare known as Cairn Drive.

2 letters of objection from local residents on the following grounds

- the proposals will cause increases in crime and anti-social behaviour
- increase in cars to and from the premises
- noise from loud music and impact on amenity of local residents – especially late at night
- previous use as a asylum seeker facility caused significant problems for the area – similar problems could happen again.

Determining Issues

- Principle of the proposed use
- Impact on neighbouring residents
- Impact of traffic and car parking

Observations

Principle of the proposed use

It is noted that the application site is a former care home and has also been used in the past as a facility for asylum seekers. It is noted that the latter use caused significant issues to the

surrounding local residents and that there were wider issues for the community as a result of this.

On the contrary side the use now proposed would be managed 24 hours a day and the number of persons capable of being accommodated would be reduced by half as the building will be converted from 16 to 8 units due to the modernisation.

With these issues noted it is considered that the application site would be an acceptable facility for 8 units and would allow for a successful facility. Overall, it is considered that there is no objection to the re-use of this facility, in principle.

Impact on neighbouring residents

The most delicate of the issues raised is the proposed impact on neighbouring residents. Officers note that residents are concerned about the proposed tenants and are aware of interest expressed through the pre-application process by local residents.

The petition to the applicant contained 50 signatures, and letters received by the applicant concerned issues related to the impact on the residents of the local area, the management of the facility, crime and anti-social behaviour and the identity of the residents. It is noted that the applicant has responded to these concerns and has offered to meet the concerned local residents and aims to work with the local community.

The proposals are a transfer of a now closed facility in Caldmore. The facility did not close due to issues relating to antisocial behaviour but for land and tenancy issues. The success that the applicant (First Base) has had there has been recognised by the Council.

Clearly there were issues associated with the previous use of the site (as an asylum seeker facility) and this has caused sensitivity for local residents over the continued use of the premises. It is noted that the Police raise no objection to the proposals and that the proposals will be managed on site all day and night. Officers do not consider that the proposals would result in the loss of amenity to local residents and that anti-social behaviour will be strictly controlled.

It is also noted that the reduction in units (from 16 to 8) will reduce the level of activity in the area and the potential for significant levels of anti-social behaviour.

The community liaison that the applicant has undertaken has been largely welcomed.

It is therefore considered, on balance, that the proposals are acceptable and will not have an impact on neighbouring residents' amenity.

Impact of traffic and car parking

It is noted that the proposals re-use the existing 4 car parking spaces. It is understood that these spaces will be made available to staff/managers and that due to the social background and young age, the tenants will not be car dependent.

In this regard therefore it is not considered that the proposals would result in large amounts of traffic and that the car parking provision is adequate.

A condition is added to include secure cycle storage as part of the proposals.

Conclusion

Overall, having considered the former use of the building, the age and management of the facility, Officers consider that the proposals will not cause significant adverse harm to the amenities of the local residents. Whilst the objections of local residents are noted, it is considered that the management of the premises and details submitted overcome these objections and as such the proposals are considered acceptable.

Reason for Approval

The proposals have been considered with the aims and objectives of the Development Plan (as set out by Section 38(6) of the Planning and Compulsory Purchase Act (2004). These are Regional Spatial Strategy for the West Midlands (RSS11) and the Unitary Development Plan (March 2005).

The proposals have taken into account the former use of the building, the impact on the character of the area and the amenities of local residents and the management of the existing proposals. The proposals have also taken into account the impact of traffic and the loss of car parking spaces.

As such, the proposed development, having considered all relevant public participation responses and consultation comments is considered to comply with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. In particular policies GP1, GP2, GP3, GP7, T7, T13, ENV10, ENV14, ENV32, H3 and H10 of Walsall Unitary Development Plan (March 2005) and Policies CF1, CF3, CF4, CF5, UR1A, QE3, QE4 and QE5 of the Regional Spatial Strategy for the West Midlands (RSS11), on balance, having taken into account all material planning considerations, the proposal is acceptable.

Recommendation: Grant Subject to conditions

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

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

2. This development shall be surface-treated to match the existing building before the development is brought into use.

Reason: To ensure the satisfactory appearance of the development.

3. Prior to the commencement of development the position and details of secure cycle storage shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the premises.

Reason: In order to encourage cycling and more sustainable modes of transportation.

4. Prior to the refurbishment of the premises details of any boundary treatment to be installed shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation.

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

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 GP1, GP2, GP3, GP7, T7, T13, ENV10, ENV14, ENV32, H3 and H10 of Walsall Unitary Development Plan (March 2005) and Policies CF1, CF3, CF4, CF5, UR1A, QE3, QE4 and QE5 of the Regional Spatial Strategy for the West Midlands (RSS11) 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
Building Control, Regeneration
On 28 Oct 2008

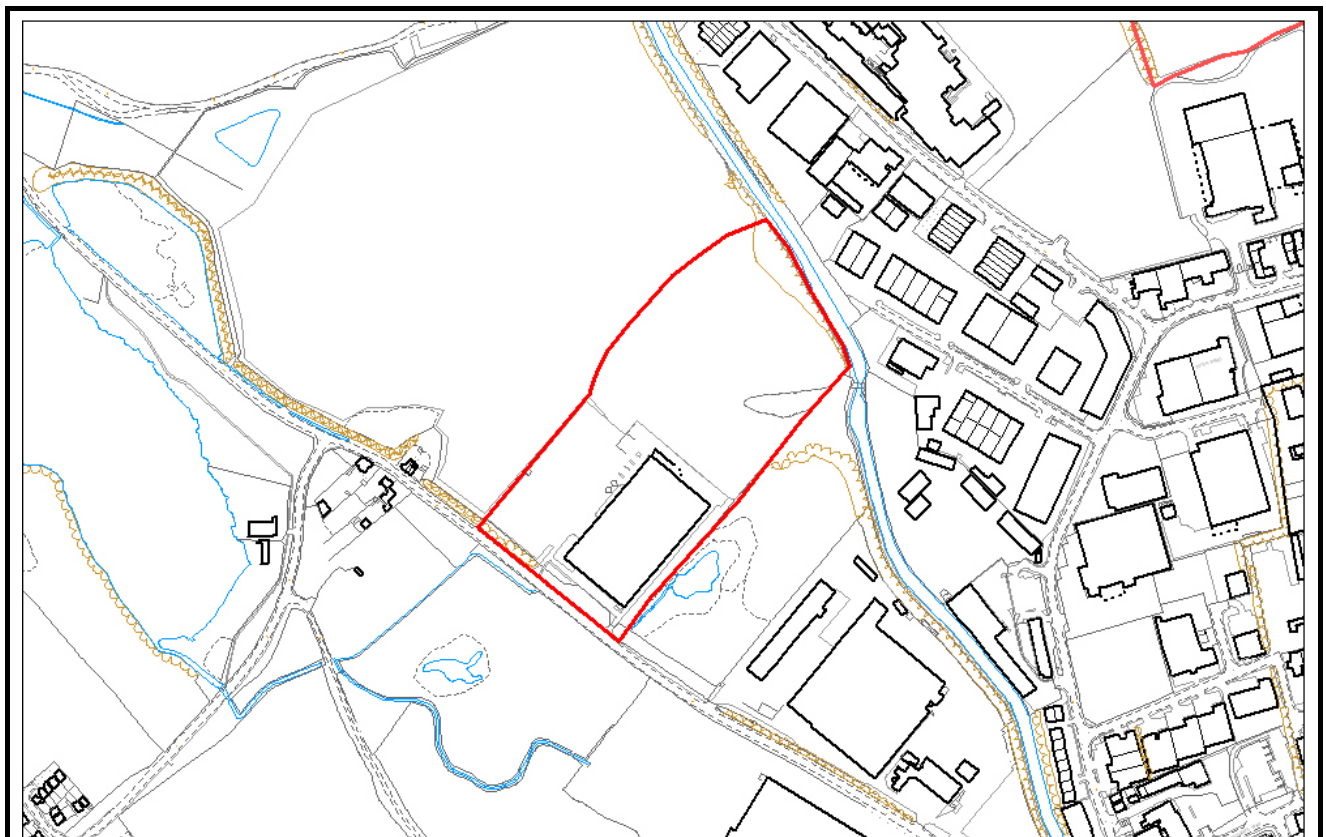
REASON FOR BRINGING TO COMMITTEE: Variation of condition on a major application

Application Number: 08/1338/FL
Application Type: Full application
Applicant: Dr Nigel Griffiths
Proposal: Vary Condition 14 of planning approval BA17797P to Allow Increase of Limit on Imported Clays from 49% to 65%

Case Officer: Paul Hinton
Telephone Number: 01922 652420
Agent: Mr Paul Malam
Location: WIENERBERGER LTD, SANDOWN WORKS, STUBBERS GREEN ROAD, ALDRIDGE, WEST MIDLANDS, WS9 8BL
Expired: 12/11/2008

Ward: Rushall-Shelfield

Recommendation Summary: Grant Permission, unless additional information is received which raises material planning issues.



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Application and Site Details

This application is to vary condition 14 of planning approval BA17797P to increase the limit on imported clays to 65%. The current condition states "The development hereby permitted shall 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, unless otherwise agreed in writing by the Mineral Planning Authority".

This brickworks site, including brick and clay storage areas is located on the northern side of Stubbers Green Road adjacent to Sandown Quarry which supplied clay to the brickworks. 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 brickworks has been operating ensuring no more than 49% of clay is imported from elsewhere, instead using clay from the adjacent quarry.

Whilst the factory utilises clay in the form of Etruria Marl from the adjacent Sandown Quarry, a variety of imported clays are also used from a number of different locations. These additional clays assist with lengthening the life of the permitted clay reserve, maintaining production at the factory but also help produce a number of other products. The company are fully utilising their 49% of imported clays facility, representing approximately 90,000 tonnes of imported clay per year.

The need for the increase in imported clays to 130,000 tonnes per annum is due to the dwindling clay reserves in Sandown Quarry. At current rates approximately five years remaining life is expected from the quarry. The applicants, Wienerberger, recognise that measures need to be urgently taken to maintain production at the works and secure the site as a valuable employer and contributor to the local economy. The increased importation of raw materials would provide further life for the factory.

The increase in imported clay would be a further 40-45,000 tonnes of clay brought to the site per annum. The target scenario of vehicle movements (with an increased usage of articulated lorries with an average payload of up to 25 tonnes mixed 8-wheelers), importing 130,000 tonnes per annum. Vehicles movements would approximate to:

5,200 loads per annum, or
100 loads per week, or
20 loads per day.

Using existing 21 tonne 8-wheel lorries would result in 25 loads per day, however Wienerberger have confirmed that they have already actioned an increased use in articulated 25 tonne lorries. Lorry movements are not constant and vary depending when clay stockpiles are being built up. Currently there are 17 lorry loads per day therefore the proposal would increase vehicle movements on average of 3 per day. The applicant states that the increase in clay imports will not increase overall traffic generation as there will be no additional movement of bricks.

Clay is to be sourced from Kingsbury (site owned by applicants), Cheslyn Hay and the adjacent Highfields site in Walsall in the short-medium term. Cannock is also a potential source, subject to planning permission being granted for the medium to long term source.

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.

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

Unitary Development Plan

UDP Policy GP2 requires that all developments make a positive contribution to the quality of the environment and does not permit development which would have an adverse impact on the environment. It states that the factors that will be taken into account when assessing impact will include the creation of, or susceptibility to, pollution of any kind (II), potential problems of land stability, contamination or landfill gas (III), and the storage, use or manufacture of any hazardous, toxic or noxious substances, and any danger to health or the environment arising from this (IV).

UDP Policy ENV2(c) indicates that mineral extraction can be appropriate in the Green Belt.

UDP Policy ENV10 seeks to control development that may release pollutants into water, soil or air giving rise to effects such as harm to health and safety or the natural environment, smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

UDP Policy JP8 requires that potential bad neighbour uses should not have an adverse impact on housing or other sensitive land uses and provide stringent operational controls.

UDP Minerals Strategic Policy Statement (paragraphs 9.2 - 9.3) seeks to define Minerals Safeguarding Areas to protect known resources for future mineral extraction. Paragraph 9.8 requires mineral workings to be restored to a condition fit for an agreed after-use within as short a timescale as possible

ENV19 Development which might directly or indirectly destroy, damage or adversely affects a Site of Special Scientific Interest will not be permitted.

ENV21 Development which would destroy, damage or adversely affect a Site of Local Importance for Nature Conservation (SLINC) will not be permitted.

Policy ENV22 states that development on sites used by species protected by European law

and/or British legislation, or a species which is the subject of a national Biodiversity Action Plan will not be allowed unless it can be demonstrated that the proposed development will not have an adverse impact on local populations of the species.

9.4 The Council will expect mineral resources to be used in the most sustainable way, recognising the scarce and non-renewable resource that these represent.

9.6 The Council will ensure that the conditions attached to existing minerals permissions are updated to meet the latest standards of good practice in the control of mining operations.

9.7 Minerals should, as far as possible, be worked close to the communities which will consume them.

9.10 The Council will seek to ensure a continuing supply of Etruria marl and fireclay for local industry, subject to there being no overriding environmental constraints which prevent this and subject also to the provisions of Policy M4.

Policy M1 defines this part of Stubbers Green Road as a mineral safeguarding area.

Policy M5 the Council will encourage the early reclamation of the Barnett and Beddows and Sandown Quarries by the disposal of waste material through a phased programme of mineral extraction, waste disposal and restoration. Any proposal for further extraction must demonstrate how this will contribute towards the earliest practicable restoration of the area.

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

Policy UR1 - Urban Renaissance in the Major Urban Areas (MUA's)

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

National Policy

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

Planning Policy Guidance 2: Green Belts - indicates that mineral extraction need not conflict with the purposes of including land in Green Belts. Mineral planning authorities are expected to ensure that planning conditions for mineral working in Green Belts achieve suitable environmental standards.

Mineral Policy Statement 1 – Planning and minerals:

- MPAs should ensure that brick clays resources are safeguarded in accordance with MPS1. Some types or qualities of brickclay that have desirable properties, especially Etruria Marl and fireclay, are nationally, regionally or locally scarce. Relevant MPAs should safeguard acceptable sources of Etruria Formation clays and fireclays from other types of development and should, where practicable, encourage prior extraction of clay where built development is planned.
- Authorities should provide and make available brick clays at a level that reflects the high initial investment in, and high levels of capital expenditure required to maintain and improve, new and existing brick-making plant and equipment.

- Safeguard and where necessary, stockpile supplies of clays, especially specific “premium” brick clays such as those from the Etruria Formation and fireclay.
- MPAs should have regard to the need for clay supply for local use and repair of heritage buildings to meet the objectives of PPS1, and should assess the potential for environmentally acceptable extensions to, and replacement for, such sites.
- MPAs should consider the need for provision of brick clay from a number of different sources to enable appropriate blends to be made. Where materials for blending need to be supplied from various sources, or for some types of clay that are used in small quantities for blending, it may be necessary to hold stocks of such clay at the brickworks or elsewhere.
- MPAs should consider the need to meet the likely level of demand for clay at each manufacturing plant, part of all of which may sometimes have to be fulfilled from another MPA area, to avoid having to meet unforeseen demands in environmentally damaging ways.
- Where a brickworks is supplied from a number of clay pits some distance from the works, impacts of road traffic between these and the works should, as far as possible, be minimised through dedicated haulage routes and careful consideration of distribution networks and vehicle routes.

Consultations

Transportation – no objection. The applicant has provided data on existing forecast additional vehicles movements. Based on this data Transportation consider the application acceptable as the increase in vehicle movements will not be sufficient to create significant additional environmental impacts.

Strategy Team – no objection. The clay reserves at Sandown Quarry are running out, the variation of condition would only be a short term measure as no other extraction sites within Walsall Borough are being put forward. The revised condition should ensure that it requires the operator to provide the Council with an annual update on the remaining reserves and imports. This would quantify the extent of the remaining reserved at the quarry and types/quantities of material imported from each external source during the previous monitoring year.

Natural Environment – no objection.

Natural England – no objection. The application site is within the vicinity of both Stubbers Green Bog and Swan Pool and The Swag Site of Special Scientific Interest (SSSI). The proposal will not have a significant effect on the interest features of either of the above named SSSIs.

Pollution Control: Contamination Team – no objection.

Pollution Control: Noise/Air Quality – no objections.

Trees – no objection.

Landscape – no objection.

Environmental Health – no objections.

British Waterways – no objection subject to the use of conditions.

Public Participation Responses

No response received. The public consultation period does not expire until after the committee meeting. Any comments received will be reported at the meeting. The recommendation is worded to address this.

Determining Issues

- Compliance with Mineral Policy
- Impact upon the Green Belt
- Impact upon the SSSI and SLINC sites
- Impact upon highway safety
- Maintaining employment provision
- Other issues for consideration

Observations

Compliance with Mineral Policy

The application seeks to prolong the life of the brickworks by increasing the amount of clay import to reduce the amount of on-site clay usage. It is clear that the proposal is only a short-term measure but would aim to address the shortfall in supply to maintain employment at the brickworks.

The applicants state that it is not assumed that extending the life of the brickworks will lead to any delay in the restoration of the Sandown site. The applicants have confirmed that the restoration of the site is under the control of the landlord, and it is their decision as to the appropriate time to bring the site forward for landfilling. The applicants consider that landfilling could commence alongside clay extraction if needed. This application does not increase the void at the site.

In 1996 the conditions for the quarry were reviewed, this now secures that all winning and working of minerals shall cease not later than February 2042 and the scheme for restoration will be provided to the Council as part of the on going 5 year working plan review. The current working plan is overdue and the Council will be pursuing this with the operators. As the reviewed conditions permit extraction until 2042, the proposal to increase the amount of imported clay would not alter the permitted date of cessation. In regard to the position of restoration, the Council remains to encourage early reclamation and at current extraction rates would indicate winning and working of minerals to cease well in advance of this date. This position should be established during the next working plan submission.

The application looks to protect continuing supplies to the local brick making industry in accordance with policy 9.10 of the UDP. The Council recognises the importance of this site for local jobs and industry, and nationally in regards to the quality of bricks produced.

The Council's Strategic Policy Team do not object to the application, but point out that the proposal is not the long term answer to brick production on this site which is subject to being operated in association with the adjacent clay extractions and therefore once reserves at Sandown have been used, the brickworks under the current permission would not be able to continue to operate. The principle of the amended condition is supported to prolong the supply of clay to the site in accordance with MPS1 subject to the condition being worded to ensure that the applicant provides yearly monitoring figures to the Council to ensure compliance with the condition and to enable the Council to be clear about the period when winning and working would cease, to bring forward early reclamation.

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. Therefore 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.

Impact upon highway safety

The proposal, on average, would increase the amount of lorry movements by 3 per day. Materials are currently sourced from Highfields South (Walsall), 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.

Transportation raise no objection to the application based on the existing and forecast additional vehicle movements, as the proposal would have a minimal impact upon the highway network.

Maintaining employment provision

The proposal would ensure that employment provision is retained at the site in the short-term and continue the company's importance as an employer for local people.

Other issues for consideration

British Waterways have raised no objection to the application subject to the use of additional conditions. It is considered that these are not necessary as the application site is bounded by the original approval which includes conditions defining the extent of clay storage.

Summary of reasons for granting planning permission

The proposal to vary condition 14 of planning approval BA17797P would not impact upon the reclamation of the quarry or have any further impact upon the Green Belt. It has been judged not to have an adverse impact upon highway safety or impact upon the adjacent SSSI and SINC. No objections have been raised from neighbours or consultees to the proposal. Accordingly the proposal meets the requirements of policies GP2, ENV10, ENV19, ENV21, 9.7, 9.10 and M5 of the Unitary Development Plan and Mineral Policy Statement 1. All material considerations have been considered and a balanced recommendation is put forward. It is therefore considered that the proposed variation of condition 14 to increase the limit on imported clays to 65% is acceptable.

Recommendation: Grant Permission, unless additional information is received which raises material planning issues.

Vary condition 14 to read:

14. The development hereby permitted shall only continue in association with the adjoining clay extraction operations such that no more than 65% of the clay used in the production of bricks each year shall be imported from elsewhere (i.e. sources other than Sandown Quarry), unless otherwise previously agreed in writing by the Mineral Planning Authority. 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 and compliance with UDP Strategic Policy Statement 9.10 and national policy guidance relating to the supply of clay to brickworks (currently set out in MPS1, Annex 2).

Summary of reasons for granting planning permission

The proposal to vary condition 14 of planning approval BA17797P would not impact upon the reclamation of the quarry or have any further impact upon the Green Belt. It has been judged not to have an adverse impact upon highway safety or impact upon the adjacent SSSI and SINC. No objections have been raised from neighbours or consultees to the proposal. Accordingly the proposal meets the requirements of policies GP2, ENV10, ENV19, ENV21, 9.7, 9.10 and M5 of the Unitary Development Plan and Mineral Policy Statement 1. All material considerations have been considered and a balanced recommendation is put forward. It is therefore considered that the proposed variation of condition 14 to increase the limit on imported clays to 65% is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As 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

Note for applicant

Notwithstanding the above please refer to the remaining conditions of planning approval BA17797P which have not been altered as a result of this application.

In regards to the annual update of clay imports and reserves the Council cannot offer any absolute guarantee that information that it holds will not under any circumstances be disclosed. However, Section 43 of The Freedom of Information Act 2000 provides a strong protection for information where release may "prejudice the commercial interests of any person (or organisation)." The Council recognises that the type of information that we are asking you to provide is of significant commercial value and that, for a business such as yours which operates in a competitive environment, release of such information may have a significant impact upon your ability to compete commercially. I can therefore assure you that the data that you provide will be held securely and that, should the information be requested in the context of Freedom of Information, you will be informed of this, have an opportunity to present your views and that the Council will consider the prejudicial commercial impact of releasing the information.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
On 28 Oct 2008

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 07/1197/OL/E11

Application Type: Outline Application

Applicant: Mrs J Bull

Proposal: Outline - Erection of single storey 2 bedroom managers dwelling with garage, building for fish tanks and WC block for anglers and lockable bait room.

Ward: Pheasey Park Farm

Recommendation Summary: Refuse

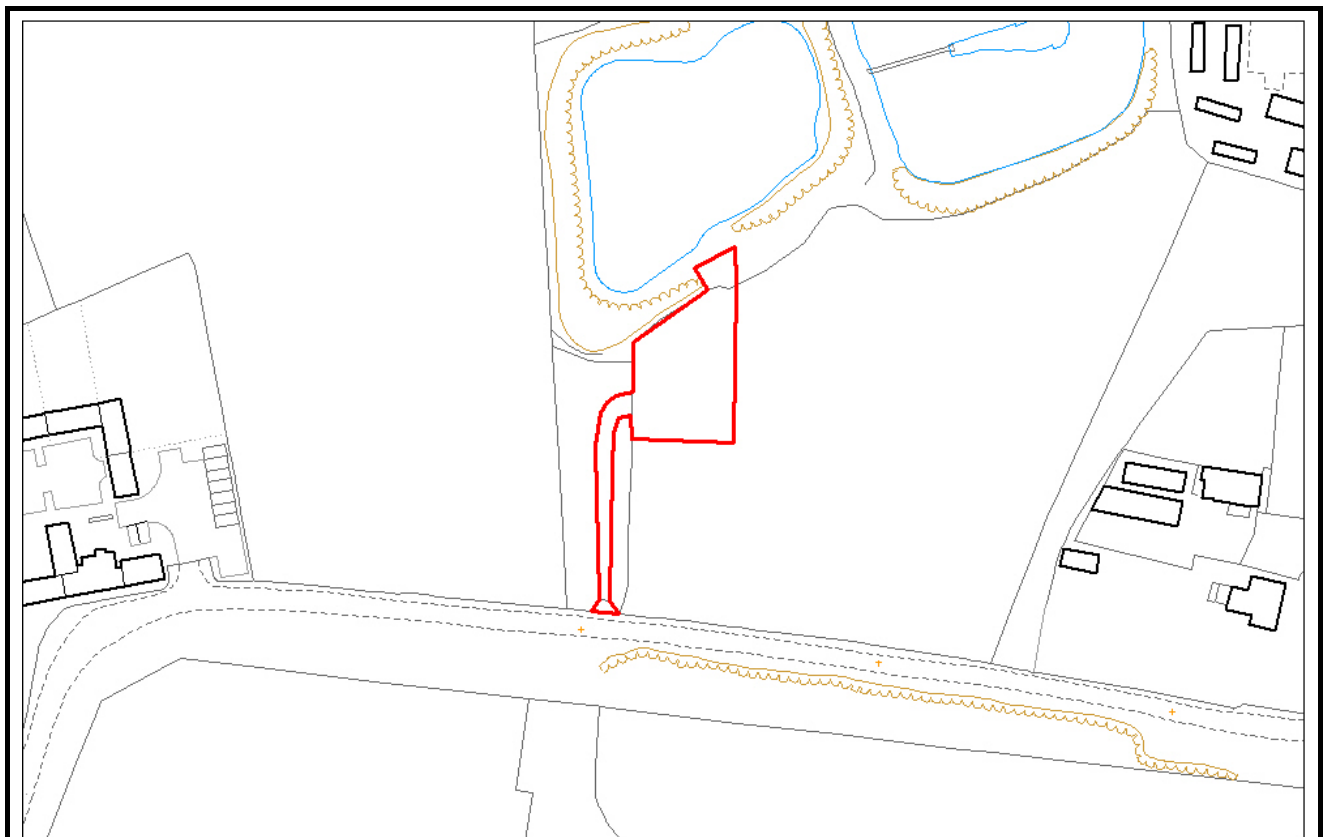
Case Officer: Alison Deakin

Telephone Number: 01922 652487

Agent: Kernon Countryside
Consultants

Location: FOXHILL
FISHERIES, PINFOLD LANE, BARR
BEACON, WS9 0QP

Expired: 21/08/2007



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Background Status

The application was withdrawn from the Committee agenda on 19 February 2008 to allow further consideration of supporting evidence provided by the agent. The professional opinion of a rural property consultant specialising in agricultural development appraisal and rural planning has been sought by Officers to assess the proposals. The consultant's advice is referred to below.

Application and Site Details

Foxhills Fisheries is located to the north of Pinfold Lane, within the Green Belt and Great Barr Conservation Area. Beacon Heights Caravan Park lies to the north east of the site and there are individual residential properties to the east and west along the Pinfold Lane frontage. The remainder of the surrounding area is open countryside. The existing fisheries site comprises a car park, three fishing lakes (80 pegs), a toilet and a hot food snack bar. The entire fishery site extends to 6.5 hectares.

The current proposal is an outline application for erection of a single storey manager's dwelling with garage and annexed bait shop and office, open fronted room for housing aerated fish breeding and rearing tanks and a replacement toilet block for fishermen (including a disabled toilet) with a small lockable bait room attached. Means of access only are to be determined at this stage with all other matters reserved for subsequent approval.

The proposal is a resubmission following refusal of two recent applications and seeks to address previous concerns regarding failure to demonstrate very special circumstances to outweigh the harm inappropriate built development has on the openness and character of the Green Belt and impact on the Conservation Area and failure to demonstrate a functional need for the proposed dwelling or that a proposed shop is essential for outdoor sport and satisfies the tests of need and sequential approach.

The scale of the proposed buildings and fish breeding tanks has been reduced, the retail element reduced to bait sales only on demand from fishermen from the proposed bait store room, provision of a separate toilet building to cater for male, female and mixed disabled, and relocating and redesigning the proposed dwelling. However, the footprint of the proposed bungalow is 72m², the proposed double garage is 30m² (almost half the size of the proposed bungalow), the proposed fry tanks store is 19.2m² and proposed office/utility 12.8m² giving the cluster of new buildings a total area of 134m².

In support of the proposals the applicant has provided an Illustrative Layout, Design & Access Statement and Appraisal of Need Statement. The illustrative layout suggests the proposed new buildings will be accessed via the existing fishery car park and will be located in the north-west corner of the adjacent field to the south of the fishing lakes. The proposed dwelling, garage and fish tank room are located in one group of buildings and the proposed toilet block and bait store are located at the edge of the fishing lake amongst the existing trees. The illustrative layout also shows a new hedge boundary continued around the proposed buildings.

It is claimed that a dwelling is required on site because it will provide accommodation for the fisheries site manager to support the future of the fisheries business. The applicant's have submitted the following information to demonstrate that very special circumstances exist to satisfy the national and local presumption against residential development, relating to fishing, in the Green Belt.

- There is a need for staff to be on hand 24 hours a day to check on the health of the fish, prevent vandalism and theft, to allow supervision of the site to enable night time fishing to be introduced, day to day management of the site and to monitor fish breeding. They

consider that collectively these are reasons to have a dwelling on site to offer a 24 hour presence to enable the proper functioning of the site.

- A full time worker is employed on site for in excess of 40 hours per week.
- The applicant's state that the business has a healthy balance sheet in terms of assets versus liabilities and that the profit for 2004/5 was 1.5 X the minimum agricultural wage.
- At present the staff lives in rented accommodation 1 mile away from the fisheries site and given the above factors it is considered there is a functional need for the staff to reside closer to the fishing lakes yet there is no other suitable alternative accommodation in the vicinity. In a recent appeal case at Elphicks Fisheries 170m was considered not sufficient proximity.
- The proposed dwelling is proposed to be sited near to the fishing lake to oversee the main lake and car parking area

The Design & Access Statement also advises that the illustrative layout and siting has been chosen to maximise security benefits so that people entering the site can see there is a residential presence, to maximise functional benefits as the proposed dwelling is closest to the largest lake and easiest and most efficient location for management of the enterprise and away from the Pinfold Lane frontage to address previous planning concerns. It also suggests that housing the manager on site will reduce traffic as presently 4-8 daily journeys are made to the site by the manager.

The application forms identify that the site area is 0.1 hectares and the gross new floor space is 149m². However, the design and access statement suggests the proposed new floor space between 153-169m².

Additional information has now been provided by the applicant in respect of the functional need for the manager to live on site and the financial position of the enterprise. In terms of the functional need the applicant points out that Dr Broughton, a leading fishing expert, concluded there was a need to live on site to allow monitoring by the manager, in order to carry out the deployment of aerators and to resolve the practical problem of preventing aerators being stolen.

The additional information also highlights that it is necessary to consider what role security plays in the proper functioning of the enterprise in order to justify a managers dwelling and that in order to assess whether an enterprise is operating properly must include an evaluation of the problems highlighted below and how they might be overcome to satisfy the tests in PPS7. At present Foxhills Fisheries:

- cannot aerate lakes in case of emergency or when weather conditions indicate that aeration would be prudent, because machines are stolen within hours
- cannot offer night fishing because fishermen and their vehicles are not safe
- cannot breed their own fry because the tanks would be vandalised
- cannot maintain lifebelts for visitor safety because they are always cut
- cannot provide toilets because they are vandalised
- cannot secure visitors' cars (they are broken into about once every two weeks)
- cannot offer staff security (gun and knife threats are frequent)
- cannot trust fish to still be there in the morning (netting and poaching is frequent)
- cannot offer refreshments because the facility is vandalised weekly
- cannot put cameras on site because they are vandalised or stolen within days
- has to repair pegs frequently due to vandalism

A number of appeal cases have also been supplied by the applicant giving examples where new dwellings have been allowed in the green belt to support fishery enterprises.

Relevant Planning History

05/0060/OL/E4 - Outline application for a single storey 3-bed dwelling, construction of an additional fishing pool, retail shop, amenities, double garage, siting/construction of fish rearing tanks and demolition of existing wash facilities –Refused 20/06/05. This was on the grounds that no very special circumstances had been put forward to outweigh the harm this inappropriate development would have on the openness and character of the green belt or the character and appearance of the Conservation Area.

06/1037/OL/E11 – Similar outline application as above - Refused 24/8/07. The grounds for refusal were failure to demonstrate very special circumstances to outweigh the harm built development would have on the green belt and visual amenity of the Great Barr Conservation Area, failure to demonstrate a functional need for the new dwelling, failure to demonstrate that the proposed shop was essential for outdoor sport or for the proper functioning of the fishing enterprise or to satisfy the tests of need and sequential approach and the adverse impact of the proposed buildings and associated activities on the character or appearance of the conservation area.

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

Unitary Development Plan (UDP)

2.2, 3.6 & 3.7: seek to make a positive contribution to the quality of the environment, whilst protecting people from unacceptable environmental problems.

GP1: Supports the sustainable location of development.

GP2: The Council will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VII. Adequacy of access and parking facilities.

VIII. The effect on the environment of the countryside and Green Belt.

GP6: Developments to which the public will have access will only be permitted if designed to provide good access for disabled people.

GP7: Development is expected to design out crime and maintain good urban design.

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

3.21 & ENV1: Defines the purpose of the Green Belt.

ENV2: There is a presumption against construction of new buildings except where this is for agriculture, forestry or facilities essential for outdoor sport or recreation.

ENV6: Proposals for the diversification of the rural economy will be supported provided that the character scale and location of proposals are compatible with surroundings.

ENV21: Development which would destroy, damage or adversely affect Sites of Local Importance for Nature Conservation will not be permitted.

ENV23: The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology and will require mitigation to compensate for features lost.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character.

Poorly designed development which fails to properly take account of the context or surroundings

will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.113, 3.114 & 3.115: Encourages high quality architectural and landscape design that responds positively and imaginatively to the context in which development takes place, increases safety, accommodated access requirements of all sections of the community and plays a major role to play in the creation of an environment which is distinctive.

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

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

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

6.3: Encourages the provision of additional housing through the re-use of previously developed land and buildings within the urban area before the use of greenfield land.

S14: Farm Shops will only be permitted where it involves conversion of an existing building, satisfactory vehicular access and parking can be achieved.

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.

T10: The standards for public transport, cycles, taxis and disabled car parking are minimum ones and developers are strongly encouraged to improve on them. Standards for non-residential car parking are maximum ones as required by PPG13.

T13: car parking standards

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

Barr Beacon Countryside Area Profile (CAP) 1993

Encourages informal recreation and discourages development of facilities for formal recreation which is likely to have a detrimental effect on the character of the area. This CAP has been retained as Supplementary Planning Guidance expanding on UDP policy ENV7; Countryside Character. As such, it carries little weight, but is nonetheless a material consideration.

Supplementary Planning Documents (SPD)

Designing Walsall SPD

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

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

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

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be

a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment SPD

Policy NE4: planning applications with potential to destroy, damage or adversely affect any site, species, habitat or earth heritage feature should be supported by an impact assessment informed by survey work carried out to nationally accepted standards.

Regional Spatial Strategy for the West Midlands (RSS)

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

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

CF1: focus new home building in the Major Urban Areas. In Walsall the MUA is limited to the built-up areas and excludes the Green Belt.

CF2 D and E: housing provision restricted to meeting local housing needs.

CF3: A - make adequate provision for additional house building as per Table 1; B iii - maximise use of previously-developed land; C - make the most efficient use of land within the Major Urban Areas.

CF4: optimise opportunities for recycling land and buildings for new housing development.

CF5: deliver affordable housing.

It should be noted in this context that there is no need to identify further land to meet the house building requirements, even of the proposed Regional Spatial Strategy Phase Two Revision, which has been submitted to the Secretary of State for Examination in Public.

Other relevant policies include:

3.8 e: within the MUA's resisting peripheral expansion for housing.

3.14 g: ensure the quality of the environment is conserved and enhanced across all parts of the Region.

3.14 A d: protecting and enhancing the [Black Country's] environmental and heritage assets and biodiversity.

QE1 B iv: protect and enhance the distinctive character of different parts of the Region. (The value of this area is recognised in the CAP and Conservation Area.)

QE5: Protection and enhancement of the Historic Environment, in particular

A: Protect, conserve and enhance the region's diverse historic environment; and

B: Of particular historic significance to the West Midlands are: at iii conservation areas.

In terms of the RSS, then, conservation area status is a weighty consideration.

National Policy

PPS1 Delivering Sustainable Development: Emphasises the need to protect the quality, character and amenity value of the countryside and give a high level of protection to most valued landscapes, wildlife habitats and natural resources.

PPG2 Green Belts: Seeks to protect against inappropriate development that is harmful to the Green Belt. Construction of new buildings is inappropriate unless it is for agriculture or forestry, essential facilities for outdoor sport and recreation, and for other uses of land that preserve the openness of the Green Belt.

The new dwelling and garage would inevitably have an adverse impact on the character and openness of the Green Belt. PPG2 advises that in order to justify such inappropriate development in the Green Belt applicants must demonstrate that there are very special circumstances that outweigh the harm caused to the character and openness of the green belt. Paragraph 3.1 of PPG2 states that *“very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations”*.

Such very special circumstances may exist if the applicant can demonstrate that there is a justified need for the dwelling to support existing agricultural activities, forestry and other full-time workers to live at or in the immediate vicinity of their place of work. Paragraph 10 of PPS7 also states that *“isolated new houses in the countryside will require special justification for planning permission to be granted”* and *“where the special justification for an isolated new house relates to the essential need for a worker to live permanently at or near their place of work in the countryside”*. Annex A of PPS7 sets out criteria for assessing such proposals including;

- justifying a **functional need** for the dwelling, establishing the need relates to a full time worker,
- the unit and agricultural **activity is financially sound**,
- there is **no other accommodation in the area** which is suitable and available for occupation by the workers and
- other planning requirements such as **impact on the Green Belt, Conservation Area** etc are satisfied.

PPS3 Housing: Promotes sustainable development and the efficient use of previously developed land and commitment to improving affordability and supply of housing in all communities. It promotes the need for well designed new housing developments and consideration of design and layout must be informed by the wider context.

PPS7 Sustainable Development in Rural Areas: Promotes sustainable patterns of development and sustainable communities in rural areas to ensure effective protection and enhancement of the environment, prudent use of natural resources and maintain high and stable levels of economic growth and employment. Isolated new houses in the countryside require special justification for planning permission to be granted such as to allow agricultural, forestry and certain other full time workers to live at or in the immediate vicinity of their place of work.

PPS9 Biodiversity and Geological Conservation: Promotes sustainable development, conservation, enhancement and restoration of diverse wildlife and geology and contribution towards rural renewal and urban renaissance.

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

Other relevant policies include PPS23 Planning and Pollution Control, PPS24 Planning and Noise, PPS25 Development and Flood Risk,

Consultations

Transportation – No objections.

Pollution Control (Contaminated Land)– No objections.

Pollution Control (Scientific Team) – No objections.

Bruton Knowles Rural Property Consultants (acting on behalf of the Council) - Objects. The proposals have been assessed in terms of the criteria set out in Annex A of PPS7. The functional need for the new dwelling has not been proven as the evidence presented by the applicant has not demonstrated a need for a full time worker to be on hand day and night for the majority of the year in respect of animal husbandry purposes. Dr Broughton's letter stated that the fish losses in 2006 were due to low levels of dissolved oxygen which was the consequence of three interlinked factors (high temperatures followed by algae blooms followed by thunderstorms). This unfortunately happened once in 20 years and information in respect of response times has not been included. PPS7 states that the functional test is necessary to establish whether it is essential for the proper functioning of the enterprise in respect of dealing quickly with emergencies that could otherwise result in serious losses. In the absence of any response times and given that the event has happened once in 20 years this does not prove the functional test is addressed. The full-time worker and financial tests have been met.

As to whether the functional need could be fulfilled by another dwelling in the area which is suitable and available this would have to be considered in terms of the response time required in an emergency. As no response times have been provided and the applicants live less than 5 minutes away and there is accommodation to let or to buy closer then this cannot be ignored. If there was on-site accommodation, to be made fully aware of what is going on around the pools would still require security lights, CCTV cameras and alarms and the response time would be 5 minutes quicker if residing on-site than residing in nearby accommodation. The site is not typical for an agricultural tied dwelling as the site is not a remote location. With working security systems, a response to any situation arising on-site could be achieved in less than 5 minutes from the applicant's present dwelling or from neighbouring property which is available and suitable, including a barn conversion and apartments within an old farmhouse at the neighbouring property that is available to let or buy.

Strategic Policy –In contrast to the previous application the applicant has provided an explanation of the functional links between the fishery and the proposed dwelling to address the requirements of PPS7 (the functional test) and PPG2 (regarding appropriate development in the Green Belt) and therefore policy ENV2 of the Unitary Development Plan. Opinions have also been obtained from experts in fishery operations, Bruton Knowles (BK) and Dr Bruno Broughton, which reach opposing conclusions; i.e. the latter advises that on-site presence is essential, but BK advise the Council that this is not proven.

In terms of PPS 7 (the functional test) it is accepted that the current employment is full time and that the fishery is financially sound. However, the applicant has not explained fully why required response rates render the proprietor incapable of operating the fishery from the current

accommodation or other accommodation nearer to the site, or even a different form on on-site accommodation. The application does not provide sufficient information to judge the impact on the openness of the Green Belt. Therefore, the PPS 7 test is failed on at least two counts.

The experts differ on the necessity of permanent on-site presence. However, there is no compelling evidence put forward to demonstrate that catastrophic changes in water quality or security of equipment and personnel would be adequately resolved. The site is large, dark at night and site lines are obstructed by substantial trees. These things would not change by implementing the proposed development and any application involving substantial lighting and removal of trees would be unlikely to succeed. The proposed development would therefore not achieve the benefits claimed by the applicant.

This latter failing is critical as paragraph 3.2 of PPG 2 is very clear where it states: “inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.”

Consequently, even if it were to be accepted that very special circumstances exist (by virtue of complying with PPS 7) to justify the proposed inappropriate development in the Green Belt (because it is essential for outdoor sport and recreation) the development must preserve the openness of the Green Belt (see paragraph 3.4 #2). Because the application is in outline and does not provide sufficient information to judge the likely impact on the openness of the Green Belt, the application does not show why planning permission should be granted.

The proposed breeding and rearing tanks could be operated off-site.

The toilet block and small bait store would also not be inappropriate in terms of PPG2 as they are essential for outdoor sport. Nonetheless any facilities should still preserve the openness of the Green Belt and this has not been demonstrated.

The applicant has not demonstrated a functional need in terms of all elements of the functional test in PPS 7, has not shown why permission should be granted in terms of PPG 2 and, it follows, UDP policy ENV 2.

The Regional Spatial Strategy gives considerable weight to conservation area status, but sufficient information has not been provided to judge the likely impact on the Great Barr Conservation Area.

The proposed development is therefore not acceptable in principle in planning policy terms.

Environmental Health – No objections.

Building Control – No objections.

Conservation – No objections in principle. However, there is insufficient information to determine whether the proposals will preserve or enhance the Great Barr Conservation Area. Further landscaping and hedging is proposed to soften the impact of the development but without details of the design, landscaping and materials proposed it is not possible to determine

whether the proposed buildings are sympathetic to the surrounding landscape. This is not a suitable location for a traditional suburban bungalow.

Natural Environment – No objections subject to submission of a landscape scheme to enhance the site for wildlife.

Landscape – Objects on the basis that there is a lack of information to provide an accurate assessment of the impact the proposals have on the existing landscape which is within the Green Belt and Conservation Area.

Access and Disability Officer – Objects on the basis that there is inadequate information regarding access for disabled people visiting the site.

Drainage – No objections.

Fire Service – No objections - satisfactory for fire service access.

Inland Waterways – No objections.

Severn Trent Water Authority – No objections.

Natural England – The proposal may affect a locally designated site, namely Pinfold Lane Quarry Site of Importance for Nature Conservation. No objections to the proposed development in respect of legally protected species as Natural England are not aware that they are likely to be adversely affected by the proposals. However, if protected species are highlighted then further survey work is recommended.

Public Participation Responses

A petition of support with 19 signatories, and no grounds of support given (only very limited weight can be attached to this as there are no grounds of support) and 2 letters of objection have been received. The objections are summarised as follows: -

- Inappropriate to build a new bungalow in the Great Barr Conservation Area as it would harm the appearance of the area
- Proposals should conserve wildlife
- Insufficient need for anyone to live permanently on site
- Fish losses last year referred to in the report were as a result of drought

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

Determining Issues

- Whether there are very special circumstances to justify inappropriate development within the green belt
- Whether there is a justified need for the development
- Impact on the Green Belt, Conservation Area and Site of Local Importance for Nature Conservation
- Impact on surrounding residential amenities
- Access

Observations

Whether there are very special circumstances to justify inappropriate development within the green belt

The construction of new buildings inside the green belt is inappropriate unless it is for specific purposes, including; agriculture or forestry, essential facilities for outdoor sport and outdoor recreation or for other uses of land that preserve the openness of the green belt. Paragraph 3.5 of PPG2 states that essential facilities should be genuinely required for uses of land which preserves the openness of the green belt.

Fishing is appropriate in the Green Belt. A small toilet block to support this use is acceptable, as essential facilities.

Production of fry, for sport, in a building to house fish breeding tanks is considered not essential as this operation can be carried out elsewhere and need not be attached to a fishing lake. For this reason, national Green Belt policy requirements would not be met.

Whilst the toilet block is considered appropriate in principle within the Green Belt the size, design and siting of the buildings must not have any adverse impact on the openness or character of the Green Belt. As the application is in outline form only it is not possible to fully assess the impact on the character or openness of the Green Belt as no details of landscaping or design has been provided. For example, the proposed toilets/bait store building is only 14m² and is positioned amongst existing trees around the edge of the larger pool. Removal of existing trees and vegetation to accommodate the toilet/bait store may in itself have an adverse impact on the character of the Green Belt and could leave any building unacceptably exposed. In the absence of any details of design and landscaping it is not possible to demonstrate that there would be no undue harm. Inadequate details have therefore been provided in order to demonstrate that the proposals would not have an adverse impact on the character or openness of the Green Belt or to demonstrate that there are very special circumstances sufficient to outweigh the harm caused by inappropriate development of the new dwelling in the Green Belt contrary to policies GP2, 3.3, ENV2, ENV29, ENV32 and ENV33 of the Walsall UDP.

In an attempt to demonstrate that there is a functional need to live on site to provide 24 hours security the applicants have not explained what other security measures have been considered to prevent occurrences of vandalism and theft. However, they have highlighted that there is presently no power supply to the site which would make it difficult to incorporate measures such as CCTV. Nevertheless the proposed dwelling is separated from the fishing lakes by the existing screen of trees it is would not enable direct overlooking of the lakes and in any case 24 hour security would not be achieved as during the night time occupants will be sleeping. The incorporation of a dwelling is therefore unlikely to provide a presence in order to deter such behaviour.

Details of the accounts for the fisheries business from 2003 to present day have been provided which prove that the business is profit making sufficiently so to satisfy the financial tests in PPS7.

In the Springhill Trout Fisheries appeal case quoted by the applicant (APP/M2270/C/07/2043993) two residential caravans were contained within an existing open sided building on the land, hence they did not adversely affect the openness of the Green Belt as an entirely new permanent, built, residential dwelling and garage would do in the application case. The appeal cases referred to also related to rural locations which are not directly comparable with the Foxhills Fisheries case which is in an urban fringe location where there are 100's of existing houses within the locality.

Further appeal cases have been supplied by the applicant to demonstrate where new dwellings have been allowed in the Green Belt to satisfy a functional need for agricultural workers to live at these sites to provide an appropriate level of care and security for coarse fishery businesses. Key considerations have included whether the scale and operation of recreational fishing activities generates a demonstrable functional need sufficient to justify proposed new dwellings. To compare and contrast Fen Lakes Fishery (APP/L2630/A/07/2054499) with Foxhills Fisheries has little benefit as Fen Lake Fishery is larger in scale, has longer opening hours which includes night fishing and there is a lack of suitable accommodation available. Foxhill Fisheries have suitable and available accommodation and are a smaller enterprise with shorter opening hours. A clear difference in this case is that, whilst the Fen Lake Fishery is in open countryside, it is not in the Green Belt and a conservation area.

The Hallcroft Coarse Fishery and Caravan Park case (APP/A3010/A/08/2061328) found that the scale and nature of the enterprise involved a series of lakes spread over a large area, day and night time working throughout the year and the business dependency on the health of the fish stock supported full time workers living on the site. However, temporary permission only was granted given that this was a retrospective application for retention of a manager's residential static home where the caravan was similar in appearance to others within the nearby caravan park forming part of the appeal site. There were also nine full time and part time workers at this site compared to one full time worker at Foxhills Fisheries.

In light of the above it is considered the applicant has not demonstrated that there are very special circumstances or justification for the proposed buildings that clearly outweigh the harm the proposed inappropriate built development would have on the character and openness of the green belt and visual amenity of the Great Barr Conservation Area.

Whether there is a justified need for the development

Such other considerations include the key tests set out in Annex A of PPS7 which refer to provision of agricultural, forestry and other occupational dwellings in the countryside. It is perhaps notable that recreational fishing is not mentioned even though it is the most popular sport. The Annex sets criteria that apply to proposals for new dwellings and specifies they will only be permitted where: -

- i. there is a clear established existing functional need;
- ii. the need relates to a full time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- iii. the unit and the agricultural activity concerned have been established for at least 3 years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;
- iv. the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable for occupation by the workers concerned
- v. other planning requirements, e.g. in relation to access, or the impact on the countryside, are satisfied

With reference to sub section two above paragraph 4 of Annex A to PPS7 stipulates:

"A functional test is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement may arise for example if workers are needed to be on hand day or night;

a) in case animals or agricultural processes require essential care at short notice

b) to deal quickly with emergencies which could otherwise cause serious loss of crop or products for example by frost damage or the failure of automatic systems".

The applicant has provided supporting information in response to the above criteria. They consider that the proposed new dwelling is essential for the proper functioning of the enterprise as it is for fish management including water quality and aeration, visitor management and safety, water management, prevention of theft or damage and day to day management of the fishery. Supporting evidence prepared on behalf of the applicant by Dr Bruno Broughton, a leading fishery expert, concludes that following fish losses in 2006 the need to live on site is important for monitoring by the manager, deployment of aerators and practical problems of preventing aerators being stolen. The key issue is whether the enterprise can operate properly without such a dwelling.

However, Bruton Knowles Consultants acting for the Council conclude that the functional need for the new dwelling has not been proven as the evidence presented by the applicant has not demonstrated a need for a full time worker to be on hand day and night for the majority of the year in respect of animal husbandry purposes. Dr Broughton's letter stated that the fish losses in 2006 were due to low levels of dissolved oxygen which was the consequence of three interlinked factors (high temperatures followed by algae blooms followed by thunderstorms). This unfortunately happened once in 20 years and information in respect of response times has not been included. PPS7 states that the functional test is necessary to establish whether it is essential for the proper functioning of the enterprise in respect of dealing quickly with emergencies that could otherwise result in serious losses. In the absence of any response times and given that the event has happened once in 20 years this does not prove the functional test is addressed. They conclude that the full-time worker and financial tests (paragraphs (ii) and (iii) above) have been met.

Bruton Knowles also assessed whether the functional need could be fulfilled by another dwelling in the area which is suitable and available, considering response times required in an emergency. The applicant states response times need to be within minutes but it is noted that the applicants live less than 5 minutes away and there is accommodation to let or to buy in closer proximity which cannot be ignored. If there was on-site accommodation, to be made fully aware of what is going on around the pools would still require security lights, CCTV cameras and alarms and the response time would be 5 minutes quicker if residing on-site than residing in nearby accommodation. The site is not typical for an agricultural tied dwelling as the site is not a remote location. With working security systems, a response to any situation arising on-site could be achieved in less than 5 minutes from the applicant's present dwelling or from neighbouring property which is available and suitable, including a barn conversion and apartments within an old farmhouse at the neighbouring property that is available to let or buy.

There is established existing housing at Pheasey to the south of the site that is within 1km of the site and further housing to the east within Streetly that is within 2km of the site yet the applicant has not provided evidence to demonstrate why a house in these locations would not be suitable.

The only information regarding alternative provision is the claim that the applicant's existing rented accommodation a mile away has become increasingly difficult to provide proper levels of management at the fisheries.

In response the applicant has advised that a response time is needed within minutes as de-oxygenation could occur more often with climate change and these events would become more frequent that would be catastrophic to the fisheries business. Also they claim that the lack of power can not be rectified without a residential presence on site as the oxygenating equipment and generators to run this need to be transported from the applicant's house and then monitored throughout the night otherwise the equipment may be stolen.

Impact on the Green Belt, Conservation Area and Site of Local Importance for Nature Conservation

The application is outline with siting only to be determined. The proposed dwelling and garage has been relocated adjacent to the lake but still proposes a cluster of buildings in what is presently an open paddock. In the absence of any details relating to matters such as design, landscaping or levels it is not possible to make an accurate assessment of the proposals in terms of protecting or enhancing the conservation area. Nevertheless, the proposed siting of a cluster of buildings in what is presently an open paddock will adversely affect the character and appearance of the Conservation Area, particularly as the indicative proposals show a suburban bungalow design which is out of keeping. The proposals are therefore contrary to policy ENV29.

The proposed access is now via the existing car park hence the previous concern relating to removal of trees along Pinfold Lane has been resolved.

Impact on surrounding residential amenities

Whilst the site is located in a part of the borough that is rural in character, it is only minutes away from large residential areas. There are isolated farms and residential properties to the east and west of the site and Beacon Heights Caravan Park to the north east. Two letters of objection have been received referring to the potential impact of the proposal on the appearance of the conservation area and surrounding area, need to conserve wildlife and the need for the new dwelling. Given the separation between the proposed dwelling and the closest of these residential properties it is considered that residential amenities will not be adversely affected by the proposals in terms of privacy, daylight or outlook. However, it is inevitable that if the business begins to operate on a 24 hour basis as suggested in the application the effect of traffic and activities at the site may be more noticeable to neighbours.

Access

The means of access to the proposed dwelling, garage and bait store is via the existing car park and would involve creation of a new access leading off the car park with driveway and parking for residents vehicles in front of the proposed dwellings. The transportation officer does not object to this means of access as it does not displace any existing parking spaces and there is ample space to park two vehicles within the new residential curtilage.

Reasons for refusal of permission

The proposed new dwelling is not essential for outdoor sport or recreation and does not preserve the openness of the Green Belt and the application fails to demonstrate that there are very special circumstances or justification for the proposed buildings that clearly outweigh the harm the proposed inappropriate built development has on the character and openness of the green belt and visual amenity of the Great Barr Conservation Area.

The evidence submitted with the application fails to satisfy the tests set out in PPS7 that there is a justified need for a permanent agricultural dwelling as there is suitable accommodation which is available. Nor is the functional need to reside on site is for security reasons and animal husbandry purposes justified.

As the application is outline there are no details on design or landscaping. Nevertheless it is considered that the impact of the cluster of buildings and associated activities in this isolated position would be unlikely to enhance or preserve the character or appearance of the conservation area.

Intensification of use of the site to include night time fishing would also be likely to lead to additional noise and disturbance from visitors and their vehicles during sensitive night time periods, which would be detrimental to the residential amenities of adjacent occupiers.

In terms of addressing the supporting representations from third parties these were not specified. However, there are over-riding National and local policies relating to the Green Belt and Conservation Area and a lack of evidence to justify the need for the proposed new dwelling. The objector's representations have been taken into account in the suggested reasons for refusal.

For the above reasons the proposals are considered contrary to policies 3.3, GP2, ENV2, ENV3, ENV29, ENV32 and ENV33 of the Walsall Unitary Development Plan and PPG2: Green Belts, PPS7: Sustainable Development in Rural Areas, PPG15: Planning & The Historic Environment and the Regional Spatial Strategy for the West Midlands.

Recommendation: Refuse

1. The application has failed to demonstrate that there are very special circumstances or justification for the proposed buildings that outweigh the harm the proposed inappropriate built development would have on the character and openness of the green belt and visual amenity of the Great Barr Conservation Area. Furthermore, the proposed development would not protect and enhance the quality of the environment. The proposal is therefore contrary to the policies 3.3, GP2, ENV2, ENV3, ENV29, ENV32 and ENV33 of the Walsall Unitary Development Plan and to Planning Policy Guidance Note 2 Green Belt and policies 3.8e, 3.14g, 3.14Ad, QE1 b iv and QE5 A and B iii of the Regional Spatial Strategy for the West Midlands.

2. The applicant has failed to demonstrate that there is a functional need for a new permanent residential dwelling on site in order to ensure the proper functioning of the fisheries business contrary to Annex A of PPS7 Sustainable Development in Rural Areas.

3. Sufficient information has not been provided to determine the harm by way of inappropriateness that the proposed development would cause to the Green Belt, including its openness. Consequently, the applicant has not shown why planning permission should be granted in terms of PPG 2. The proposals are therefore contrary to policies 3.3, GP2, ENV2, and ENV3 of the Unitary Development Plan and to PPG 2 on Green Belts.

4. Sufficient information has not been provided to determine the impact that the proposed development would have on the visual amenity of the Great Barr Conservation Area due to the lack of details regarding design and landscaping. The impact of the cluster of buildings and associated activities in this isolated position would be unlikely to enhance or preserve the character or appearance of the conservation area. The proposals are therefore contrary to policies ENV29, ENV32 and ENV33 of the Walsall Unitary Development Plan and to PPG15 Planning & The Historic Environment.

5. Intensification of a 24 hour operation of the fishery business would potentially lead to additional noise and disturbance from visitors and their vehicles during sensitive night time periods, which would be detrimental to the residential amenities of surrounding occupiers contrary to policies GP2 and ENV32 of Walsall Unitary Development Plan.

Reasons for refusal of permission

The proposed new dwelling is not essential for outdoor sport or recreation and does not preserve the openness of the Green Belt and the application fails to demonstrate that there are

very special circumstances or justification for the proposed buildings that clearly outweigh the harm the proposed inappropriate built development has on the character and openness of the green belt and visual amenity of the Great Barr Conservation Area.

The evidence submitted with the application fails to satisfy the tests set out in PPS7 that there is a justified need for a permanent agricultural dwelling as there is suitable accommodation which is available. Nor is the functional need to reside on site for security reasons and animal husbandry purposes justified.

As the application is outline there are no details on design or landscaping. Nevertheless it is considered that the impact of the cluster of buildings and associated activities in this isolated position would be unlikely to enhance or preserve the character or appearance of the conservation area.

Intensification of use of the site to include night time fishing would also be likely to lead to additional noise and disturbance from visitors and their vehicles during sensitive night time periods, which would be detrimental to the residential amenities of adjacent occupiers.

In terms of addressing the supporting representations from third parties these were not specified. However, there are over-riding National and local policies relating to the Green Belt and Conservation Area and a lack of evidence to justify the need for the proposed new dwelling. The objector's representations have been taken into account in the suggested reasons for refusal.

For the above reasons the proposals are considered contrary to policies 3.3, GP2, ENV2, ENV3, ENV29, ENV32 and ENV33 of the Walsall Unitary Development Plan and PPG2: Green Belts, PPS7: Sustainable Development in Rural Areas, PPG15: Planning & The Historic Environment and the Regional Spatial Strategy for the West Midlands.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
On 28 Oct 2008

REASON FOR BRINGING TO COMMITTEE: : Called in by Councillor I Shires

Application Number: 08/1137/FL
Application Type: Full application
Applicant: Anthony Barrett
Proposal: Detached Garage/ Store

Case Officer: Helen Smith
Telephone Number: 01922 652486
Agent:
Location: REAR OF 228 LICHFIELD
ROAD, NEW INVENTION, WILLENHALL
WV12 5BG

Ward: Willenhall North

Expired: 12/11/2008

Recommendation Summary: Grant Subject to conditions



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Introduction

This application has been called in by Councillor Shires who has commented that the proposed access conflicts with a valid planning permission for residential development. He also notes that the development would detract from the community green that is proposed for the adjoining open space.

Application and Site Details

This application is for a detached garage on land to the rear of a row of terraced houses. The garage, which is partly complete, is to measure 6.6 x 5.9 metres and is to have a ridged roof between 2.1 and 3.4 metres high. Access to the garage is to be along the side of the house owned by the applicant across open land that is owned by a third party. The garage lies in a corner of this land next to the corner of an area of public open space.

Relevant Planning History

The application site was originally part of a haulage yard known as "Rowbotham's Yard". There have been a series of enforcement notices relating to vehicle repairs, the storage of vehicle bodies and containers, and similar uses. Outline planning permission was granted in January 2007 to erect 21 apartments. The site boundary for the latter included the access to the current application site and part of the current site itself.

Planning permission was granted in April this year to install an entrance feature and lighting columns on the adjoining public open space as part of an enhancement of the area.

Relevant Policies

(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)

Unitary Development Plan Policies

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.

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.

H10: Layout, Design and Dwelling Mix.

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

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

National Policies

PLANNING POLICY STATEMENT 1

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

Consultation Replies

Transportation – No objections provided a condition is attached requiring that the garage shall only be used for private domestic purposes only and no commercial use.

Public Participation Responses

The owners of the adjoining land have objected on the grounds that they would not agree to any right of access to the garage, and the presence of the garage would be detrimental to the appearance of the approved scheme for residential development.

An anonymous letter has been received objecting on the grounds that the land is not owned by the applicant and the building work has started without official consent.

The representations may be viewed on the application file in Planning Services on publication of this report.

Determining Issues

- Design and impact on character of area
- Impact on development proposals for adjoining land
- Impact on amenity of nearby residents
- Access.

Observations

Design and Impact on Character

The walls of the garage are faced in brick which match those used for a recently built extension to the applicant's house and do not harm the character of the area. The size of the building is that of a typical domestic double garage with a ridged roof.

The surrounding area contains a mix of building types and facing materials, with traditional terraced houses on this side of Lichfield Road, former local authority terraced and semi-detached houses in Rugeley Avenue to the rear and flats on the opposite side of Lichfield Road. There are also several larger buildings nearby including two church halls. This mixed character means that the garage causes no harm to the existing character of the area.

Impact on development proposals for adjoining land

The adjoining land has been in a semi-derelict condition and used for various "bad neighbour" uses for many years. There have been several attempts to improve the land, including the recent granting of outline permission for residential development. The illustrative layout plan submitted

with this residential application indicates that the corner of the land adjacent to the current application site would be used for parking and cycle storage. Apart from the need to relocate one or two parking spaces and the cycle store, allowing the retention of the garage would not affect the illustrative layout of the rest of the residential development. The garage would lie adjacent to other parking spaces for the proposed development so would be in keeping with the proposed use of the larger site.

Impact on Amenity of Nearby Residents

The adjoining land has a history of lawful commercial use as well as the unlawful uses. Provided the use of the garage is limited to domestic purposes, it would have little impact either on existing nearby residents or occupiers of the proposed apartments. The garage lies approximately 17 metres away from the nearest existing dwellings.

Access

Access to the garage will be across land which is not in the ownership of the applicant. Although the owner of this land has objected to its use, this objection is a private legal matter and cannot be taken into account in the decision on the application.

Summary of reasons for granting planning permission

The development is considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, as follows, and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Policies GP2, ENV32 and H10: The visual appearance of the development in the context of its surroundings is acceptable. The proposed access is adequate on highway safety grounds. The position of the garage means that it will have little impact on the amenity of nearby residents. The issue concerning access to the garage across land which is not in the ownership of the applicant is a private legal matter and cannot be taken into account in the decision on the application.

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

Recommendation: Grant Subject to conditions

Grant subject to conditions

Conditions and Reasons for conditions:

1: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

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

2. No further development shall be carried out until samples of the roof tiles to be used have been approved in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development.

3: This garage shall only be used for purposes incidental to the enjoyment of a dwelling house as such, including parking vehicles, minor servicing and maintenance of vehicles, and storage. No business activity shall take place in the building, such as vehicle repairs for commercial purposes, or the storage of materials, equipment or stock in connection with a business.

Reason: The site is not suitable for commercial use, to safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
On 28 Oct 2008

REASON FOR BRINGING TO COMMITTEE: Called-in by Councillor McCracken

Application Number: 08/1282/FL

Application Type: Full application

Applicant: Patrick Saddlery

Proposal: Demolition of existing garages, and construction of new 2 storey workshop/light industrial unit on existing footprint.

Ward: St. Matthews

Recommendation Summary: Refuse

Case Officer: Val Osborn

Telephone Number: 01922 652436

Agent: Spooner Architects

Location: 1 BOX STREET, WALSALL,

Expired: 15/10/2008



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Current Status

The application was called-in by Councillor McCracken due to the impact on the character of the area and the local business community.

Application and Site Details

The application relates to light industrial premises at the corner of Box Street and Bank Street and the land to the rear that fronts Box Street. The land at the rear is fenced at back of footpath with 2m close boarded fencing and laid to gravel and tarmac for access to four garages.

The proposal is to create a two storey workshop on the site of the garages, set between 4.5m and 6m behind the close boarded fencing. The workshop would provide 80 sq m of new workshop space, designed as a traditional Victorian workshop typical of the locality, with brickwork headers and cills to windows and a double French door opening at the ground floor. The building would have a pitch of 32 degrees which replicates the roof profile of an adjacent industrial building.

The applicant comments that deliveries are small scale and large lorries are not involved. The proposal is required to enable the existing saddlery business to expand and will employ three additional staff.

To the north and east of the site are industrial undertakings set at back of footpath, with landscaped frontages to children's home and other education services opposite and to the west. To the south are terraced houses on Eldon Street. Box Street links Walsall town centre to Chuckery.

Relevant Planning History

02/0731/FL/W4 – change of use to retail/storage/offices, alterations to elevations and car parking, refused for design reasons, 1 August 2002

02/2263/FL/W4 – change of use to retail, offices and storage, granted 21 February 2003

06/1284/FL/W4 – change of use from offices and storage to light manufacturing, approved 15 September 2006.

Relevant Planning Policy Summary

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

Walsall Unitary Development Plan March 2005

GP2 – development should be sustainable and contribute to environmental improvement;

3.6 Development should help to improve the environment.

3.16 The Council will consider development in relation to the character and quality of the existing local environment, requiring a high quality of landscape design.

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

T7 and T13 relates to car parking standards.

Supplementary Planning Document “Designing Walsall” (February 2008) Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

It identifies eight key urban design principles for consideration including sustainability, safe and welcoming places, character, continuity, ease of movement, legibility, diversity and adaptability. Local Character Guidance is also included, where continuity of street frontage and sense of enclosure within the street should be maintained.

Consultations

Transportation – Objection. The applicant looks to demolish an existing block of 4 garages (unused according to applicant) and replace it with a new 2 storey workshop ancillary to the existing building with a gross floor area of approximately 80 sq m. UDP (T13) car parking standards for B1(c) use for this size building is 3 spaces in addition to the existing 4 spaces retained under this application. The applicant has failed to demonstrate how the 4 retained car parking spaces and the additional 3 car parking spaces will be accommodated in a workable arrangement and to current standards within the site. The applicant has not shown any provision for cyclists or motorcycles within the site or any provision for disabled parking required under UDP standards.

Pollution Control - No objections. However the site is currently being used as garages, which may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. I recommend that the following note is attached to any planning approval issued.

Fire officer - No objections

Environmental Health – No objections

Economic Development – the proposal will enable the company to undertake significant expansion increasing turnover and doubling the number of staff. This will ensure a sustainable future to the company and its employees. Failure to gain approval would force the company to rethink the future of their business in Walsall as they may be forced to move out the borough to find bigger premises. This would be significant loss for Walsall as the workforce is based in the borough and the heritage and history of the company is firmly rooted in the town. As a consequence, Economic Regeneration would support the granting of planning permission for the positive economic impact that would result.

Public Participation Responses

None

Determining Issues

- Design
- Siting
- Fencing and security
- Access and parking
- Economic justification

Observations

Design

The proposed workshop has been designed in an attempt to replicate the traditional industrial building design, by featuring small window openings with multi-paned glazing. Whilst the

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windows do not exactly replicate the traditional scale, the pastiche is considered acceptable and would provide a clear link to the characteristic form of building in this locality.

Siting

The front elevation of the proposed building would be set back from the frontage between 4.5 and 6m behind the existing close boarded fence. This siting is in marked contrast to the established pattern of development in the locality, where industrial buildings are located close to back of footpath. Eldon Court, on Eldon Street and around the corner from this development is an example of a refurbished Victorian workshop complex where buildings are set at back of footpath and around a service courtyard. More recent industrial buildings are similarly set at back of footpath. Good design relates to the arrangement of buildings within the context of the site, reflecting that structure or arrangement, where entrances are to the street to ensure activity and surveillance.

Siting the building away from back of footpath and 4-6m behind the existing fence is in contrast to the established character

Fencing and security

The applicant has commented that siting is required in order to provide satisfactory security with reliance on the existing close boarded fence to secure the site.

The rear yard is completely enclosed by buildings and the close boarded fence. The yard area was identified on the approved plans for planning permission reference 06/1284/FL/W4 and condition numbered 2 required the submission of plans providing visibility splays for the access to the site before development commences. This condition has not been complied with.

The erection of fencing at back of footpath would require the benefit of planning permission. From photographs on files it is clear that the existing fence is recent (after 2002) replacement for which planning permission has not been obtained. The fence is an obtrusive feature in the street scene.

At premises that have forecourt areas and parking courtyards with original Victorian workshops, occupiers have erected railings at 2m or more in height in order to create passive surveillance of premises and the site when unoccupied. A close boarded fence provides an complete visual barrier to any untoward activities behind and militates against good design, where views into sites increases security and add to continuity of the street in this area.

In this case the applicants concerns for security are not accepted. The design of the close boarded fence is not complimentary to the character of the area and is in breach of conditon2 of planning permission reference 06/1284/FL/W4. The existing fence fails to provide for sufficient visibility for pedestrians using the pavement frontage walking to the town centre from Chuckery, or to the adjacent training centre.

Access and parking

The proposal would double the existing workforce to 10 staff. The applicant has not explained how existing staff travel to work or how the transport requirements of new staff would be met. No cycle storage is proposed. Transportation has objected to the proposal on the grounds that the applicant fails to provide satisfactory parking. These comments are supported.

Economic justification

The applicant's business is recognised as a specialist industry with a unique market for hand made leather saddles. The skilled nature of the work is considered a vital part of the heritage

industries of Walsall and the design of the workshop is reflective of this. However it is considered that the locality is one where such workshops predominate as sited at back of footpath and the proposed siting would be in marked contrast to this established pattern and character. This would adversely affect the sense of enclosure of the street and character of the locality and its public realm, with the proposed building appearing over the close boarded fence frontage incongruously. The provision of the 4m to 6m frontage space would be out of character with the area and adversely affect amenity.

Recommendation: Refuse

1. The siting of the proposed workshop would be between 4m and 6m from back of footpath with the retention of a close boarded fence at 2m in height at back of footpath. The siting is in marked contrast to the established pattern of the locality which has a distinctive character and sense of enclosure created by built form close to back of footpath. The proposed close boarded fence forms an obtrusive feature in the street scene, out of character with the locality by reason of materials and siting and adversely affecting the character and amenity of the area. The proposed close boarded fence impacts on the natural surveillance of the forecourt areas, failing to provide a safe, secure frontage area. As such the proposal would be contrary to policies 2.2, GP2, GP7, 3.6, 3.7, 3.16, ENV32, and Designing Walsall SPD of the Walsall Unitary Development Plan March 2005 and Planning Policy Statement 1.
2. The proposed development fails to provide for adequate parking for the site or justify any level of provision satisfactorily. The proposed development would retain a close boarded fence in a location that fails to provide satisfactory vehicular and pedestrian visibility. As such, the proposed development would be contrary to policies 2.2, GP2, 3.6, 3.7, 3.16, 7.1, T7 and T13 of the Walsall Unitary Development Plan March 2005 and Planning Policy Statement 1.

Note to applicant

1. Planning permission 06/1284/FL/W4 required details of the provision of visibility splays for the access, prior to the commencement of development. This requirement has not been complied with and the change of use of the building to light industrial use may therefore be at risk.
2. The area of this proposed development is currently being used as garages, which may have resulted in localised ground contamination that may present Health and Safety implications for person 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.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services.