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					<p>CONSULTATION PERIOD;</p> <p>THE AMENDMENT AND FINALISING OF CONDITIONS;</p> <p>NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED;</p>
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5	107	19/0245	FORMER METAFIN SITE, GREEN LANE, WALSALL	ERECTION OF 72, 1 AND 2 BED FLATS IN 4 X 3 STOREY BLOCKS, CAR AND CYCLE PARKING, LANDSCAPING, ACCESS AND ASSOCIATED WORKS.	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING, ENGINEERING & TRANSPORTATION TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A S106 AGREEMENT TO SECURE CONTRIBUTIONS TOWARDS THE PROVISION OF AFFORDABLE HOUSING AND URBAN OPEN SPACE.
6	135	19/0768	THE ARMSTRONG BUILDING, C/O THE GREEN & BOOTH STREET, DARLASTON, WS10 8JP	DEMOLITION OF EXISTING BUILDING AND ERECTION OF 24 NEW AFFORDABLE RESIDENTIAL UNITS, ACCESS, LANDSCAPING AND ASSOCIATED WORKS. .	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING, ENGINEERING & TRANSPORTATION TO GRANT PLANNING PERMISSION SUBJECT TO; RESOLVING POLLUTION CONTROL CONCERNS

					<p>REGARDING NOISE</p> <p>THE CONFIRMATION OF A SECTION 106 LEGAL AGREEMENT TO PROTECT 25% OF THE DEVELOPMENT FOR AFFORDABLE HOUSING TRIGGERED IF THE DEVELOPMENT IS SOLD FOR OPEN MARKET HOUSING OR VIA THE RIGHT TO BUY.</p> <p>PROVIDE A SECTION 106 CONTRIBUTION OF £31,185 FOR OPEN SPACE IN THE VICINITY</p> <p>LANDSCAPE MANAGEMENT PLAN FOR THE IN PERPETUITY MAINTENANCE OF THE HARD AND SOFT LANDSCAPING WITHIN THE DEVELOPMENT SITE</p>
7	165	19/0295	LAND ADJACENT 48, WOLVERHAMPTON ROAD, WALSALL	PROPOSED RESIDENTIAL DEVELOPMENT - 71 APARTMENTS	<p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING, ENGINEERING & TRANSPORTATION TO GRANT PLANNING PERMISSION SUBJECT TO PLANNING COMMITTEE CONFIRMING THE SECTION 106 TRIGGERS FOR THE RECEIPT OF MONIES AND WHETHER THE SECTION 106 INCLUDES EITHER AN UPLIFT CLAUSE</p>

					TO REASSESS THE DEVELOPMENT VALUE DURING CONSTRUCTION/OCCUPATION OR PROTECTS THE COUNCILS AFFORDABLE HOUSING POLICY SHOULD THE LAND BE TRANSFERRED TO A PRIVATE DEVELOPER. ALSO, TO SECURE A LANDSCAPE MANAGEMENT PLAN FOR THE IN PERPETUITY MAINTENANCE OF THE HARD AND SOFT LANDSCAPING WITHIN THE DEVELOPMENT SITE
8	201	17/1240	FORMER BRITISH LION WORKS, FOREST LANE, WALSALL, WS2 7AX	DEMOLITION OF EXISTING BUILDINGS, CONSTRUCTION OF 16 DWELLINGS (2X2 BED AND 14X3 BED) WITH ASSOCIATED ACCESS ROAD AND PARKING.	<p>PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING, ENGINEERING & TRANSPORTATION TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO;</p> <ul style="list-style-type: none"> - THE AMENDMENT AND FINALISING OF CONDITIONS; - NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED.

9	225	19/1199	33 , WARREN PLACE, BROWNHILLS, WS8 6BY	PROPOSED THREE BEDROOM TWO STOREY DWELLING AND GARAGE.	REFUSE
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Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 28-Nov-2019

Plans List Item Number: 1.

Reason for bringing to committee: Significant Community Interest

Location: LAND AT WINTERLEY LANE, RUSHALL

Proposal: VARIATION OF CONDITION 24A AND 24B OF 17/0439 TO ALLOW A MAXIMUM OF 1 BURIAL PER DAY.

Application Number: 18/1693

Applicant: Aldridge Construction Engineering Limited

Agent: Cemetery Development Services Ltd

Application Type: Section 73: Removal or Variation of Condition(s)

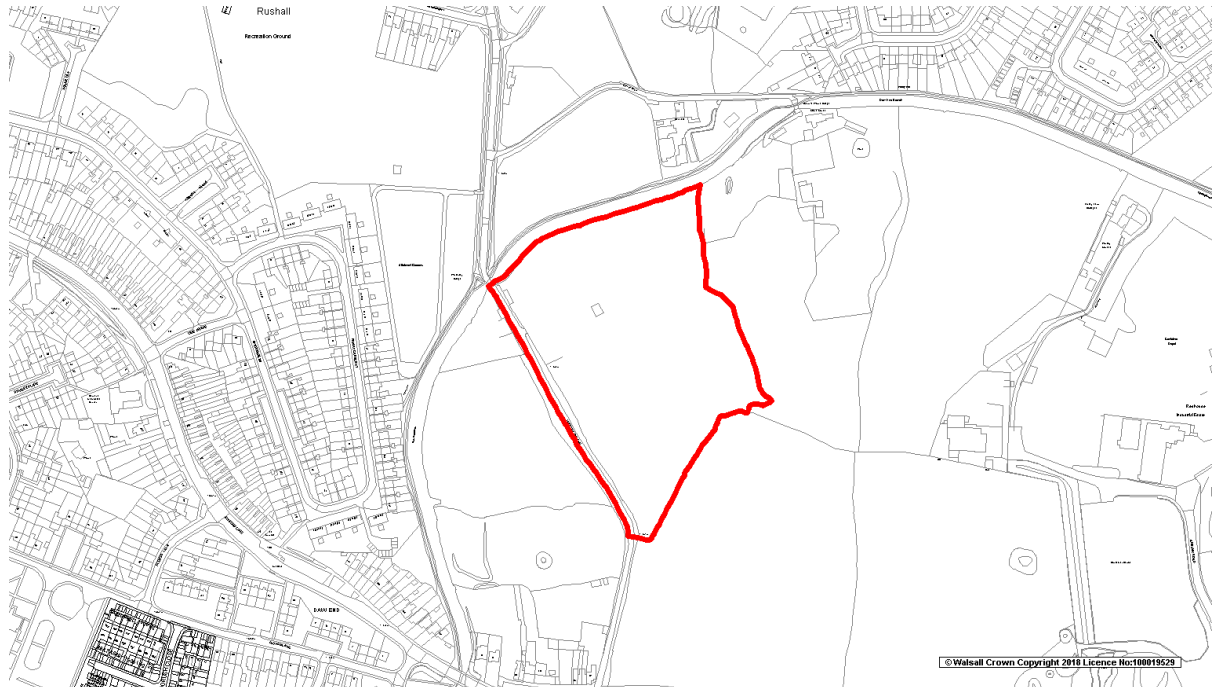
Case Officer: Barbara Toy

Ward: Rushall-Shelfield

Expired Date: 22-Mar-2019

Time Extension Expiry: 06-Dec-2019

Recommendation Summary: Grant Planning Permission Subject to Conditions



Officers Report

Current Status

At your meeting on 31st October 2019 Members deferred determination of this application to allow time for discussion with the applicant about the potential impacts of the increase in burials from 50 to 1 per day the applicant to provide more information on the highway and to get comparative data in terms of parking spaces and numbers of funerals at Streetly Crematorium.

The applicant has provided the following additional information:

Streetly Cemetery/Crematorium

- The site averages 7-8 cremation services per day which is based on their annual cremation figure of 2,149 cremations a year.
- The site also does a considerable amount of annual burials.
- The site is a large cemetery with a likely high number of general visitors.
- The site has a total of 72 car parking spaces across the site.

Streetly crematorium has the potential to have two services happening at the same time as it has two chapels, with cross over in services also occurring

Willenhall Lawn Cemetery

Large site that has approx. 30 – 40 burials a year, ash internments and services
20 designated parking spaces, with additional parking on private cemetery roads.

Other natural burial sites:

Westall Park, Worcestershire (10 miles south of Redditch) – similar size natural burial park to Winterley Lane

Average of 2-3 burials per week, no restrictions on burials per day.

Average of 10-15 cars attend per service

Site has 6 parking spaces with the provision of an overflow car park

Clayton Wood, West Sussex (3 miles south of Burgess Hill, 10 miles north of Brighton) – one of UK's largest natural burial sites at 6.01 hectares

Up to two funerals a day

Maximum vehicles for a single funeral 43

Average cars attending funeral services 22

30 parking spaces with overflow facilities available

Average number of vehicles attending on a non funeral day 58.

Green Acres, Colney, Norfolk (5 miles west of Norwich)

Average 7 services per week

Maximum of 3 services a day

22 Parking spaces and small overflow

Green Acres Heatherley Wood, Hampshire (8 miles south of Farnham)

Average 3-4 services per week

Maximum 3 services a day

30 parking spaces

The above sites have considerably fewer parking spaces than the application site and do more services per day.

The level of car parking to be provided at the application site would be more than 8 times that of Westall Park which is of a similar size and provides similar number of services.

Surveys conducted on natural burial sites suggest that visitors return to the site, on average, a maximum of 1-2 years as, unlike municipal cemeteries, visitors do not tend graves as there are no headstones.

Despite having 32 less car parking spaces than the application site Willenhall Lawn Cemetery is likely to have a considerably higher number of general visitors.

Summary:

- The Winterley Lane Road is capable of facilitating vehicles during the services which will take place in off-peak hours and has been approved by the Highways Authority.
- Data collected from the traffic survey suggests that, under the worst-case forecast, during a service added to the current traffic flows, the Winterley Lane Road would receive less traffic than in peak hours at 17:00 on a weekday.
- Added to that, the applicant has added infrastructure to the roads by providing passing bays which were accepted in the previous planning submission.
- Based on detailed research and evidence of both local municipal cemeteries and existing similar natural burial grounds, parking facilities at Winterley Lane are more than sufficient to sustain the traffic flows to the site.

The development complies with Paragraph 20 and 108 of the National Planning Policy Framework 2019, in relation to highway safety, transport infrastructure management and highway impact mitigation.

The following report remains unchanged and the recommendation of Grant subject to conditions remain the same.

Proposal

This application proposes the variation of conditions 24a and 24b attached to planning application 17/0439 to allow a maximum of 1 burial per day.

The application has been amended since submission to amend the proposed variation from 2 burials a day to 1 burial a day between 1000 hours and 1500 hours.

The principle of a natural burial ground at the site was approved under the previous application 17/0439. Whilst the number of burials were restricted to 50 per annum, condition 24 of the approval confirmed that the applicant would need to provide an updated Transport Statement and risk modelling to assess the impact on the water environment to justify any increase in burials.

It should be noted that whilst the original condition limited the number of burials that could take place over a year, it did not limit the number of services that could take place in one day nor did it limit the hours between which a burial service may occur.

Original condition 24:

24a) Prior to any increase in burials exceeding 50 per annum a revised transport statement and risk modelling to assess impact on the water environment shall be submitted to and approved in writing by the local planning authority.

24b) Any mitigation measures required by the Transportation Statement or the Environment Agency shall be carried out prior to burials exceeding 50 per annum.

Reason: To minimise the impact on neighbouring amenity, to protect the water environment and to accord with saved UDP policies GP2 and ENV40.

Proposed condition 24:

24a) No more than 1 burial shall take place per day.

24b) No burials shall take place outside the hours of 10am to 3pm Monday to Saturday.

24c) No burials shall take place on Sundays or Bank/Public Holidays

24d) The natural burial site hereby approved shall not be open to visiting members of the public outside the hours of 8am to 5pm Monday to Sunday and shall not be open on Bank Holidays.

Reason: To minimise the impact on neighbouring amenity, to protect the water environment and to accord with saved UDP policies GP2 and ENV40.

Given the restrictions in the above condition this would allow for 304 funerals per annum (52 weeks x 6 days a week – 8 bank holidays = 304), an increase of 254 funerals per annum if one occurred each day. However, there would be no more than one service on any one day. With both the original, as approved application and in the new amended conditions, there are no conditions limiting the number of times people can visit the site.

The applicant has confirmed that the number of burials could be easily monitored to ensure compliance with the proposed condition as all burials have to be registered by law and a record kept on site during the operation period of the burial ground.

All other aspects of the previous approval would remain unaffected by this application. Planning application 17/0439 approved the completion of the infilling of existing mineshafts and for the restoration of the land to provide a natural burial ground cemetery.

The approved cemetery will have a capacity for around 6,450 burial plots. A sculpture garden network of mown paths and hard surfaced paths using crushed stone chippings embedded in a geotextile matrix were also approved. The approved cemetery / natural burial ground will be accessed from Winterley Lane, using the existing access point and a surfaced roadway which connects to the car park, 50 car parking spaces were approved with 2 designated disabled spaces. No changes to these access arrangements are proposed as part of the new application.

The use would have one employee and would be open 08:00 – 17:00 hours Monday to Sunday for visitors and 1000 – 1500 hours Monday to Saturday for burial services.

The following have been submitted in support of this variation of condition application:

Transport Statement (December 2018)

This report concludes that the additional traffic movement generated could be comfortably accommodated without significant impact on the safety or capacity of the surrounding transport network and infrastructure. The off peak operation of the site would mean that there would be virtually no impact on existing peak hour flows already occurring along Winterley Lane or the surrounding area. The report includes reference to other burial sites and to an assessment made at an existing large cemetery site.

Updated Assessment for Winterley Lane Cemetery Proposal by LMB Geosolutions Ltd (Dec 2018) and further update Feb 2019 specifically

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assessing Ammonium and Nitrate following comments from the Environment Agency

An updated assessment of the potential pollutant impact of the proposed cemetery based on ground investigation data, literature information and a number of reasonable assumptions.

This concludes that uncertainty and potential impacts on offsite groundwater quality related to Ammonium and Nitrate pollution from the proposed cemetery development could be minimised by applying the following mitigation measures:

- The spacing of burials to maximise dilution over the proposed cemetery
- Application of zeolite layer at the base of proposed burials to significantly increase attenuation and fix contaminant mass
- Remediation of former shafts/min workings by grouting or back filling with clean low permeability materials.

Site and Surroundings

The site area is 3.74 hectares.

The site is located in Rushall, a residential area one mile northeast of Walsall. In the past, the area was widely mined for coal and limestone. The site has also historically been used for horse grazing and latterly inert landfill. A branch of the Wyrley & Essington Canal (The Daw End Branch) bounds the site to the north. The site is located to the east of Lichfield Road (A461) which connects Rushall to Walsall in the South and Lichfield to the Northeast. Winterley Lane is an unclassified road. Between Bosty Lane and the canal bridge it has no segregated pedestrian provision and has a 20 mph speed limit with traffic calming measures in the form of speed humps. Winterley Bridge, a narrow bridge over the canal sits to the north west of the site with a 3 tonne weight limit.

The site is in the Green Belt and there is a Tree Preservation Order on trees near the front of the site (AB2/1960).

Relevant Planning History

17/0439 - To complete the infilling of mineshafts on site and restoration of the land to provide a natural burial ground – GSC 21-11-18.

Condition 24

24a) Prior to any increase in burials exceeding 50 per annum a revised transport statement and risk modelling to assess impact on the water environment shall be submitted to and approved in writing by the local planning authority.

24b) Any mitigation measures required by the Transportation Statement or the Environment Agency shall be carried out prior to burials exceeding 50 per annum.

Reason: To minimise the impact on neighbouring amenity, to protect the water environment and to accord with saved UDP policies GP2 and ENV40.

16/0769 - Change of use to create a cemetery/natural burial ground – Withdrawn 05/01/17

14/0191/WA - Infilling and capping of former limestone mine shafts using on site and imported inert fill processed using a crusher and screen to make engineered infill materials with a reduced scheme to protect the area of the former lime kilns and to restore the ground within 12 months to open space. – GSC 19/05/14

13/0652/FL - Fill and cap mine shafts including ancillary aggregate/waste recycling to produce materials suitable for reclamation of the site and treatment of shafts and voids, construct a temporary bund along the canal and restore original land levels to return the site to open grazing. Construction of new access and provision of temporary passing bays on Winterley Lane – Withdrawn 21/11/13.

09/0695/FL – Fill and cap collapsed mineshaft and restore original levels to an area in a field which has compressed due to previous mine workings – Granted subject to conditions 31/7/09.

05/0512/FL/E5 – Proposed alteration/extension to 2 no. Existing stabling units – 1 traditional construction, 1 cladding to existing frame – Withdrawn 20/12/07

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**

- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

It is considered that the development which takes account of the context of the land designation and past mining activities may not benefit people of all characteristics as set out in the Equalities act, however it is considered that it also does not disadvantage any of these character groups and for this reason is acceptable.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure

- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM1: Sustainable Waste and Resource Management
- WM2: Protecting and Enhancing Existing Waste Management Capacity
- WM3: Strategic Waste Management Proposals
- WM4: Locational Considerations for New Waste Management Facilities
- WM5: Resource Management and New Development

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV2: Control of Development in the Green Belt
- ENV4: Major Developed Sites in the Green Belt
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T1 - Helping People to Get Around
- T2 - Bus Services
- T3 - The Rail and Metro Network
- T4 - The Highway Network
- T5 - Highway Improvements
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking

- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC8: Local Community Facilities

Walsall Site Allocation Document 2019

GB1: Green Belt Boundary and Control of Development in the Green Belt
 EN1: Natural Environment Protection, Management and Enhancement

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Transportation – No objections to the amended proposals for a single burial per day. This amendment addresses the fundamental issues that the Highway Authority relating to possible conflicts with funeral traffic arising from two funerals per day.

Environment Agency – No objections to the variation of condition 24.

Bereavement Services – No objections to the number of burials at this private burial site. Council cemeteries can cater for up to ¾ burials in a day particularly at the 2 busiest sites at Willenhall and Streetly.

Council cemeteries have the following opening hours

January, November, December 8am to 4pm

February, October 8am to 5pm

March, April, September 8am to 6pm

May, June, July, August 8am to 7pm

Throughout the year the opening time is 9am on Saturday, Sunday and Bank Holidays.

Burials are permitted to take place seven days a week – with the exception of Christmas Day.

Pollution Control - No objections

Representations

It should be noted that all neighbours notified of the previous application and anyone who commented on the previous application were notified of this current application, in addition a number of site notices were posted within the vicinity of the site.

Original submission

One comment of support and 34 objections received in relation to the original submission for 2 Burials a day, as well notes of public meeting held 12-02-19 sent by Councillor Worrall and a petition of 36 signatures.

Amended scheme

One comment in support and 42 objections received in relation to the amended scheme for 1 burial a day in addition to comments from Wendy Morton MP and Councillor Rattigan on behalf of residents.

Objections to the original submission for 2 Burials a day:

Environmental and amenity issues

- Impact on health of local residents from increased traffic
- No work on site since approval in Nov 18, site not secure and poor appearance
- Derelict buildings on site set on fire
- 100's of people objected to the proposals, increase to 2 burials a day has aggrieved the local community
- Site target of vandalism
- Remediation works should be started, they wont start if still only 50 burials
- Pollution to water in surrounding areas, canal, lime pits
- Ridley school in close proximity
- Why is a burial site needed? Already 1 in Burntwood, away from the local community, no local need.
- Does this meet EIA Regulations
- Risk of water contamination from rotting bodies
- Risk to wildlife
- Will ground contamination be monitored?
- Always their intent to increase the numbers, will end up with something the size of Streetly Crem
- Was infilling material monitored, rubbish was used for infilling
- Land should be restored to previous
- All for financial gain for developer
- Detrimental impact on local school children
- States local support for burial ground, locals do not want it
- Photos in submission misleading
- Embalming fluids etc leak into water table, massive effect on wildlife
- Proximity to local school, children may see burials
- Already ground collapses in Bosty Lane, large numbers of burials could increase risk of another collapse
- Distress to local residents
- Residential area
- Property devaluation (*not a material planning consideration*)

Transport and Highway safety

- Increase in traffic in local roads which are already congested
- Concerns for pedestrians

- Narrow lane, single track, not capable for two way traffic, too small for the development
- Lane used as a short cut to Barns Lane
- Vast increase in traffic, the traffic assessment is out of date 2015, new survey needed
- New housing since traffic data
- Danger to pedestrians and route to local school and to bus stops in Bosty Lane
- Canal bridge narrow and weak, increase in traffic will make it worse, existing weight restriction on the bridge
- Increased traffic = increase in pollution
- Blind bend
- No footpath
- Surrounding roads will be affected
- Previous infilling work was a nightmare, mud on the road, large lorries etc
- Increase in traffic at weekends as well
- Insufficient on site parking leading to congestion in Winterley Lane, numbers of mourners under estimated, where will they all park if there's no room on the site? visitors to the site as well as funerals, added impact on the Green Belt
- Accident waiting to happen
- Street lighting?
- Road signs?
- State of the lane, who will fund repairs
- 40 Minute drive, not a local need, this includes Birmingham and Wolverhampton
- Need to investigate actual width of Winterley Lane
- Parking at Streety crem often onto the road
- Vibration from traffic/ vehicles
- Bad junction Bosty Lane/Winterley Lane, with football club opposite, match days very busy, accident waiting to happen.

Support to original scheme

- Natural burial would be an improvement to the existing eyesore on the site
- But it should be conditioned that Winterley Lane would be widened and re surfaced from Daw End Lane to the entrance.
- Activities on site should be carefully monitored.

Petition

- Inappropriate use of the land due to surrounding watercourses and flooded limestone workings underneath
- Winterley Lane cannot sustain the increased traffic

Summary of objections raised at public meeting on 12-02-19

- 2 burials a day would generate 200 plus vehicle movements a day over 70,000 per annum
- Increased traffic from funerals and future visitors adding to environmental and traffic impacts
- Large funerals can include more traffic than predicted and can include coaches, lane too narrow to accommodate
- No restrictions on numbers of vehicle for a funeral, where would additional vehicles park? In the lane?
- No footpath link for pedestrians, blind summit on bridge.
- Traffic figures from 2015, out of date
- Whilst there may be an advisory route from Daw End, there will be nothing to stop vehicles from the residential end of Winterley Lane, over the bridge, adding to existing congestion
- Serious and worsening all day congestion at surrounding road junctions, funerals will increase this and encourage rat runs along other routes, trying to avoid the area
- Existing pedestrians subject to more traffic and increased dangers
- Dangers for existing users of the lane from further infilling work, large vehicles and additional traffic damage to the character of the area
- Decaying corpses will cause contamination of water courses, mine shafts have not been adequately infilled to prevent this
- No evidence that existing infilling has been done safely
- Existence of busy burial ground in close proximity to a school and housing is not acceptable
- No community need for burial ground at this location
- 40 minutes' drive from the site is a big area and massively increases the number of burials
- Increase the saleability and prove of the site
- Applicants track record, destroyed the green belt and environment

Objections to amended scheme for 1 Burial a day:

Environmental and amenity issues

- When will the variations end? If approve this they will just come back for more, trying to wear down the planning procedures
- Unacceptable for one burial a week so not acceptable for 1 a day.
- Should be a field for grazing
- More pollution and noise
- Site needs to be returned to how it was, looks awful now
- Company making money from rubbish infill, want to know what was put in there, was this monitored?
- So much opposition to original application, why was it approved?
- Winterley Lane spoilt by all the lorries for the infilling work
- Health and safety implications from increased traffic
- Other sites are more suitable
- Constant fly tipping and anti social behaviour in Winterley Lane
- Residential area, not suitable for burial ground
- More consultation with local residents needed
- No work has started on site since approval

- Environmental impacts
- Site is an eyesore, infilling not completed
- Impact on the canal
- Impact on wildlife
- Not just the funerals there will be visitors to the site following burial
- Surrounding fields prime target for expansion of burial ground
- Increase in burials by 700%
- Natural water springs in the area, concerns about the impact of dead bodies as well as the infilling materials
- Increase in burials will mean an increase in toxicity of the site as bodies decompose and leak into the canal and adjacent land
- Failure to comply with previous approval for completion of infilling
- Should only apply for extra burials once burial ground up and running and a true assessment can be made once infrastructure is in place and infilling complete
- Bank holidays should be deleted, no burials
- Will the site be monitored to ensure full compliance, number of burials etc
- Proximity to local school
- Total disregard to local residents
- Infilled land not appropriate for final resting place

Transport and highway safety issues

- Winterley Lane is a single track road with no footpath, not wide enough for two vehicles to pass
- Traffic implications on the main road
- Increase in traffic, impact on local residents
- Winterley Lane is used as a cut through
- The narrow bridge won't be able to cope with the increase in traffic, already damaged, by large vehicles ignoring the weight limit
- Impact on pedestrians, particularly parents with young children using Winterley Lane
- Parking inadequate for funeral cars
- Already a busy road, particularly at school in and out times and peak am and pm times
- The application should include a new bridge
- Transport report out of date, used traffic figures for 2015, significant increase in traffic since then
- Winterley Lane is in a poor state of repair from lorries for infilling and increase in traffic
- 40 minute drive time includes Birmingham, Wolverhampton and Lichfield, not local demand
- No guarantee traffic will come in from Bosty Lane
- If large funeral may be coaches
- Inadequate parking on site

Support to amended scheme:

- If it means the site will get cleaned up, give them the go ahead.

Determining Issues

- **Whether the proposed Variation of the condition 24 is acceptable in terms of highway safety and the water environment.**
- **Objections from neighbours**
- **Changes to the NPPF since previous approval**

Determining issues from previous approval (17/0439) that remain unchanged

- **Principle of Development**
- **The Character and Openness of the Green Belt**
- **Neighbouring Amenity**
- **Pollution**
- **Archaeological Considerations**
- **Canal**
- **Land Stability**
- **Ecology**
- **Parking and Access**
- **Environmental Impact Assessment (EIA) Screening Opinion**

Assessment of the Proposal

Whether the proposed variation of Condition 24 is acceptable in terms of highway safety

Transportation have confirmed that they agree with the data and findings within the submitted Transport Statement.

The Transport Statement looked at the worst case traffic flows associated with 2 burials per day. The report concludes that the flows generated by the site are likely to be relatively minor compared with the flows already generated by the existing residential areas adjacent to the Winterley Lane site.

Signed access via Bosty Lane only would ensure that additional demand placed on Winterley Bridge to the north west of the site is minimised.

The site is within walking distance of local bus services and whilst this section of Winterley Lane has no designated footpath, the route is already used by pedestrians. The approved scheme does provide for improvements to the verges and carriageway channels that should assist pedestrians choosing to walk this route.

Whilst objectors are concerned about insufficient parking at the site that may result in obstruction of Winterley Lane, Transportation are satisfied that the approved scheme provided sufficient off street parking to meet the needs of the development (50

spaces including 2 disabled spaces), based on the data provided in the Transport Statement from other burial sites in the country.

The restriction of burials to between 1000 and 1500 hours would have no impact on the existing peak hour traffic movements along Winterley Lane.

The report considers data from 12 other existing burial ground sites and a 3 week survey of traffic movements took place at an existing large cemetery site in Hertfordshire.

The Transport Statement looked at the worst case scenario for 2 burials per day, the scheme has now been amended to 1 burial a day (Mon – Sat), resulting in less of an impact.

Whilst objectors are concerned at the 2015 used in the Transport Statement, natural burial grounds are a relatively new concept and therefore there will be little if any trips survey data on the TRIC's database. TRIC's is an industry recognised system of trip generation analysis containing 1000's of transport surveys across over 100 types of developments. It allows users to ascertain potential levels of trip generation across user defined development scenarios. Therefore the Transport Statement utilises their own traffic survey data which, it is accepted, was taken on Winterley Lane in 2015. The Highway Authority considers that any increase traffic on Winterley Lane since 2015, if any, would be minimal and would likely be mainly in peak traffic periods not when the burial ground is operating. Recognising the lack of TRIC's data for robustness, additional survey data from similar burial grounds including Welwyn Cemetery was supplied by the applicant to supplement the TRICS data to try to establish the most realistic trip analysis as possible. This was accepted by the Highway Authority. Indeed the additional 2016 actual survey data resulted in an increase in parking provision on site over that on the original submission.

It is considered that in road safety terms one funeral per day within restricted hours would not have unacceptable road safety implications and would not have severe cumulative highway impacts, taking into account trips to and from the site from people arriving by foot, car and public transport.

Para 108 of the NPPF 2018 states specific plans for development should ensure *'safe and suitable access to the site can be achieved for all users'* and that, under para 110, applications for development should *'give priority first to pedestrian and cycle movements, address the needs of people with disabilities and reduced mobility, create places that are safe and secure and attractive which minimise the scope for conflicts between pedestrians, cyclists and vehicle movements, allow for the efficient delivery of goods and access by service and emergency vehicles'*.

Para 109 of the NPPF 2018 states that '*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'.

It is considered that the proposals to amend Condition 24 to allow 1 burial a day would comply with the NPPF.

Whether the proposed variation of Condition 24 is acceptable in terms of the water environment

The Environment Agency have confirmed that the detailed quantitative risk assessments undertaken to support the application adequately demonstrates that it is possible to safely accommodate an increase in the number of annual burials on this site.

The modelling undertaken was conservative and the outcome shows there was plenty of pollution attenuation and degradation likely to occur to avoid off-site contamination. In addition to this, the site setting is not highly sensitive, with the adjacent canal not considered in continuity with the groundwater and the underlying aquifer itself being of little value and use (Coal Measures strata).

It is also recognised that green (natural) burials tend to cause less impact to the surrounding environment (no embalming, single depth burial only, low density and vegetation to aid pollution attenuation). The maximum spacing of the burials will further reduce any environmental impacts of the proposals.

The Environment Agency have raised no objections to the proposals in terms of its impact on the water environment.

Objections from Neighbours

A number of the objections raised by neighbours relate to the previous infilling works carried out at the site and the principle of the use of the site as a natural burial ground. The principle of the use has already been established under the previous consent (17/0439) and does not therefore form part of this application, which is for the variation of condition 24 only, to allow for an increase in burials at the site from 50 per annum to 1 a day (Mon – Sat only).

It should be noted that despite the number of objections on any planning application, the Planning Authority are required to determine the proposals based on both National and Local Planning Policy.

Responses to objections relevant to this current application are provided in italics below.

Objectors have concerns about the increased number of funerals and the increase in traffic on the existing lane, which they consider is too narrow – *Transportation are happy with the projected figures on traffic flows provided and the data provided for other burial sites around the Country to be satisfied that the proposals for 1 burial a day within off peak hours would not have unacceptable road safety implications and would not have severe cumulative highway impacts.*

Insufficient parking – *The approved layout includes 50 parking spaces (inc 2 disabled spaces) which is considered appropriate to meet the needs of the development and in line with the data and surveys within the Transport Statement.*

Large funerals may include coaches – *This would be the same for any cemetery site or burial ground, which are unlikely to be able accommodate such a large vehicle. It is considered impractical and unnecessary to design the natural burial ground based around the turning circle of a coach in what is very likely to be a rare occasion if at all. The operators of the cemetery could easily advise funeral organisers that such vehicles should be not be utilised. On the rare occasion this may happen any coach would to reverse into the entrance to drop off and turn to leave in the same direction and collect again after the funeral. This issue was assessed at the time of the original application, the increase in the number of funerals to one a day is unlikely to affect this.*

The resultant increase in traffic will lead to additional pollution and noise and health and safety implications – *The proposals are unlikely to create a significant increase in traffic over the existing traffic volumes at peak times in the surrounding area.*

Appearance of the site and Winterley Lane from the infilling work, vandalism and fly tipping – *If the applicant fails to implement the remainder of the infilling works under consent 17/0439, then the Council has powers to take action against untidy sites where warranted through a Section 215 Notice.*

No work has started on site since the previous approval – *The applicant has three years to implement the consent under 17/0439, which was granted on 21st November 2018, they therefore still have just over two years to implement the consent. If this current application is approved, it would sit alongside the existing consent and the developer would have the option to implement either. Condition 2 on 17/0439 requires the developer to complete the infilling works within 48 months from the date of commencement.*

The applicant should only be allowed to have an increase once the burial ground is up and running, when will these variations end? – *The Planning Authority has no control over when an applicant makes an application, but are obliged to determine any application submitted.*

Environmental impacts – *It is considered that the increase in the number of burials proposed would have no additional impact on the local environment, the overall capacity of the site would remain unchanged.*

Monitoring of activities on site – *The applicant is required to keep record of the infilling materials and process and the Environment Agency is responsible for the monitoring of the site during the infilling works.*

Disregard to local residents by developer – *Conditions are included in the previous approval that relate to the management of the site and hours of working on site. The proposed amended condition would restrict the days and hours of burials and times for visitors in order to reduce any impact on local residents.*

The surrounding field's prime target for expansion of the burial ground – *Any further expansion of the burial ground would require planning consent and would be considered under both National and Local Planning Policy.*

Changes to the NPPF since previous approval.

It should be noted that since the previous approval in Nov 2018, the NPPF has been amended (Feb 2019). In the new NPPF Para 146 which defines development that is not inappropriate development in the Green Belt has been amended, part e) now includes cemeteries and burial grounds.

Cemeteries and burial grounds and the buildings that would provide appropriate facilities to serve the use is now not regarded as inappropriate development in the Green Belt providing they preserve the openness and do not conflict with the purpose of including the land within it.

Conclusions and Reasons for Decision

The principle of a natural burial ground at the site was approved under the previous application 17/0439. Whilst the number of burials were restricted to 50 per annum, condition 24 of the approval confirmed that the applicant would need to provide an updated Transport Statement and risk modelling to assess the impact on the water environment to justify any increase in burials.

Having taken into consideration the data provided in the submitted Transport Statement including survey details for other similar burial sites around the Country, it is considered that in road safety terms one funeral per day within restricted off peak hours would not have unacceptable road safety implications and would not have severe cumulative highway impacts over that of the existing consent. The proposals comply with the NPPF and Policy GP2 of the UDP.

The Environment Agency have confirmed that the detailed quantitative risk assessments undertaken to support the application adequately demonstrates that it is possible to safely accommodate an increase in the number of annual burials on this site without any adverse impact on the water environment, in compliance with Policy ENV40 of the UDP.

The submitted data supports the proposals to increase the number of funerals at the natural burial ground from 50 per annum to 1 per day within restricted off peak hours and Monday to Saturday only.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised by Transportation to two burials a day the application has been amended to 1 burial a day to enable full support to be given to the scheme.

Recommendation

Grant permission subject to conditions

Conditions and Reasons

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

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

2a) The permitted period of time for the infilling operation shall be limited to 48 months from the date of commencement. Written notice of the date of commencement shall be given to the local planning authority within seven days of such commencement.

2b) The mineshaft infilling operation shall be completed prior to the use of the site as a natural burial ground.

Reason: To ensure the works do not continue indefinitely in the interests of neighbouring amenity and to comply with saved UDP policies GP2 and ENV10

3) This development shall not be carried out other than in conformity with the following plans and documents: -

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Location Plan received 30/03/18
Entrance Detail Plan received 30/03/17
Drainage Layout Plan received 30/03/17
Detailed Landscape Proposals received 30/03/17
Shaft Location Plan received 25/10/17
Shaft Capping as Built Details received 25/10/17
Amended General Site Layout (CDS_DCY_WIN_02 rev09) received 16/10/18
Planning Policy Statement received 18/05/17
Transport Statement by Alpha Consultants dated December 2018 submitted 27/12/18.
Supporting Statement received 30/03/17
Road and Car Park Soakaway Design received 30/03/17
Pollutant Impact Assessment received 30/03/17
Updated Pollutant Impact Assessment by LMB Geosolutions Ltd dated 18-12-18, submitted 21-12-18
Further Comments by LMB Geosolutions Ltd dated 08-02-19, following assessment of 18-12-18, submitted 22-02-19.
Planning Statement received 18/05/17
Addendum to Planning Statement submitted 21/12/18
Outline Landscape Proposal 30/03/17
Land Visual Impact Assessment received 04/05/17
General Design Statement received 18/05/17
Flood Risk Assessment received 30/03/17
Extended Phase 1 Habitat Survey received 30/03/17
Ecological Assessment received 30/03/17
Design and Access Statement received 30/03/17
Design and Access Statement and Sustainability Statement received 30/03/18
Biodiversity Mitigation Enhancement and Management Plan received 04/05/17
Bat Survey received 30/03/17
Archaeology Desk based Assessment received 04/05/17
Shaft Capping Input log received 25/10/17
Imported Material Log received 21/12/17
General Site Layout received 30/03/17
Tree Plan received 30/03/17
Mitigation, enhancement and management plan received 04/04/18.

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

4a) Prior to the commencement of the development, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority with the following details:

- 1) the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development;
- 2) measures to control the emission of dust and dirt during restoration;
- 3) details of protective measures (both physical measures and sensitive working practises) to avoid impacts during restoration;
- 4) A timetable to show phasing of restoration activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons);
- 5) Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation
 - iii) Installation of physical protection measures during construction;
- 6) Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction
- 7) Provision of training and information about the importance of Environmental protection measures to all construction personnel on site.
- 8) Details to demonstrate that any proposed earthmoving, excavations, or other operations can be safely carried out without adversely affecting the stability of the adjacent canal.
- 9) Details of the proposed bund to the canal along with associated drainage infrastructure, measures to protect the canal infrastructure including any bank protection, and details on the removal of the bund following completion of the mineshaft infilling works

4b) The works hereby approved shall be completed in accordance with the approved methodology.

Reason: In order to protect the structural stability and water quality of the canal in accordance with Paragraphs 178 & 179 of the NPPF, saved UDP Policy ENV40 of the Walsall UDP and Policy ENV4 of the adopted Black Country Core Strategy

5a) Prior to the development first coming into use, the internal access road and all parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain and the parking bays clearly demarcated on the ground.

5b) These areas shall thereafter be retained and used for no other purpose.

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

6a) Prior to the commencement of the development details of surface water drainage including measures to mitigate water from entering the canal shall be submitted to and agreed in writing by the Local Planning Authority.

6b) The development shall be completed in accordance with the agreed details and maintained thereafter.

Reason: To ensure that surface water from the site is disposed of in a safe and appropriate manner in order to protect the integrity of the waterway structure and water quality in accordance with saved Policy ENV40 of the Walsall UDP and Policy ENV4 of the adopted Black Country Core Strategy.

7a) Prior to commencement the applicant will secure the implementation of a programme of archaeological evaluation in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority.

7b) Prior to commencement the applicant will secure the implantation of a programme of archaeological mitigation of impact in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority.

7c) Following completion of archaeological fieldwork a report/reports will be produced in accordance with an approved programme including where appropriate post-excavation assessment, specialist analysis and reports, publication and public engagement.

Reason: To ensure the conservation, protection and enhancement of the archaeological heritage of Walsall and to comply with UDP policy ENV25 and ENV26

8a) Prior to the commencement of any earthworks the methodology detailed in paragraph 4.3.3 of *the Project Design for an Archaeological Watching Brief 2014* shall be carried out.

8b) The project will be monitored by the Archaeological Officer (AO) on behalf of the Local Planning Authority. (At least five working days notice for the commencement of development will be given to the AO).

8c) A report of the findings will be submitted to and approved by the AO for approval prior to remediation being carried out.

8d) On completion of the remediation work the results and all finds recovered will be analysed and an illustrated report shall be produced to include:

- Location, aims and methodology
- A written summary of the findings together with appropriate illustrations, which should be related to the national grid. Levels should be related to the Ordnance Datum.
- An analytical summary of features and deposits, including an annotated survey plan showing identified geophysical anomalies potentially representative of archaeological features.

8e) Copies of the report shall be presented to the Local Planning Authority and the Walsall Local History Centre. A digital copy will be lodged with the Black Country Sites and Monuments Record. Arrangements for deposition of finds and records will be agreed with Walsall Museum and Walsall Local History Centre and an OASIS record will be completed and a summary report should be sent for publication in West Midlands Archaeology and any other appropriate local or national archaeological journal.

Reason: To ensure the conservation, protection and enhancement of the archaeological heritage of Walsall and to comply with saved UDP policies ENV25 and ENV26

9) The methodology agreed under 14/0191/WA condition 8b for the cleansing of vehicle wheels before they exit onto the highway with the Local Planning Authority, shall be continued and maintained throughout the remaining duration of the infilling and restoration work.

Reason: To protect the adjacent highway and in order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety and in accordance with saved UDP policy T4.

10) The advanced site access warning signs on Winterley Lane, agreed under 14/0191/WA condition 11a (iv), shall be retained throughout the remaining duration of the infilling and restoration works and removed thereafter.

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with saved UDP policy T4.

11) The location of parking for site operatives and visitors within the application site, agreed under 14/0191/WA, shall be retained, maintained and kept available throughout the remaining duration of the infilling and restoration works.

Reason: To protect the adjacent highway and in order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety and in accordance with saved UDP policy T4.

12) The infilling works hereby approved shall not be carried out other than in accordance with the following requirements:

- All records shall be kept strictly in accordance with the original Environarm's Method Statement and Working Plan Ref: EL/MAD/IRWP/1.00/2014
- The applicant shall notify the Local Planning Authority by contacting Engineering and Transportation Services (Mr Mo Rahimi, Tel: 01922 654655, email mo.rahimi@walsall.gov.uk) for arranging an appointment for the inspection of the infilling work, the first of which shall be the starting date for the approved the infilling work. A notice of 24 hours shall be given for the inspection.
- The applicant shall submit quarterly statements from the date of approval for the previous phase to update the Local Planning Authority on the progress of the infilling work. The quarterly statements shall include a summary of the loads imported cross referenced to the source site reports/chemical testing results.
- Stage completion reports shall be submitted at the end of each phase of the work as shown on Drawing ESID 8 of the Enviroarm Method statement
- The applicant shall submit a quarterly statement of monitoring of the settlement of the infill material in the treated shafts

Reason: To ensure the satisfactory stability of land and to accord with saved UDP policies GP2 and ENV14.

13a) Prior to vehicles entering the site to perform the infilling works, details shall be provided to and approved by the Local Planning Authority which demonstrate a sufficient quantity of water is available on-site for suppressing dust and clean vehicle wheels on a daily basis prior to works commencing.

13b) The approved water quantities available for use at the site shall be maintained through the infilling works.

Reason: To ensure the satisfactory completion of the development and protect residential amenities of surrounding occupiers in accordance with the saved UDP policy GP2.

14a) Prior to the creation of any stockpile of material in relation to the infilling works a plan shall be submitted to and approved by the Local Planning Authority of the location.

14b) Material stockpiles shall not exceed 4 metres in height.

Reason: To protect the residential amenities of surrounding occupiers and to comply with saved UDP policy ENV32.

15a) Prior to the development first coming into use, full engineering details of the reconstructed passing bays on Winterley Lane together with the closure of the existing northerly access and conversion into a passing bay shall be submitted to the Local Planning Authority for technical approval in writing. The details shall include layouts and alignments, widths and levels together with all necessary drainage arrangements and run off calculations and details of appropriate Passing Bay signing and lining details.

15b) Prior to the development first coming into use, the passing highway infrastructure works detailed above shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Highway Authority.

Reason: To ensure the satisfactory completion and operation of the public highway, to improve accessibility to the site and in the interests of highway safety and in accordance with saved UDP policy T4.

16a). Prior to the commencement of the development full details and the locations of traffic warning signs to be installed in Winterley Lane to warn motorists that there may be pedestrians in the road ahead and to be installed at the junction of Winterley Lane and Bosty Lane and Winterley Lane to indicate the main vehicular route to and from the cemetery, shall be submitted to and agreed by the Local Planning Authority.

16b) The approved signage shall be installed prior to the commencement of the natural burial ground use.

Reason: In the interests of highway safety on the grounds that the development may intensify pedestrian movements along Winterley Lane where there is no segregated footway provision and in accordance with saved UDP policy T4.

17) A 2.4m x 25m minimum visibility splay in both directions shall be maintained at all times at the site entrance, within which a visibility envelope of between 600mm and 2000mm above carriageway level shall be kept clear of any structure or vegetation.

Reason: To ensure adequate inter-visibility at the site access based upon a 20mph speed limit, in accordance with saved UDP Policy GP2 and in the interest of highway safety and in accordance with saved UDP policy T4.

18a) The development hereby approved shall not proceed otherwise than in accordance with detailed landscaping plans which have been submitted to and approved in writing by the Local Planning Authority. The details shall provide for planting details and timetable for implementation for planting to the proposed bund to the canal boundary and site following restoration and prior to the commencement of the use as a burial ground.

18b) Any plants which within a period of 5 years die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area and biodiversity of the waterway corridor in accordance with Policy ENV4 of the Black Country Core Strategy.

19) All plant, machinery, hard standings and haul roads which are required for the infilling works and do not form part of the approved details for the natural burial ground, shall be removed from the site within 3 months of the cessation of landfill operations.

Reason: To protect the character and openness of the Green Belt and visual amenities of the area in accordance with saved UDP policies ENV2 and ENV32.

20) No works, (including, land reclamation, stabilisation, preparation, and deliveries etc.), shall take place on any Sunday, Bank Holiday or Public Holiday*, and Site operations shall not be conducted between the hours 1800 and 0700 Monday to Saturday or after 1300 on Saturdays, with the material processing activities not taking place between 1600 to 0800 Monday to Saturday or after 1200 on Saturdays.

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

Reason: To protect the residential amenities of surrounding occupiers in accordance with saved UDP policy GP2.

21) Noise from the application site, either individually or cumulatively, shall not exceed 55 dB (A) LAeq,1h (free field) and 5 dB(A) above background levels 1 metre from nearby sensitive premises.

Reason: To protect the residential amenities of surrounding occupiers in accordance with saved UDP policy GP2.

22) No burials shall take place other than in accordance with the following:

- Burials shall be a minimum of 250m from a potable groundwater supply source;
- Burials shall be a minimum of 30m from a watercourse or spring;
- Burials shall be a minimum of 10m from field drains;
- Burials shall have at least 1m of subsoil below the base of the grave

- Burials shall not take place into standing water and the base of the grave must be above the local water table.

Reason: To protect the quality of Controlled Waters in the local area and to comply with saved UDP policy ENV40 and to ensure that the proposed works do not have any adverse impact on the stability of the canal and therefore protect the integrity of the Daw End Canal in accordance with Paragraphs 178 & 179 of the NPPF.

23) The proposed bat and bird boxes, reptile log pile shelters shall be carried out in accordance with the submitted biodiversity, mitigation, enhancement and management plan received in the 04/05/17.

Reason: To ensure the satisfactory restoration of the site in the interests of nature conservation and to comply with saved UDP policy ENV23

24a) No more than 1 burial shall take place per day.

24b) No burials shall take place outside the hours of 10am to 3pm Monday to Saturday.

24c) No burials shall take place on Sundays or Bank/Public Holidays

24d) The natural burial site hereby approved shall not be open to visiting members of the public outside the hours of 8am to 5pm Monday to Sunday.

Reason: To minimise the impact on neighbouring amenity, to protect the water environment and to accord with saved UDP policies GP2 and ENV40.

25) Graves shall only be marked with wooden plaques.

Reason: To minimise the impact on the openness of the green belt and to accord with saved UDP policies ENV2 and ENV32.

Notes for Applicant

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

2. The applicant will be expected to enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway.

3. Traffic warning signs shall be in accordance with the Traffic Signs Regulations General Directions 2016

The applicant/developer is advised to contact Works Engineering Team (0303 040 4040) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

The infilling of (flooded) mine entries and workings associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted. Additional 'Environmental Permitting Guidance' can be found at: <https://www.gov.uk/environmental-permit-check-if-youneed-one>

The Agency needs to compile reports to meet DEFRA high level targets and consequently a copy of the required decision notice should be forwarded following determination of the application.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 28-Nov-2019

Plans List Item Number: 2.

Reason for bringing to committee: Major application.

Location: LAND AT FORMER DEELEYS TRADING ESTATE, LEAMORE LANE, WALSALL, WS2 7BP

Proposal: USE OF THE SITE FOR VEHICLE STORAGE ASSOCIATED WITH THE EXISTING VEHICLE AUCTION BUSINESS, CUSTOMER CAR PARKING, DRAINAGE INFRASTRUCTURE, RESURFACING WORKS, VEHICULAR ACCESS, SECURITY FENCING, SECURITY LIGHTING, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE.

Application Number: 18/1554

Applicant: British Car Auctions Limited

Agent: Mr Nigel Pugsley

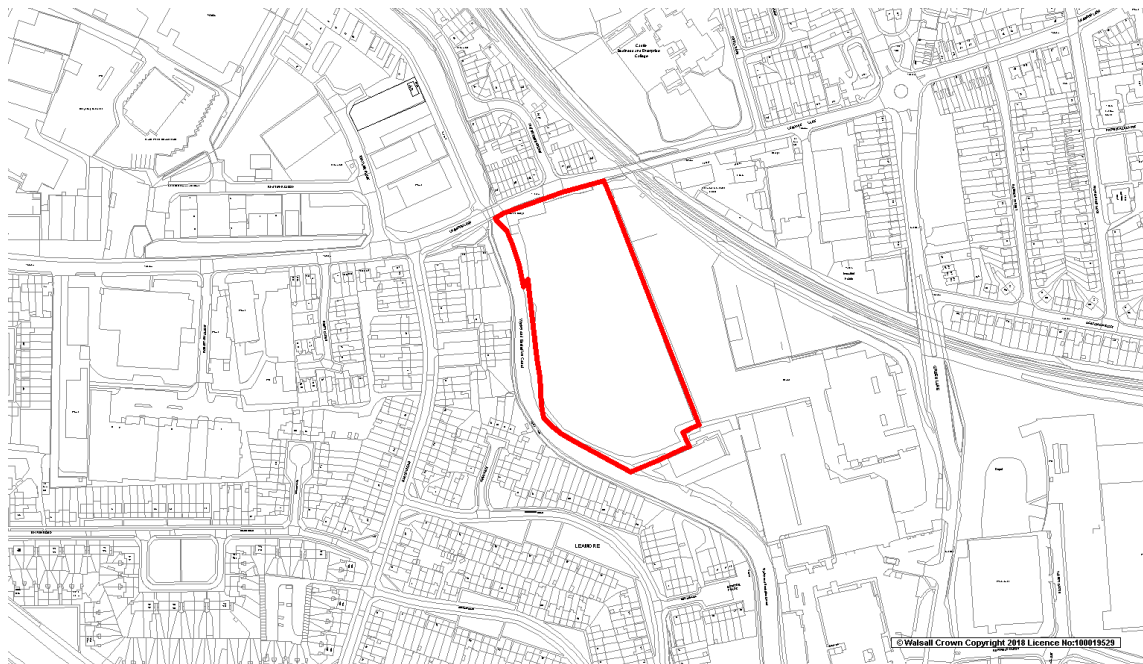
Application Type: Full Application: Major Use Class Sui Generis

Case Officer: Alison Ives

Ward: Birchills Leamore

Expired Date: 07-Mar-2019

Time Extension Expiry:



Recommendation Summary:

1. Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure a commuted sum towards provision and maintenance of a signalised junction at Leamore Lane/Water Reed Grove and subject to:
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;

The proposal is for use of the site for vehicle storage associated with the existing vehicle auction business, customer car parking, drainage infrastructure, resurfacing works, vehicular access, security fencing, security lighting, landscaping and associated infrastructure.

The site is 2.6 hectares and is currently vacant site.

The proposed drawings indicate 807 new stock parking area, 156 new customer parking area, 5 new trailer parking area, 50 new VIP parking areas. Pedestrian access through the site is indicated linking the parking areas to the auction centre building on the adjoining site. New security fencing is included along the boundaries of the site and existing security fencing between the existing stock parking area and proposed new extended area removed. A retaining wall along the access is proposed for a length of approximately 20metres.

The scheme has been revised since first submission and now includes provision of a signalised junction to Leamore Lane/Water Reed Grove junction which will be secured by a Section 106 Agreement for a commuted sum to cover the cost of delivery of these off-site highway improvements.

A new customer access to the site will be to the west of the signalised junction on Leamore Lane and returns into the site along the western boundary with the canal.

A 10m stand-off from the canal is proposed to be left undisturbed. The areas at the front of the site between the access and canal and parking spaces and the highway are to be improved with wildflower seeding.

Commercial traffic and transporter vehicles will utilise the existing Green Lane access and loading and unloading vehicles will take place within the existing site to the north of the auction building.

There are 60 full-time employees proposed.

A Planning, Design & Access Statement has been prepared that describes the site and surroundings, relevant planning history, proposed development, policy context and the developer's planning assessment and consideration of design and access matters. It concludes the proposals support an existing business in the borough, utilises the land for employment and accords with planning policies.

The **Transport Assessment** concludes the site is sustainable with good access to and from the site and connections to the cycleway and footway network plus frequent bus routes nearby and will not have a severe impact on the highway network.

The **Flood Risk Assessment and Drainage Strategy** confirms the site is in Flood Zone 1 with low probability of flooding. The drainage strategy incorporates SuDS features. No foul drainage is required.

The **Arboricultural Impact Assessment and Pre-Development Arboricultural Survey**– confirms there is no TPO on the site neither is it within a conservation area so trees on site are not protected. The trees along the western boundary of the site are to be retained but a hedge between the current car auction site and proposed extension removed and some self-set trees within the proposed new parking areas. The hedge is considered low retention value and the self-set trees have limited future potential. Groups of trees labelled G1 (south of the site) may need pruning. Root protection zones are recommended around retained trees. Conditions to protect root protection areas and achieve new planting are recommended plus precautions to protect retained trees during construction.

The **Reptile Survey** identifies a survey was undertaken between Sept and October 2018. There is suitable habitat for reptiles on site in the form of an extensive area of semi-improved neutral grassland with pockets of dense scrub and tall ruderal. The canal also offers foraging and commuting opportunities for reptiles. No reptiles were recorded on site but it is recommended that site clearance should be undertaken in a precautionary manner with an ecologist present.

The **Preliminary Ecological Appraisal** identifies that a walkover survey was carried out on 31st August 2018. Recommendations are made to secure precautions to protect wildlife and ecology.

The **Noise Impact Assessment** highlights the existing noise environment is dominated by traffic on the surrounding road network. A baseline survey was undertaken and the noise assessment indicated the proposed extension to the car park would not give rise to noise levels exceeding BS8233 at the most exposed receptors with windows open. Also that on sales days noise levels could increase up to 1dB(A) at the nearest receptors which would be imperceptible. The proposals are unlikely to give rise to adverse noise impact.

The **Air Quality Assessment** concludes that the additional traffic generated compared to thresholds in the SPD on Air Quality require Type 1 and Type 2 Mitigation including: EV charging points, travel planning, differential parking charges, public transport subsidy for employees, improved segregated cycle path linkages, additional trees and landscape features, encourage walking, fleet operations to

reduce emissions and maintenance of commercial vehicles, use of ultra-low fleet service vehicles and eco driver training for drivers of commercial vehicles.

The **Contamination Risk Assessment** advises there are no significant risks from land contamination and no remediation is necessary. Appropriate permeability testing within the natural soils is recommended.

The **Coal Mining Risk Assessment** identifies that risk is low to moderate. The risks identified are potential presence of unrecorded shallow mine workings and possibility of the presence of unrecorded and untreated mine entries. Professional advice should be sought if unexpected ground conditions arise.

The **Lighting Assessment** states new lighting will be required for vehicular and pedestrian safety. Potentially significant effects from the operation phase lighting on residential and wildlife/habitat receptors can be managed to create minimal night-time impact. The overall impact will be negligible.

The **EIA Screening Opinion** describes the site and potential impacts and summarises that the proposed development is not likely to generate significant environmental effects.

Site and Surroundings

The site is to the south of Leamore Lane and lies between the railway and Wyrley & Essington Canal. The applicant currently occupies the adjacent site as a vehicle auction centre. There is housing surrounding the north, south and western boundaries of the site separated from the site by the highway and canal. The eastern boundary adjoins the existing auction site and beyond this are further employment areas.

Relevant Planning History

07/1362/FL/W2 - Erection of 102 dwellings and associated infrastructure including a balancing pond – Planning Committee March 2008 resolved to grant permission subject to conditions and a S106 Agreement to secure public realm improvements. The S106 has never been completed so permission never issued.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning

system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act ’) sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design

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- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- EMP1: Providing for Economic Growth
- EMP3: Local Quality Employment Areas
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

IND3: Retained Local Quality Industry
 LC5: Greenways
 EN3: Flood Risk
 EN4: Canals
 M1: Safeguarding of Mineral Resources
 T4: The Highway Network
 T5: Highway Improvements

Supplementary Planning Documents

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species

- NE3 – Long Term Management of Mitigation and Compensatory Measures
Survey standards

- NE4 – Survey Standards
Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW9(a) Planning Obligations and Qualifying development

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Archaeology – No archaeological implications for the proposed development.

Canal & River Trust – No objections subject to conditions to protect the Wyrley & Essington Canal. Conditions included for construction management, drainage, landscaping, boundary treatment and lighting are recommended.

Coal Authority – No objections.

Environment Agency – No objection subject to a condition to secure remediation for any contamination found on site.

Fire Officer – No objections. Comments made regarding carriageway width and water supplies.

Housing Standards – No comments.

Local Flood Authority – No objection subject to conditions to secure flood risk measures as highlighted in the FRA/Drainage Strategy.

Natural England – No comments. Standing advice given.

Policy – No objections. The SAD policy IND3 (Retained Local Quality Industry) allocates and safeguards the site as vacant potential local quality site reference IN328. The policy states that the provisions of BCCS Policy EMP3 will apply. Policy EMP3 supports various uses including those for the motor trade including car showrooms, garages and vehicle repair.

Pollution Control – No objections subject to a condition to secure electric vehicle charging to enhance air quality.

Public Health – No objections in principle. Consideration should be made to noise, lighting and tree protection and health/wellbeing on residents nearby. Also consider potential increases in transport/congestion, electric vehicle charging and sustainable travel options.

Transportation – No objections subject to securing implementation of the signalised junction at Leamore Lane, consolidation of parking and manoeuvring areas, protection of visibility splays at the new entrance, maintenance of the vehicle unloading area free from other parking and signage to direct visitors to the correct access. A Section 106 Agreement will be required to provide a commuted sum of £55,582.33 to cover 15 year maintenance period for the signalised junction.

Wildlife Trust – No objections. The proposal incorporates sufficient mitigation to avoid potential impacts on the Wyrley and Essington Canal SLINC. These measures should be secured by condition.

Representations

Thirteen objections received summarised as follows:
(Officer comments in italics)

- Extra traffic in high risk accident area
- Highway and pedestrian safety particularly children
- Traffic congestion particularly at peak times
- Traffic speeds
- Adequacy of parking, loading and turning
- Increased parking in the vicinity of the site
- Concern about overspill parking in Water Reed Grove

- Poor visibility at access
- Traffic safety during flooding episodes
- Increased pollution from traffic
- Increased noise and disturbance to residents
- Increased disturbance from noise when windows open
- Pedestrian paths too narrow
- Pedestrians at high risk from commercial traffic
- Lack of notification of the application (*the application has been publicised in accordance with statutory legislation and further consultations underway*)
- Devalue homes (*not a material planning consideration*)
- Prefer housing development (*this is not the current proposal*)
- Query what amendments are (*these are shown on the amended drawings available to view online*)

Further consultation on amended plans has been carried out and expires after committee hence the recommendation to delegate the decision subject to expiry of the consultation period amongst other matters.

Determining Issues

- Principle of Use
- Access and Parking (including S106 Agreement)
- Relationship to Neighbouring Properties
- Impact on canal corridor and SLINC
- Ecology/Trees
- Ground Conditions (contamination/coal/drainage)
- Environmental Impact Assessment Screening

Assessment of the Proposal

Principle of Use

The site is allocated in the SAD for retained local quality industry, specifically site IND328. The policy states the provisions of BCCS policy EMP3 will apply on this site. This policy states such areas will be safeguarded for various uses, one of which includes for the motor trade, including car showrooms, garages and vehicle repair. The proposed use for the motor trade is in keeping with this allocation and is therefore welcomed in accordance with the policy.

The expansion of the existing car auction business allows for an existing employer to invest in Walsall Borough and boost the economy.

The proposal accords with SAD policy IND3.

Access and Parking (including S106 Agreement)

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The proposal includes a new four arm signalised junction at Leamore Lane/Water Reed Grove. This has been included following discussions with the Transportation officer. It will improve safety at the junction, particularly given the location of the access between two bridges where there is presently limited visibility. The junction improvements include a right turning lane into Water Reed Grove. Additional neighbour consultations are being undertaken to ensure all residents of Water Reed Grove are aware of the proposals given this change.

The developer has agreed to provide a commuted sum to cover the cost of operation and maintenance of the traffic light controlled junction for 15 years which equates to £55,582.33. This will be secured by a S106 Agreement.

The parking provision and layout within the site is considered adequate to cater for the proposed development without causing a severe impact on the highway. The Transport Assessment and addendum cover these matters.

The Transportation officer notes that presently the British Car Auctions site comprises about 32,600m² including auction house buildings with offices and ancillary facilities totalling around 5,400m². The rest of the site comprises hard standing for the storage of stock, visitor parking, staff parking and deliveries. Access for both customers and vehicle deliveries is taken from the A34 Green Lane. Also that smaller auctions are currently held on Tuesdays (10:00 – 18:30) and larger auctions on Thursdays (12:00 – 18:30) each week and typically attract 150 customers. Outside of auction days the site generates trips associated with staff activities and deliveries of cars for auction by either transporter or individual vehicles. The site currently takes delivery of between 80-100 vehicles per day, comprising around 10 large transporter lorries, as well as around 10-30 single car movements.

The proposed development includes a vehicle access for customers from Leamore Lane, comprising about 23,500m² hard standing area for up to 830 vehicles (stock for auctions) and new customer car parking for up to 211 vehicles. As part of the expansion, the existing visitor car parking on the site is to be relocated onto the proposed development site. The existing visitor parking area will become a dedicated turning and unloading area for large car transporter vehicles and deliveries. This is a key health and safety improvement on the site, ensuring that customers and large vehicles have a minimal chance of interaction. All HGV deliveries will continue to be taken from the existing BCA access on the A34 Green Lane.

Many of the resident objections relating to additional traffic, traffic speeds, highway and pedestrian safety, visibility at the access, parking and congestion in the area as a result of the proposals have been addressed in the design including the provision of the traffic light controlled junction and provision of parking on site to accommodate the proposed use. The supporting evidence demonstrates the proposals will not

have a severe impact on the highway with these measures in place. Although there have been accidents in the area in the past the measures will improve safety in the area.

In terms of the adequacy of parking, loading and turning, the commercial traffic will utilise the existing Green Lane entrance as existing but with the added advantage that additional space will be freed up for unloading large transporters on site as customer parking in this area is proposed to be relocated onto the new site. This new arrangement will provide adequate space within the site to load/unload and manoeuvre vehicles within the site itself and not on-street so should not result in this occurring on-street. Similarly the proposals allow for additional customer parking on-site to reduce the likelihood of overspill parking in Water Reed Grove.

The access off Leamore Lane is a customer entrance. Pedestrian access on Leamore Lane remains unchanged but given the improvements to the junction should improve safety of pedestrians as well as vehicle users.

In light of the above the proposed development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is considered acceptable in accordance with paragraph 109 of the NPPF and saved UDP policies T4, T6, T7, T10 and T13 and policies DEL1 and TRAN2 of the BCCS.

Relationship to Neighbouring Properties

The proposed extension of the car auction site onto this vacant employment site is compatible with the adjacent commercial uses. Whilst there are residential properties in close proximity to the Leamore Lane entrance they are on the opposite side of the highway. Likewise properties to the south and west of the site are segregated from the site by the canal. There are no new buildings proposed on site so the outlook for residents will not be unduly harmed. Although the site will have the appearance of a car park there is opportunity to enhance the planting at the front of the site and along the boundary with the canal to provide some additional screening to interrupt views.

The applicant has provided an Air Quality Assessment that identifies mitigation measures proposed to ensure the potential for increased pollution from traffic will not adversely harm nearby residents.

Nearby residents are concerned that there may be increased noise and disturbance from traffic attending the site, particularly when windows are open in their homes. The Noise Impact Assessment demonstrates that the existing noise environment is dominated by traffic on the surrounding road network but that the proposed development would not give rise to noise levels exceeding BS8233 and the most exposed receptors with the windows open. It acknowledges that on sale days the noise may increase by up to 1 dB(A) but this would be imperceptible.

Although new lighting will be required for vehicular and pedestrian safety this can be managed to ensure it creates minimal night-time impact on sensitive receptors such as nearby residents and the canal wildlife corridor. A condition to secure this is recommended.

In the circumstances the proposals are unlikely to give rise to adverse impacts on noise or pollution and accord with the provisions of saved UDP policies GP2, ENV10 and ENV32 and SPD Air Quality.

Impact on canal corridor and SLINC

The Wyrley & Essington Canal and corridor alongside is an allocated SLINC. The proposals include a stand-off buffer zone of 10m along the length of the canal to be left wild and undisturbed with some improvements of wildflower seeding. There is also additional planting proposed along the Leamore Lane frontage that will enhance the area. In light of this is considered that sufficient mitigation has been incorporated within the development design and recommendations to avoid potential impacts to the adjacent SLINC. Conditions will be included to secure these measures such as a Construction and Ecological Management Plan, an appropriate drainage strategy; securing native plant species; and the provision of nest / roost boxes for birds and bats.

The proposals accord with saved UDP policies ENV23, ENV24, ENV32 and ENV33 and SPD Conserving Walsall's Natural Environment.

Ecology/Trees

The application is accompanied by relevant Ecological Assessments, Reptile Survey and Arboricultural Assessments. The surveys recommend measures to protect wildlife, ecology and trees and such measures can be secured by appropriate conditions. Whilst no reptiles were identified on site precautionary methods of working are recommended. The only hedge to be removed is in the centre of the site between the existing and proposed site and is of low retention value. The retention of other trees along the canal corridor and southern boundary will be secured by conditions including precautions to be undertaken during construction. A condition to secure nesting boxes for birds and bats is recommended as requested by the Wildlife Trust.

In light of the above the proposals are considered to accord with saved UDP policies GP2, ENV18, ENV23, ENV24 and ENV32 and SPD Conserving Walsall's Natural Environment.

Ground Conditions (contamination/coal/drainage)

Relevant surveys have been provided that illustrate there are no significant risks from land contamination and no remediation is necessary. Coal mining risk is low to

moderate but if unexpected ground conditions arise then further advice should be sought from the Coal Authority. A note for applicant is recommended. The site is in Flood Zone 1 with low probability of flooding but an appropriate drainage strategy can be secured to be secured by condition.

In light of this the proposals comply with saved UDP policies GP2, ENV10, ENV14, ENV32 and ENV40.

Environmental Impact Assessment Screening

An EIA Screening Opinion has been carried out that concludes a full Environmental Statement is not required.

Conclusions and Reasons for Decision

The site is allocated in the SAD for retained local quality industry, specifically site IND328. The policy states the provisions of BCCS policy EMP3 will apply on this site and safeguarded for various uses including those for the motor trade. The expansion of the existing car auction business allows for an existing employer to invest in Walsall Borough and boost the economy and accords with SAD policy IND3.

The proposal includes a new four arm signalised junction at Leamore Lane/Water Reed Grove and will improve safety at the junction, particularly given the location of the access between two bridges where there is presently limited visibility. The developer has agreed to provide a commuted sum to cover the cost of operation and maintenance of the traffic light controlled junction for 15 years which equates to £55,582.33 to be secured by a S106 Agreement.

The parking provision and layout within the site is considered adequate to cater for the proposed development without causing a severe impact on the highway. As part of the expansion, the visitor car parking on the existing site is to be relocated onto the proposed development site freeing up a dedicated turning and unloading area for large car transporter vehicles and deliveries on the existing site. This is a key health and safety improvement on the site.

These measures will improve highway safety and demonstrate the site can accommodate sufficient parking and manoeuvring space within the site to meet its own needs thus addressing neighbour concerns. In light of this the proposed development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is considered acceptable in accordance with paragraph 109 of the NPPF and saved UDP policies T4, T6, T7, T10 and T13 and policies DEL1 and TRAN2 of the BCCS.

The proposed extension of the car auction site onto this vacant employment site is compatible with the adjacent commercial uses. Nearby residential properties are

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segregated from the site by the highway and canal where additional screen planting is proposed to mask the appearance of the parking. Air Quality mitigation measures can be secured by condition to ensure the potential for increased pollution from traffic will not adversely harm nearby residents. The Noise Impact Assessment demonstrates that the proposed development would not give rise to noise levels exceeding BS8233 and acknowledges that on sale days the noise may increase by up to 1 dB(A) but this would be imperceptible. New lighting will be required for vehicular and pedestrian safety this can be managed to ensure it creates minimal night-time impact on sensitive receptors such as nearby residents and the canal wildlife corridor. In the circumstances the proposals are unlikely to give rise to adverse impacts on residential amenity, noise or pollution and accord with the provisions of saved UDP policies GP2, ENV10 and ENV32 and SPD Air Quality.

The Wyrley & Essington Canal and corridor alongside is an allocated SLINC. The proposals include a stand-off buffer zone of 10m along the length of the canal to be left wild and undisturbed with some improvements of wildflower seeding. Conditions will be included to secure these measures and thus accord with saved UDP policies ENV23, ENV24, ENV32 and ENV33 and SPD Conserving Walsall's Natural Environment.

The application is accompanied by relevant Ecological Assessments, Reptile Survey and Arboricultural Assessments. The surveys recommend measures to protect wildlife, ecology and trees and such measures can be secured by appropriate conditions and accord with saved UDP policies GP2, ENV18, ENV23, ENV24 and ENV32 and SPD Conserving Walsall's Natural Environment.

Relevant surveys have been provided that illustrate there are no significant risks from land contamination and no remediation is necessary. Coal mining risk is low to moderate but if unexpected ground conditions arise then further advice should be sought from the Coal Authority. The site is in Flood Zone 1 with low probability of flooding but an appropriate drainage strategy can be secured. These matters will be secured by condition to comply with saved UDP policies GP2, ENV10, ENV14, ENV32 and ENV40.

An EIA Screening Opinion has been carried out that concludes a full Environmental Statement is not required.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the design of the access to the site, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure a commuted sum towards provision and maintenance of a signalised junction at Leamore Lane/Water Reed Grove and subject to:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Site Location Plan (DR-A-2100-S2-P02) received 06/12/2018
- Preliminary Site Layout Proposed Op5 (DR-A-1106-S3-P01) received 18/10/2019
- Preliminary Drainage Strategy (18-215/001) received 15/11/2018
- Proposed Site Access Signalised Crossroad Junction (18-215/006C) received 18/10/2019
- Planning, Design & Access Statement prepared by Terence O'Rourke (November 2018) received 15/11/2018
- Full Input and Data Results received 18/10/2019
- Transport Assessment prepared Odyssey (Oct 2018) received 15/11/2018
- Flood Risk Assessment and Drainage Strategy prepared by Odyssey (Nov 2018) received 15/11/2018
- Arboricultural Impact Assessment prepared by Middlemarch Environmental (RTE-NME-129048-03) received 15/11/2018
- Pre-Development Arboricultural Survey prepared by Middlemarch Environmental (RT-MME-129048-02) received 15/11/2018

- Reptile Survey prepared by Middlemarch Environmental (RT-MME-129339) received 15/11/2018
- Preliminary Ecological Appraisal prepared by Middlemarch Environmental (RT-MME-129048 Rev A) received 15/11/2018
- Noise Impact Assessment prepared by BWB (MCP2132) received 15/11/2018
- Air Quality Assessment prepared by BWB received 15/11/2018s
- Coal Mining Risk Assessment prepared by Enviro Solution (13/09/2018) received 15/11/2018
- Lighting Assessment prepared by BWB received 15/11/2018

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

3a. Prior to the commencement of development, including demolition a Construction Working Plan shall be submitted for written approval of the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

3b. The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

4a. Prior to the commencement of the development hereby approved a Construction and Ecological Management Plan shall be submitted to and agreed in writing by the local planning authority detailing the precautionary working methods for protected and priority species and the protection of retained habitats during site enabling works and construction.

4b. The development shall not be carried out otherwise than in accordance with the approved Construction and Ecological Management Plan and retained throughout the development construction phase.

Reason: To safeguard protect species in accordance with saved UDP policies GP2, ENV23, ENV24 and ENV32 and SPD Conserving Walsall's Natural Environment.

5. No site clearance shall take place otherwise than in accordance with the following steps:

- (a) If any reptiles are discovered on site during site clearance or development works shall cease temporarily and advice sought from an experienced ecologist to determine a way forward.
- (b) Site clearance work shall be undertaken in a sensitive manner to allow any common amphibians using the site to disperse. This will involve phased, directional habitat manipulation in accordance with the following:
 - i. Existing vegetation on site shall initially be mown to a height of 150mm to make it inhospitable to amphibian species. The cut should commence at the eastern end of the site and proceed in a westerly direction towards the canal to encourage any amphibians to relocate into the canal corridor
 - ii. After initial cut is complete the site shall be left for 48 hours to give amphibians time to move out of areas lost to development
 - iii. After a period of 48 hours the site strip can commence. This should be undertaken in a sensitive manner and any amphibians recorded shall be carefully relocated to the canal corridor to the west.
- (c) The site clearance methods shall be completed during the active period for amphibians which is weather dependant but generally extends between March and October inclusive. No hibernacula such as spoil heaps should be dismantled during winter months.

Reason: To safeguard protect species in accordance with saved UDP policies GP2, ENV23, ENV24 and ENV32 and SPD Conserving Walsall's Natural Environment.

6a. Prior to the commencement of development:

- i. details of protective fencing and ground protection to be installed around all retained trees shall be submitted to and approved in writing by the Local Planning Authority.
- ii. One month's written notice of the intention to commence development from the approval of the details under part a of this condition shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the protection measures.

6b. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped otherwise than in accordance with the approved plans and particulars.

6c. Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the fenced area referred to in part a to this condition. Ground levels within fenced areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.

Reason: To preserve and enhance the visual amenities of the locality in accordance with saved UDP policies GP2, ENV18 and ENV32 of the UDP and Conserving Walsall's Natural Environment SPD.

7. Prior to the commencement of the development and notwithstanding the details in the FRA/Drainage Strategy (Nov 2018/18-215 Odyssey) a detailed surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme to be submitted shall demonstrate:

- i. Limiting the surface water run-off generated by the 100yr + 40% climate change critical storm so that it will not exceed 11.4 l/s and not increase the risk of flooding off-site.
- ii. Provision of appropriately sized attenuation flood storage on the site to cater for a 100yr + 40% climate change critical storm.
- iii. Confirmation of which responsible body will maintain the surface water system and surface water pumping facility over the lifetime of the development according to an acceptable maintenance schedule and that is achievable.
- iv. Provision of pollution control measures as outlined in the submitted FRA.
- v. Confirmation from Severn Trent Water that a connection to the public sewer and discharge rate is acceptable.
- vi. Details of overland flow routes including proposed finished ground levels in the event of exceedance or blockage of the Drainage Network.
- vii. Prevent surface water run-off to the canal

7b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to minimise the risk of pollution or surface water run-off to the canal in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

8a. Prior to commencement of the development hereby approved a scheme of landscaping phased in relation to any phasing of the development and which shall include details of both hard and soft landscape works to include native plant species or species with known benefits to wildlife within the green infrastructure and

earthworks shall be submitted to and approved in writing by the Local Planning Authority.

8b. The approved scheme shall be carried out in the first planting season following the completion of each development phase.

8c. Any trees shrubs or plants that die within a period of 5 years from the completion of each development phase or are removed and or become seriously damaged or diseased in that period shall be replaced and if necessary continue to be replaced in the first available planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area and to enhance the wildlife habitat in accordance with saved policies ENV17, ENV23, ENV24 and ENV33 of Walsall's Unitary Development Plan and SPD Conserving Walsall's Natural Environment.

9. The proposed development hereby approved shall not be occupied and new site access off Leamore Lane shall not be brought into use until the signalised junction as shown on Odyssey Indicative drawing no. 18-215/006 Rev C has been fully implemented, commissioned and brought into operation, in accordance with full technical details to be first submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority. The technical details shall include reinstatement of the existing site access made redundant as a result of the development back to full kerb.

Reason: To ensure the safe and satisfactory operation of the access, in the interests of the free flow of traffic along the public highway and highway safety in accordance with saved UDP policies GP2, T4, T6, T7, T10 and T13 and policies DEL1 and TRAN2 of the BCCS.

10a. Prior to the extended vehicle stock storage, customer car parking, trailer parking, access ways and vehicle manoeuvring areas first coming into use, these areas shall be fully consolidated and hard surfaced together with the clear demarcation of all parking bays, pedestrian routes and directional markings.

10b. These areas shall thereafter be retained and used for no other purpose.

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

11. All boundary treatment at the new access point on Leamore Lane shall respect the inter-visibility splays at the new signalised junction and be kept clear of all structures and planting above 600mm in height above carriageway levels within the splay envelopes.

Reason: To ensure the safe and satisfactory operation of the signalised junction and in the interests of pedestrian and highway safety in accordance with the saved UDP policies T7 and T13.

12. The Transporter Unloading Area accessed from the A34 Green Lane as shown on approved drawing BCAW-ASA-XX-00-DR-A-1106-S3-P01 shall not be used otherwise than for this purpose and shall be kept free from parking vehicles and other paraphernalia associated with the site operations.

Reason: To ensure adequate turning provision for transporter vehicles is retained at all times to avoid loading and unloading off site, in the interests of highway safety in accordance with saved UDP policies GP2, T4 and T13.

13. The new customer parking area off Leamore Lane shall not be occupied until appropriate signage shall be installed to direct and make customers aware of the access arrangements, full details of which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To minimise the potential of customers parking, queuing and stopping at the existing entrance on the A34 Green Lane which has Red Route restrictions arising from the new customer access arrangements, in the interests of the free flow of traffic along the public highway and highway safety in accordance with saved UDP policies GP2, T4 and T13.

14a. If, during development, contamination not previously suspected or identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved in writing by the local planning authority detailing how this unsuspected contamination shall be dealt.

14b. The remediation of the site shall not be carried out otherwise than in accordance with the agreed remediation strategy.

Reason: In order to address any unsuspected soil contamination encountered during development in order to protect controlled waters receptors, namely underlying groundwater in the Secondary A and Undifferentiated Aquifers in accordance with saved UDP policies ENV10 and ENV40.

15a. Prior to the installation of any external lighting on the site and notwithstanding the Lighting Assessment (BCA-BWB-ZZ-ENV-XX-0201 Nov 2018) full details of the lighting shall be submitted to and approved in writing by the Local Planning Authority including details of the following:

- (i) the type of lighting to be installed including the type of lamps,
- (ii) the exact location of the lighting to be installed on the proposed development,

- (iii) details of any lighting columns including height and external finishes of any lighting columns
- (iv) the level of illumination (in lumens) and a light spillage plan showing the light spillage from any external lighting to be installed around or within the development
- (v) hours of operation
- (vi) details of the foundations for the proposed lighting

15b. No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area and to prevent light pollution to surrounding occupiers and wildlife in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan policy ENV4 of the BCCS and policy EN4 of the SAD.

16a. Prior to first occupation of the extended site hereby approved full infrastructure details of electric vehicle charging facilities for the new car park shall be first submitted to and agreed in writing of the Local Planning Authority.

16b. Prior to first occupation of the development the approved electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the life of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy

17a. Prior to the first occupation of the development hereby approved, a scheme for provision of bat and bird nesting/roosting boxes shall submitted to and approved in writing by the local planning authority.

17b. The development shall not be occupied until the agreed bat and bird nesting/roosting boxes have been installed in accordance with the agreed details.

17c. The agreed bat and bird nesting/roosting boxes shall be maintained for the life of the development.

Reason: To conserve local bat populations and to comply with policy ENV1 of the BCCS, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

Notes for Applicant

Fire Service

Carriageway width should be a minimum of 5.5 metres (Manual of Streets Fig 3.12), minimum requirement for fire service vehicles is 3.7m between kerbs (ADB Vol 2 Table 20), a minimum carrying capacity for WMFS vehicles of 15 tonnes and 4.1m minimum height clearance (ADB Vol 2, Table 15.2).

Turning facilities should be provided in any dead-end access route that is more than 20m long (ADB Vol 2, Diagram 15.3, designed on the basis of Table 15.2)

Buildings not fitted with fire mains, less than 2000m² and top storey less than 11m from ground level should have access for a pump appliance to within 45m of all points on the projected plan of the building or 15% of the perimeter, whichever is the less onerous (ADB Vol 2, Diagram 15.1 & Table 15.1, p.110)

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and National Guidance Document on the Provision for Fire Fighting published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

Highways

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

2. The applicant will be expected to enter into an agreement under S38/278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

Environment Agency

The applicant should note that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 170), where a site is affected by contamination or land stability issues, and responsibility for securing a safe development rests with the developer and/or landowner. Therefore, should any significant contamination, not assessed by virtue of this report/project, subsequently become apparent responsibility remains with these parties.

The applicant / developer should refer to the EA document The Environment Agency's Approach to Groundwater Protection, available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heating and cooling
- Drainage
- Storage of pollutants and hazardous substances

- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website (www.gov.uk/environment-agency).

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position Statement on the Definition of Waste: Development Industry Code of Practice and;
- The [Environmental regulations](http://www.gov.uk/government/topics/environmental-regulations) page on GOV.UK.

Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework

for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the [Hazardous Waste](#) pages on GOV.UK for more information.

Coal Authority

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

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



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 28-Nov-2019

Plans List Item Number: 3.

Reason for bringing to committee: Major Application

Location: EUROPEAN INDUSTRIAL GROUP, UNIT 31, INDUSTRIAL HOUSE, MAYBROOK ROAD, WALSALL WOOD, WALSALL, WS8 7DG

Proposal: PROPOSED NEW STORAGE BUILDING ADJACENT EXISTING MANUFACTURING FACILITY, NEW ACCESS ONTO MAYBROOK ROAD AND CAR PARK EXTENSION.

Application Number: 19/0315

Applicant: Mr Barry Nash

Agent: Ian Nelson

Application Type: Full Application: Major Use Class B2 (General Industrial)

Case Officer: Devinder Matharu

Ward: Aldridge North And Walsall Wood

Expired Date: 17-Jun-2019

Time Extension Expiry: 06-Dec-2019



Recommendation Summary:

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and subject to ...

- undertaking a 14 day re-consultation on the amended block plan submitted No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Submission of a new ownership certificate

Proposal

The applicant owns two parcels of land on Maybrook Road and proposes a storage building on one parcel of land and a car park on another.

Proposed new storage building adjacent to the existing manufacturing facility, new access onto Maybrook Road and car park extension.

The proposed building will be located on the eastern side of Maybrook Road and would measure 34.5m by 61m, 8.5m to the eaves and 10.2m to the pitch. A single storey element would also be provided to the rear of the building measuring 5.2m by 12m and 3.9m high accommodating an office and staff room.

The block plan shows:

- 26 car parking spaces on the secure car park at the land adjacent 15 Clayhanger Road.
- The car park will be secured by 2.4m high blue powder coated fence.
- The boundary with 15 Clayhanger Road to be 1.8m high timber fencing with concrete pots and gravel boards.
- 4no 2.4m highlighting columns to illuminate the secure car park.
- Access to the car park would be from Maybrook Road.
- Tactile drop crossing 50m from junction – outside of the red and blue boundaries of the application site.
- A 2.4m high blue powder coated fence to the rear of the proposed building.
- A dry pond to the rear of the site
- The proposed building would be set 24.3 m off the northeastern boundary, 20m from the existing structures on site, 14m set back from the Maybrook Road frontage.
- Two 12m wide access roads into the main Maybrook Road site would be provided.
- 5 car parking spaces and 2no disabled spaces, including the cycle and motor bike stores to be located to the south of the proposed building.

The application form states:

- 15 tonne cranes for the loading and storage of metal tubes and sheets for manufacture in the main works.
- 32 car parking spaces
- 10 cycle spaces
- 6 motorcycle stands
- The drainage will be connected to main sewer
- The gross new floor space would be 1605 square metres
- 58 full time staff and 8 part time staff
- Cladding colours horizontal cladding Sargasso RAL 5003, vertical cladding to be colour coated albratross 18B17, flashings and cappings RAL 5003
- Roof covering to be Kingspan, composite roofing system with Kingspan XL Forte coating in dull grey BS18B17
- Windows to be thermally broken polyester aluminium RAL 5003

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- Shutters to be RAL 5003 outside and RAL 3001 internally
- 2.4m high powder coating palisade fencing
- Vehicle access and hardstanding Tarmacadam and reinforced concrete
- Floor lighting from buildings

Lighting details and cycle shelter details have been provided.

The following supporting documents have been submitted with the application: Coal Report, which concludes there are no know coal seams within 20m of the site and no known ground gas or mining issues.

Preliminary Ecological Appraisal which concludes the boundary habitats along the canal will be retained for foraging bats, there will be a negligible impact upon nesting birds through the loss of some shrubs, no impacts upon badgers and recommends to avoid increased lighting levels focusing light towards foraging lines, any badger activity is reported and trenches left open, avoid clearance works during nesting season.

Ground investigation report, which outlines the ground conditions on site.

Results of chemical analysis of the site.

Additional investigation report outlining samples taken from the site.

Site and Surroundings

The application site consists of two parcels of land, both roughly rectangular in shape, located on the north-eastern and north-western sides of Maybrook Road. The site of the proposed building fronts Maybrook Road with the Daw End Branch Canal to the rear. The site of the proposed car park is located at the junction of Maybrook Road and Clayhanger Road. The car park land is set at a higher level than the public highway.

To the south west of the larger parcel of land are commercial premises and uses. To the north east of the site is open space. This site is within Maybrook Core Employment area. Beyond the canal are number 3 and 5 Bridge Street. The area beyond the canal is public open space.

To the south west of the car park land is a commercial site with a hardstanding area adjacent. To the south is an industrial/commercial premises and residential properties, the nearest one being number 15 Clayhanger Road.

On the opposite side of Clayhanger Road are residential properties.

Both sites are covered in vegetation consisting of trees and shrubs. The sites are set at a higher level than the public highway.

To the north west of the main site is the Daw End Branch Canal. Along the canal is the Daw End Branch site of local nature conservation importance (SLINC).

Clayhanger Bridge is located to the north of the application site along Clayhanger Lane, providing an access road over the canal.

Relevant Planning History

10/0875- Land at Clayhanger Road/Maybrook Road. Outline residential. Refused 2010.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure

developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV26: Industrial Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- EMP1: Providing for Economic Growth
- EMP3: Local Quality Employment Areas
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

IND2: Potential High Quality Industry

EN3: Flood Risk

EN4: Canals

T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL

- 5.22 - Viability

Consultation Replies

Archaeology – No objection

Arboricultural Officer – No objection subject to replacement planting.

Asset Management – There is a strip of land to the front of the site which is council owned. *(This is no longer included within the site)*

Birmingham Airport – No objection

Canal and River Trust – No objection subject to planning conditions relating to CCTV of the culvert and contamination report, which can be sought by planning conditions. The lighting details are acceptable.

Coal Authority – No objection

Community Safety – No objection

Environment Agency – No objection subject to contaminated land condition

Flood Risk Officer – No objection subject to surface water drainage scheme being submitted and approved.

Fire Officer – No objection but makes comments relating to fire appliance and pump access, compliance with Building Regulations and query about the barrier across the access road.

Highways England – No objection

Historic England – No comment

Inland Waterway – Objection as the application now excludes the canal side boundary to enable appropriate screen planting to be agreed with CRT.

Local Access Forum- No objection but make comments on the proposed planting and revised site boundaries.

Natural England – No objection

Network Rail – No objection

Police – No objection

Pollution Control – No objection subject to planning conditions relating to contaminated land, air quality, noise and development activity.

Public Health – No objection

Public rights of way – No objection

Public Lighting Officer – Further lighting details are required.

Ramblers Association – No objection

Severn Trent Water- Verbal confirmation 14-1-19 no objection subject to drainage condition.

Sport England – No comment

Strategic Policy – No objection

Transportation – Objection as the proposed drawing shows a bell mouth. Highways cannot support a bell mouth that would not be actively used. Comments to be updated at committee as amendments have been requested.

Wildlife Trust – No objection subject to the further information in terms of the woodland creation and enhancement on site to ensure that habitat loss was fully mitigated, prior to determination.

Representations

One letter has been received objecting to the proposal on the following grounds:

- Value privacy
- Concerns with the aesthetics of the fencing as it will need to be enclosed
- The existing trees provide fencing.

Determining Issues

- Principle of Development
- Design and character of the area
- Impact upon neighbouring commercial and residential occupiers
- Loss of trees, ecology and landscaping
- Impact upon the Daw End Branch Canal
- Contamination and Drainage
- Access and parking

Assessment of the Proposal

Principle of Development

This site is allocated under SAD Policy IND2 as vacant potential high quality industry, site reference IN5.1. The proposed development for B8 warehousing use and as such supported.

Design and character of the area

The proposed building is considered acceptable in design; it reflects a typical industrial/commercial building and would be seen against the back drop of existing commercial units along this section of Maybrook Road. Within the street scene fronting Maybrook Road, the proposed building would be set back from the highway frontage and would be appropriate given the industrial nature of Maybrook Road.

The proposed development would not unduly harm the visual amenities of the character of the area.

An amended block plan has been received showing the removal of planting along the canal side boundary and the section of the site fronting Clayhanger Road to the north of the site and showing proposed car parking spaces in front of the proposed storage building. As such, a further 14 day re-consultation will be undertaken with consultees and neighbours, it is considered that the application is delegated to the Head of Planning, Engineering and Transportation provided no new material considerations are raised by consultees.

Impact upon neighbouring commercial and residential occupiers

The proposed building on the north western side of Maybrook Road and the proposed car park on the southern side of Maybrook Road would not unduly harm the visual amenities of neighbouring commercial occupiers.

Beyond the canal are residential properties. It is considered that the proposed storage building would not unduly harm the visual amenities of these neighbouring occupiers, as any views towards the building would be interrupted across the canal and existing vegetation, which would provide some screening.

The proposed car park would be positioned adjacent number 15 Clayhanger Road. The application would be secured by a 1.8m timber and post fence between this neighbouring property and the car park. The neighbouring occupier at 15 Clayhanger Road has raised concerns over the proposed boundary treatment. It is considered that a 1.8m high timber fence would be sufficient to protect the amenities of these neighbouring occupiers.

The car park is to be flood lit by 4no floodlights in the corners of the car park. The Public Lighting Manager has sought further details regarding this lighting to ensure there is no light spillage, which could potentially impact the amenities of these neighbouring occupiers as well as causing light pollution and glare. These details

have been requested to fully assess the light impact hence the request for delegation to the Head of Planning, Engineering and Transportation to address this matter.

Pollution Control have raised concerns over noise pollution from the site and the impact this may have on nearby residential properties. As such, they have sought noise mitigation measures to be submitted and approved in writing by way of a planning condition.

Pollution Control have also sought an hours of work condition. It is considered any noise issues regarding the construction stage can be dealt with through Environmental Health legislation.

An amended block plan has been received showing the removal of planting along the canal side boundary and the section of the site fronting Clayhanger Road to the north of the site and showing proposed car parking spaces in front of the proposed storage building. As such, a further 14 day re-consultation will be undertaken with consultees and neighbours, it is considered that the application is delegated to the Head of Planning, Engineering and Transportation provided no new material considerations are raised by consultees.

Loss of trees, ecology and landscaping

There are a number of trees on the application site. The Arboricultural Office has advised the trees on the site consist mainly of Broom, Sycamore, Birch and Goat Willow and as such not worthy of protection hence the loss of the trees would be supported. The proposed development seeks replacement planting within the site, which will be addressed below.

The Wildlife Trust advises the site area encompasses Land at Maybrook Potential Site of Importance (PSI) and lies adjacent to the Daw End Branch Canal SLINC. A development at this site would result in direct loss of the PSI (yet to be assessed) and has the potential to cause degradation through indirect effect, such as disturbance, to the surrounding habitats including the SLINC, during and post construction. Upon review of the Preliminary Ecological Appraisal, no assessment of the site against the local site assessment criteria or mitigation for potential impact to the adjacent non statutory site was mentioned. An amended plan has been submitted removing all proposed planting alongside the canal boundary and the area fronting Clayhanger Road on the larger parcel of land to the north of Maybrook Road. A smaller section of woodland creation fronting Clayhanger Road, which will include native species.

The Wildlife Trust request further information in terms of the woodland creation and enhancement on site to ensure that habitat loss is fully mitigated in accordance with the NPPFA construction and ecological management plan detailing the

precautionary working methods for protected and priority species and the protection of retained habitats during site enabling works and construction is required and will be secured by condition.

The Canal and River Trust have made no comments regarding the proposed landscaping along the canal boundary shown on previous plans, which have now been superseded.

An amended block plan has been received showing the removal of planting along the canal side boundary and the section of the site fronting Clayhanger Road to the north of the site and showing proposed car parking spaces in front of the proposed storage building. As such, a further 14 day re-consultation will be undertaken with consultees and neighbours, it is considered that the application is delegated to the Head of Planning, Engineering and Transportation provided no new material considerations are raised by consultees.

Contamination and Drainage

The proposal is located on the site of a former brick works whose use may have resulted in localised ground contamination. The applicant will therefore need to undertake appropriate investigation in order to assess the extent of the ground contamination at the site and inform of any remedial measures that may be required. These details can be sought by way of planning condition.

Pollution Control have no concerns regarding relevant pollutant levels at the proposed site but, with reference to the adopted Black Country Air Quality Supplementary Planning Document (SPD), are of the opinion that this is a type 1 application requiring the installation of electric vehicle charging points and low NO_x boilers in the development. These details can be sought by planning conditions.

Whilst some drainage details have been provided, Severn Trent Water is of the opinion these are not satisfactory and as such have verbally advised a drainage condition requiring foul and surface water to be submitted and approved as part of a planning condition.

The Flood Risk Officer has no objection to the proposed development subject to a condition seeking details of surface water drainage.

The Environment Agency have advised the site is located on Devensian Till, which is designated as a secondary, undifferentiated aquifer meaning these deposits could have properties of either a Secondary A or Secondary B aquifer. The bedrock geology beneath the above superficial deposits is the Alveley member is a secondary A aquifer. Based on this information the Environment Agency have sought a desk study and simple site investigation to demonstrate that it will be possible to manage the risk posed to controlled waters by this development. They also advise that, as with all investigations of this nature it may be possible that some contamination is present that has not yet been discovered.

The Wildlife Trust recommends that an appropriate drainage strategy is undertaken to ensure no runoff caused by the application into the canal or onsite existing ponds.

Impact upon the Daw End Branch Canal

The building is at sufficient distance from the canal to not impose loadings on the nearby embankment along the offside of the canal. However, the hard-standing area has a cross fall towards the pond area, which collects water which then passes under the canal via Culvert 1. The Canal and River Trust have advised a dilapidation CCTV survey of culvert 1 will need to be undertaken to ensure that it is fit for purpose and is not damaged during works. In particular, the Installation of MOT Stone will require vibration compaction, and this could have an adverse impact on the culvert and canal embankment. Details to demonstrate that the use of vibration machinery will be limited near to the embankments and other canal infrastructure. In addition, foundation details for the part of the building nearest the embankment will be required. These details can be secured by way of planning conditions.

A full contamination report will need to be provided with the waterway considered as a sensitive receptor for groundwater flows; as such, a further contamination report will be sought by way of planning condition.

An amended block plan has been received showing the removal of planting along the canal side boundary and the section of the site fronting Clayhanger Road to the north of the site and showing proposed car parking spaces in front of the proposed storage building. As such, a further 14 day re-consultation will be undertaken with consultees and neighbours, it is considered that the application is delegated to the Head of Planning, Engineering and Transportation provided no new material considerations are raised by consultees.

Access and parking

Transportation have objected to the proposal on the grounds of the proposed drawing shows a bell mouth which is not supported as it would not be actively used. As such, a revised plan is being sought. Members will be updated at planning committee should the plan be submitted beforehand, if not delegation to the Head of Planning, Transportation and Engineering will be sought.

An amended block plan has been received showing the removal of planting along the canal side boundary and the section of the site fronting Clayhanger Road to the north of the site and showing proposed car parking spaces in front of the proposed storage building. As such, a further 14 day re-consultation will be undertaken with consultees and neighbours, it is considered that the application is delegated to the Head of Planning, Engineering and Transportation provided no new material considerations are raised by consultees.

Conclusions and Reasons for Decision

The principle of development is considered acceptable. The proposed development would not unduly harm the visual amenities of the character of the area. The proposed development would not unduly harm the visual amenities of neighbouring commercial occupiers. The plans have been received showing the removal of the proposed landscaping along the canal boundary and the northern part of the site fronting Clayhanger Road. Further consultations with consultees as a result of this plan will be undertaken. Contamination on site will be addressed through planning conditions. An amended plan will be sought to overcome the Highway officer's objection.

The proposed development complies with the policies as set out in the policy section of the report.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and subject to clarification on certain matters and amended plans to address consultee comments the proposals are supportable.

Recommendation

2. Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and subject to ...
 - undertaking a 14 day re-consultation on the amended block plan submitted
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
 - Submission of a new ownership certificate

Conditions and Reasons

1. The 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. The development shall not be carried out otherwise than in accordance with the following approved plans:

- Proposed site and location plans drawing number 3440/04H submitted 14-11-19
- Proposed site levels and ground section drawing number 344/05A submitted 29-07-19
- Cycle shelter details submitted 03-04-19
- Car park cross section drawing number 3440/06A submitted 29-07-19
- Proposed plans and elevations drawing number 3440/02H submitted 23-10-19
- Proposed plans drawing number 3440/03F submitted 29-07-19

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

3a. Notwithstanding the schematic surface water drainage layout as shown on drawing number 344/07 submitted 02-07-19 and the proposed drainage layout shown on drawing number 10023-240/Z submitted 02-07-19 and prior to the commencement of the development, drainage plans/drainage scheme for the disposal of foul and surface water shall be submitted to and approved by the Local Planning Authority. The drainage scheme shall demonstrate:

i. Surface water drainage system designed in accordance with the Non-statutory technical standards for sustainable drainage systems (DEFRA, March 2015).

ii. Provision of surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SC030219 Rainfall Runoff Management for Developments'.

iii. Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.

v. Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.

vi. Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water drainage systems shall be maintained and managed for the lifetime of the development.

3b. The scheme approved under part A of this condition shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage/storage of water and disposal of water from the site to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution in accordance with Policy ENV40 of the UDP.

4a.i. Prior to the commencement of development, a ground contamination survey having regard to current best practice shall be undertaken. (see Note for Applicant CL1).

4a.ii. Prior to the commencement of development, a copy of the findings of the ground contamination survey, together with an assessment of identified and/or potential hazards arising from any land contamination shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2).

4a.iii. Prior to the commencement of development, a Remediation Statement setting out details of remedial measures to deal with the identified and potential hazards of any land contamination on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2).

4a.v. The remedial measures as set out in the Remediation Statement required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

4a.vi. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the Remediation Statement required by part iii) of this condition has been amended to address any additional remedial or mitigation works required, details of which shall be submitted to and approved in writing by the local planning authority.

4a.iv. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3).

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with Policy ENV10 of the UDP.

5a. If during the undertaking of remedial work or the construction of the approved development unexpected ground contamination not identified previously is encountered, development shall cease until:

i. A further site investigation has been carried out and submitted to and approved in writing by the local planning authority.

ii. A remediation strategy detailing how this contamination will be dealt with shall be submitted to and approved in writing by the local planning authority.

5b. This development shall be not be carried out otherwise than in accordance with the approved details under this condition.

Reason: To safeguard the environment, water quality, safety of waterway users and structural integrity of the Daw End canal in accordance with Policy ENV4 of the BCCS and Policy EN4 of the SAD.

6a. Prior to the commencement of development, a survey of the condition of the culvert I including a method statement and schedule of works shall be submitted to and approved in writing by the Local Planning Authority.

6b. This development shall be not be carried out otherwise than in accordance with the approved details under this condition.

6c. Following the completion of the works and prior to first occupation, a further survey of the culvert shall be carried out, details of which shall be submitted to and approved in writing by the local planning authority to demonstrate that any necessary repair works have been carried out and that no additional damage to the culvert has occurred.

Reason: To ensure that the structural integrity of the culvert under the Daw End canal is retained and to prevent harm to the culvert during the construction phases in accordance with Policy ENV4 of the BCCS and Policy EN4 of the SAD.

7a. Prior to the commencement of development, details of the proposed excavations and foundations to be undertaken shall be submitted to and agreed in writing by the Local Planning Authority.

7b. This development shall be not be carried out otherwise than in accordance with the approved details under this condition.

Reason: To ensure the construction of foundations do not adversely impact on the integrity of the waterway infrastructure in accordance with Policy ENV4 of the BCCS and Policy EN4 of the SAD.

8a. Prior to the commencement of development, an acoustic mitigation scheme to ensure occupiers of nearby residential dwellings are not subject to significant adverse effects from noise shall be submitted to and agreed in writing by the Local Planning Authority.

8b. The development shall not be occupied until a validation report confirming the measures approved under part A of this condition have been fully implemented has been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenities of neighbouring residential occupier in accordance with Policies GP2, ENV10 and ENV32 of the UDP.

9a. Prior to the commencement of development, a Construction Methodology Statement/Environmental Management Plan detailing:

- I. The parking of vehicles of site operatives and visitors
- II. the loading and unloading of plant and materials
- III. the storage of plant materials used in the construction of the development
- IV. where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction
- V. measures for controlling noise, dust, flying debris, and drag-out from engineering and construction activities at the site
- VI. details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction
- VII. a timetable to show phasing construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as badgers, reptiles and amphibians are active during bird nesting seasons)
- VIII. details of persons responsible for compliance with legal consents relating to nature conservation
- IX. details of persons responsible for compliance with planning conditions relating to nature conservation
- X. details of persons responsible for installation of physical protection measures during construction
- XI. details of persons responsible for regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction
- XII. details of persons responsible for provision of training and information about the importance of environmental protection measures to all construction personnel on site.

shall be submitted to and approved by the Local Planning Authority.

9b. The Construction Methodology Statement/Environmental Management Plan shall be implemented and carried out throughout the construction period. The construction

shall not be carried out otherwise than in accordance with the approved details under part A of this condition.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety, to safeguard the environment and the interests of the structural integrity of the waterway and to ensure the proposed works do not have any adverse impact upon the safety of the waterways users and the integrity of the Daw End Canal and to minimise the environmental impact during development in accordance with Policy ENV5 of the BCCS and Policies T4 and EN4 of the SAD saved policies GP2, ENV10 of the UDP.

10a. Prior to the commencement of development, it shall be demonstrated by measurement/calculation that the plant, machinery and equipment associated with the site, operated either individually or cumulatively, shall not give rise to noise levels exceeding a Noise Rating of 45 dB, (NR45), as determined 1 metre from the facade of any occupied residential premises details of which shall be submitted to and approved in writing by the local planning authority.

10b. The development shall not be carried out otherwise than in accordance with the approved details under part A of this condition.

Reason: To protect the amenities of neighbouring residential occupier in accordance with Policies GP2, ENV10 and ENV32 of the UDP.

11a. Prior to the commencement of development above damp proof level, details for the installation of full infrastructure for electric vehicle charging facilities for the new units and a plan identifying the location of the electric charging units shall be submitted to and approved in writing to the Local Planning Authority.

11b. The development shall not be carried out otherwise than in accordance with the details approved under part a of this condition and the electric charging points shall be fitted and available for use prior to the development being first brought into use.

Reason: To conserve and enhance the natural environment in accordance with ENV8 of the BCCS.

12a. Prior to the commencement of development above damp proof level full details of a motorcycle shelter shall be submitted to and approved in writing by the Local Planning Authority. The motorcycle shelter shall be covered and illuminated.

12b. Prior to occupation of the unit the motorcycle shelter for the use of staff/visitors shall be installed and thereafter be retained and used for no other purpose.

12c. No motorcycle shelter shall be installed other than that approved

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

13a. Prior to the commencement of development above damp proof level, details of all boundary treatments around the site perimeter of both parts of the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include elevation drawings of the boundaries, position of the boundaries, the type of boundaries, materials to be used in the construction of the boundary and the external finish of the boundary treatments.

13b. The development shall not be carried out otherwise than in accordance with the approved details under part a of this condition and retained and maintained at all times.

Reason: Necessary in the visual amenities of the area and in accordance with Saved Policies GP2 and ENV32 of the UDP, Policy ENV5 of the BCCS and Policy EN4 of the SAD.

14a. Notwithstanding the lighting details submitted on 01-05-19 and prior to the commencement of development above damp proof course, details of any external lighting including any floodlighting within the site shall be submitted to and approved in writing by the Local Planning Authority including:

- (vii) the type of lighting to be installed including the type of lamps,
- (viii) the exact location of the lighting to be installed on the proposed development,
- (ix) details of any lighting columns including height and external finishes of any lighting columns,
- (x) the level of illumination (in lumens) and a light spillage plan showing the light spillage from any external lighting to be installed around or within the development
- (xi) hours of operation
- (xii) details of the foundations for the proposed lighting

14b. The development shall not be carried out otherwise than in accordance with the details approved under part a of this condition and shall be retained and maintained at all times.

14c. The lighting scheme shall be in accordance with 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011', published by the Institution of Lighting Professionals.

Reason: Necessary to prevent light pollution to protect the amenity of surrounding residential occupiers and to minimise the glare alongside the canal to protect bats and other wildlife within the canal habitat corridor to protect the integrity of the waterway infrastructure in accordance with Saved Policies GP2, ENV11 and ENV32 of the UDP, Policy ENV4 of the BCCS and Policy EN4 of the SAD.

15a. Prior to the commencement of development above damp proof course, full details of the proposed planting to the secure car park fronting Clayhanger Road shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include:

- quantities
- Species
- Size
- location

15b. Any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed within 5 years of planting 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 within the next planting season. All hedging, trees and shrubs shall be planted in accordance with British Standards BS4043 transplanting root balled trees and British Standard BS4428 code of practice for general landscape operations.

Reason: In the visual amenities of the area, to ensure the site is secured with appropriate landscaping and to enhance and safeguard habitats along the Wryley and Essington SLINC in accordance with Policy ENV4 of the BCCS and Policy EN4 of the SAD, Saved Policies GP2, ENV17, ENV23 ENV28 and ENV33 and Conserving Walsall's Natural Environment SPD.

16. The development shall not be carried out otherwise than in accordance with the following facing, roofing and window details:

- Cladding colours horizontal cladding Sargasso RAL 5003, vertical cladding to be colour coated albratross 18B17, flashings and cappings RAL 5003
- Roof covering to be Kingspan, composite roofing system with Kingspan XL Forte coating in dull grey BS18B17
- Windows to be thermally broken polyester aluminium RAL 5003
- Shutters to be RAL 5003 outside and RAL 3001 internally

Reason: In the visual amenities of the area in accordance with Policies GP2, ENV32 and ENV35 of the UDP.

17. No manufacturing, fabrication, production, servicing, deliveries and dispatches or associated operation(s) other than essential building maintenance shall take place external to the building structure.

Reason: To ensure future occupants are not subject to significant adverse effects from noise in accordance with Policy ENV10 of the UDP.

18. Disposal of materials by burning on bonfires, ground fires or in containers at the site is not permitted.

Reason: To protect the amenities of existing neighbouring occupiers to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

Notes for Applicant Environment Agency

Advice to applicant

Paragraph 179 of the National Planning Policy Framework states where a site is affected by contamination or land stability issues, responsibility for securing safe development rests with the developer and/or landowner.

We recommend that developers and /or Landowner should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
2. Refer to the [Environment Agency Guiding principles for land contamination](#) for the type of information that we required in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
3. Refer to our website at www.environment-agency.gov.uk for more information.

Waste on-site.

The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/ or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

We recommends that developers should refer to:

- the [position statement](#) on the Definition of Waste: Development Industry Code of Practice
- The [waste management](#) page on GOV.UK

Waste to be taken off-site.

Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2016
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of hazardous waste material produced or taken off-site is 500kg or greater in any 12 month period, the developer will need to register with us as a hazardous waste producer. Refer to the [hazardous waste](#) pages on GOV.UK for more information.

Notes for Applicant: Canal and River Trust

The applicant is advised to contact Shomsur Khan on 0121 200 7773 or shomsur.khan@canalrivertrust.org.uk in order to ensure that the work complies with the Trusts Code of Practice for Works affecting the Canal & River Trust.

Notes for Applicant – Contaminated Land

CL1

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

CL2

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

CL3

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

CL4

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

Notes for Applicant – Air Quality SPD

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),

- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 28-Nov-2019

Plans List Item Number: 4.

Reason for bringing to committee: Non Determination Appeal

Location: JEROME RETAIL PARK, MIDLAND ROAD, WALSALL, WS1 3QB

Proposal: ERECTION OF A CLASS A1 RETAIL UNIT.

Application Number: 19/0139

Applicant: BNY Mellon Trust & Depository (UK) Ltd

Agent: Rapleys LLP

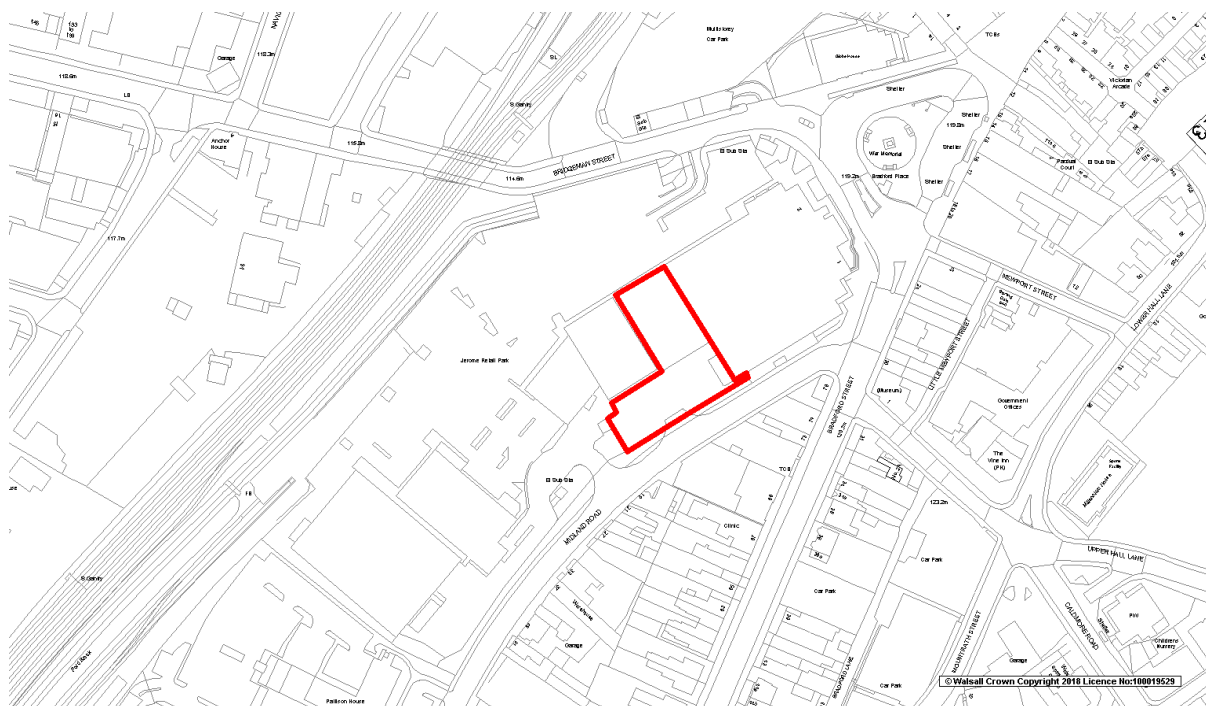
Application Type: Full Application: Minor Use Class A1 (Shops)

Case Officer: Tom O'Connor

Ward: St Matthews

Expired Date: 08-Apr-2019

Time Extension Expiry:

Recommendation Summary: Refuse

Proposal

This application is essentially a resubmission of application (18/0671) which sought permission for the erection of a retail unit within an existing retail park occupying an 'L' shaped site with an overall area of some 877sqm. As before, the proposal would consist of a single storey building which would have a width of 23.5m, with a depth of 37.3m. The building would have a dual pitched roof rising from eaves height of 6m to ridge height of 7.3m. Both the front and rear elevations would include insulated cladding panels designed to screen the pitched roof. This would create the impression of a flat roof to match the roof height and shape of the neighbouring buildings. Public access to the building would be from, two sets of double doors facing onto the shared car park located adjacent and to the north east of the building.

The private pay and display car park serving the retail park would be shared with adjoining premises. To the rear is an existing service yard, with two doors and a window proposed to the staff room. The yard is accessed from Midland Road. The unit includes an open plan retail area with ancillary offices, staff room, customer toilets and store room to the rear. The unit will consist of brickwork walls with insulated cladding panels.

The following information has been submitted in support of the application:

A Planning Statement has been prepared by Rapleys and dated January 2019 (Ref: CH/18-03112) in support of this application,

This report sets out the parameters of the proposed development, namely;

- Use of Class A1 floor space within this development indicating with an agreement to limit the use to DIY products and bulky goods.
- That the site is located within a sustainable location within easy walking distance of the primary Shopping Area
- The site provides on-site car parking which can cater up to 380 customer vehicles and offers 90 minutes free parking.
- The new unit has a proposed floor area of 891sqm and will provide retail accommodation (class A1).
- The site is considered to be exceptionally well located in terms of proximity to sustainable public transport, surrounding road network and the Primary Shopping Area.

Submission of a Transport Statement, dated May 2018, that seeks to demonstrate that:

- The proposal is close to the towns transport hub with good links to bus, train and pedestrian route
- Compliance with National and local Policy in respect of retail development within the town;
- Though located outside of the Primary Shopping Area, the site is still located within the town centre and therefore is able to comply with the sequential test;
- Provision of a short impact assessment and analysis of economic impacts of the proposed bulky goods retails proposal upon the Walsall PSA.

A Statement of Case is provided by Rapleys to support the appeal against non-determination of planning application 19/0139. However, as before in respect of application 18/0671, no retailer is currently linked with the development. It is therefore considered to be a largely repeat application to that submitted last year and refused planning permission in September 2018. Given the short period of time between applications and, notwithstanding some changes to occupation of retail units within the PSA, the supporting Retail Statement then submitted is considered to still have some relevance as it was recently prepared in 2018 and parts of it are used in the preparation of the appellants statement in respect of non-determination of this application and reiterated in part in the information given in the Planning Statement provided for the current application.

In the sequential assessment of retail space provided by the applicant for the 2018 application it was maintained that a minimum threshold for assessing alternative sites is 800sqm. Alternative vacant units identified by the applicant at this time within the PSA were

- Former BHS 71-71 Park Street, 3286sqm over two floors. Not comparable in terms of size or suitability. Unit cannot be easily sub-divided. However, these premises are now occupied on a shared basis by multiple retailers and can now be discounted as a potential alternative site for the purposes of this application.
- 36-37 Freer Street within the Old Square Shopping Centres contains 1633sqm over 8 smaller units between 64sqm and 132sqm. Amalgamation into a single large retail unit is not possible due to their configuration.
- A range of units ranging from 68sqm to 236sqm are available within the Saddlers Shopping Centre. Individually none are of sufficient size and amalgamation into a large unit of around 800sqm is not possible because units are not continuous.
- Bridge House 47-55 Bridge Street provides 3,182 sqm of vacant space spread over ground, 1st, 2nd and 3rd floors with office intended for the upper floors.

- Marks and Spencer (53 Park Street, Saddlers Shopping Centre) – Not identified as suitable given the need to subdivide and reformat the unit to result in a floor space comparable to the unit being proposed in this application.
- Former Poundworld. Not considered to be a suitable premises for the following reasons
 - 9 internal pillars which support the upper floors of the Park Place Shopping Centre. These severely limits both the ability to display goods and restrict those seeking to use trolleys.”
 - “The internal floor is split into two halves with steps providing access to the higher level. This inhibits the use of trolleys and those with mobility difficulties.”
 - No storage areas are available the unit comprised largely of a single store with servicing from the rear. This would require retailers to maintain stock on the trading floor which could inhibit both the quality of the retail offer and prevent the full range of stock from being retained on site.”
 - There is no external space for customer trolleys. This along with the configuration would constrain its use for the sale of food and convenience goods.
 - Staff facilities are very limited to toilets and a small office. There is no rest or relaxation area for staff.
 - Rear servicing is restricted with limitations on the size of delivery vehicles entering the ground level.
 - There is no ability for customers collecting goods to access the rear of the store to collect goods purchased which when coupled to any dedicated customer car park, would require goods to be capable of being removed immediately at the point of purchase.
 - The internal ceiling height is lower than modern standards which when coupled to the depth of the unit provides limited natural light and a relatively confined shopping environment
 - There is no scope to expand or provide a mezzanine floor.”

Site

Jerome Retail Park is within the town centre boundary. The retail park comprises of five separate buildings fronting the car park with access from Bridgeman Street. It includes Clearance Bargains, Pound Stretcher, Iceland, Home Bargains and Gala Bingo. To the northern end and fronting onto Bradford Place is a former nightclub that received planning permission to be converted to a gym. There is a pedestrian link with pedestrian refuse across Bradford Street that links to the main shopping area. This open site (enclosed by metal fencing) was part of the former outdoor display area when the current Clearance Bargains building was occupied by Homebase. Since then the site has been used for informal (non-public) storage by Clearance Bargains

The retail unit would be serviced by the existing service yard at the rear accessed from Midland Road. The yard is currently used by Clearance Bargains.

Bradford Street Bus Interchange is 110m walking distance away, the main bus station is 400m walking distance away and the railway station 400m walking distance away.

Relevant Planning History

BC09097P/C – Retail store, garden centre, public house and car park. GSC 13/12/83

BC28592P – Outline: Non-food retail units and associated car parking and landscape works in conjunction with existing Homebase. 29/8/90.

BC31703P – Outline: Food and non-food retail units with associated car parking and landscape works. GSC 18/4/91.

BC33227P - OUTLINE; Food & Non-Food Retail Units, Class D2 Assembly & Leisure Use, Associated Car Parking & Landscaped Works. GSC 11/12/91.

BC36606P - Bingo & Social Club. (Reserved matters to BC33227P, under Conditions 2a,2b,2c,2d,2e & 17). GSC 30/9/92

BC36768P - Two Retail Units, with Associated Delivery Areas (Reserved Matters BC33227P, under conditions 2a, 2b, 2c, 2d, 17 and partial submission under conditions 8 and 16. GSC 16/9/92

BC45554P - Variation of Condition 20 of Planning Permission BC33227P. GSC15/4/96

BC46564P - Erection of Two Food/Non Food Retail Units & Associated Delivery Area. GSC 16/9/96

BC47398P – Erection of two food / non-food retail units and associated delivery area (resubmission of BC46564P). GSC 9/1/97.

18/0671 – Full Application – Erection of a Retail Unit (A1) Refused 26th September 2019

National Planning Policy Framework (NPPF)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

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

Key provisions of the NPPF relevant in this case:

- **NPPF Chapter 6 – Building a strong, competitive economy**
- **NPPF Chapter 7 – Ensuring the vitality of town centres**
- **NPPF Chapter 8 – Promoting healthy and safe communities**
- **NPPF Chapter 9 – Promoting sustainable transport**
- **NPPF Chapter 11 – Making effective use of land**
- **NPPF Chapter 12 – Achieving well-designed places**

On **planning conditions** paragraph 55 of the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** paragraphs 39 and 40 of the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Local Policy

https://go.walsall.gov.uk/planning_policy

Black Country Core Strategy (BCCS)

- CSP1: The Growth Network
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision

- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN3: Growth in the Strategic Centres
- CEN7: Controlling Out-of-Centre Development
- CEN8: Car Parking in Centres
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan (UDP)

Since the previous decision, the council has (January 2019) adopted the Walsall Town Centre Area Action Plan (AAP). This has replaced certain policies in the UDP

- GP2: Environmental Protection
- GP6: Disabled People
- ENV32: Design and Development Proposals
- 5.4 to 5.11 Strengthening our Centres
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S7: Out-of-Centre and Edge-of-Centre Developments
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis
- WA1: Primary Shopping Area
- WA3: Other Town Centre Uses
- WA19: Pedestrians, Cyclists and Disabled People

Walsall Town Centre Area Action Plan (AAP) adopted January 2019

- AAPS1: Primary Shopping Area

It is crucial that investment in retail is concentrated within the heart of the town centre and that the area provides an attractive shopping destination. The Primary Shopping Area, as shown on the Policies Map, forms the main focus of activity in the centre and the approach to development in and around the town centre should be to protect and enhance its function as the heart of Walsall Town Centre. This will be achieved by:

a) Concentrating new retail floor space and investment within or immediately adjacent to the Primary Shopping Area boundary;

b) Expecting all development within the Primary Shopping Area to provide an active and well-designed frontage to positively contribute to the street scene. Any significant proposal for non-retail use will have to demonstrate that the retail function is not prejudiced (as in accordance with UDP Saved Policy S4);

c) Only permitting retail development away from the Primary Shopping Area where it can be demonstrated that there are no suitable development sites or vacant premises within or immediately adjacent to it (in accordance with UDP Saved Policy S7, BCCS Policy CEN7, and Policy AAPS2). When proposals come forward that can demonstrate there are no suitable alternatives the Council will require the provision of safe, direct and attractive pedestrian links into the Primary Shopping Area;

- AAPS2: New Retail Development

a) The Council aims to deliver 6,000sqm gross new comparison goods floor space and 1,500sqm gross new convenience goods floor space (in addition to existing commitments) by the end of 2026. This will be achieved by:

i) Focussing new retail development in the Primary Shopping Area as required by Policy AAPS1;

b) Convenience retailing and bulky goods will, where possible, be located in the Primary Shopping Area in accordance with the sequential approach (BCCS Policy CEN7 and UDP Saved Policy S7). Where retailing cannot be accommodated within or immediately adjacent to the Primary Shopping Area the Council will expect the following sites to be considered in order as part of the sequential assessment:-

1. Jerome Retail Park (TC19);
2. Former Shannon's Mill Site (TC26) (see also Policy AAPINV2);
3. Crown Wharf (TC07);
4. Wisemore (TC55) (see also Policy AAPINV3);
5. Challenge Block (TC41) (see also Policy AAPINV3(b));
6. Day Street (TC50) (see also Policy AAPINV3(c)).

c) Any edge-of-centre proposals will be expected to:

i) Link directly to active frontages in the Primary Shopping Area, or if not possible, to improve linkages functionally and visually to the Primary Shopping Area; and

ii) Show that there is no significant adverse impact on the vitality and viability of the town centre and planned investment for its future (as in accordance with BCCS Policies CEN3 and CEN7). d) Where proposals for retail are permitted away from the Primary Shopping Area planning conditions will be applied where necessary to minimise the impacts of the development on the centre by, for example, controlling the broad range of goods to be sold.

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Shop Front

- SF2: Shop front proportions
- SF3: Materials in shop fronts
- SF4: Colour finishes
- SF5: Access to shops

National Planning Practice Guidance

Ensuring the vitality of town centres

- It is for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission).
- If there are no suitable sequentially preferable locations, the sequential test is passed.

Developments since the determination of application 18/0671 in September 2018

Since the application was submitted in February 2019 there has been a number of significant material change in circumstances.

Most notably, the Walsall Town Centre Area Action Plan (AAP) was adopted as policy by the Council in January 2019. This application submitted in February 2019 has failed to pick this up and continues to assess the AAP as emerging policy as the 2018 application.

Consultation Replies

Surrounding occupiers notified by letter. Site noticed displayed

No Observations received

Representations

Highways – no objection subject to use of recommended conditions in regard to demarcating the HGV turning area, implementation of the Framework Travel Plan and submission of a Construction Methodology Statement.

Planning Policy – Reiterates its objection in respect of 18/0671. This states that there are sequentially preferable sites which could accommodate the proposal. The vulnerable health of the centre coupled with the flexible nature of the centre mean that the potential for adverse impact cannot be ruled out in this instance.

Pollution Control – no objection subject to use of recommended conditions in regard to investigating the land for contamination and ground gas including any necessary mitigation measures.

Place Team – objects. Creation of a speculative unit outside of the retail core will draw investment away from the main shopping area including the Saddlers Centre and St Matthews Quarter Scheme. Crucial to secure investment within the heart of the town centre given pressure of retail market. The proposed scheme could therefore jeopardise the regeneration of the town centre.

Police Crime Prevention – no objection subject to use of recommended security measures in regard to window standards, monitoring system and fogging device, internal access control measures, CCTV, lighting and staff search room.

Fire Services – no objection.

Determining Issues

- Principle of use
- Extant use
- Impact upon character and appearance of the area
- Impact upon adjoining occupiers
- Highway safety

Principle of use

Jerome Retail Park is an established retail area within the Town Centre. The application site is adjacent to the Primary Shopping Area and therefore is an edge of centre location as defined by the NPPF. In terms of scope and scale, the application is almost identical to that determined last year (18/0671). As such, there is no discernible change in the proposal

The applicant maintains within its Sequential Assessment in support of this application that units within Phase 2 of the Old Square redevelopment were not considered suitable for convenience goods retailing due to an absence of dedicated car parking for customers and limited servicing arrangements.

However, within the context of the adopted AAP, the proposed site for the new Class A1 retail unit is within Walsall Town Centre but located outside of the Primary Shopping Area. This therefore reiterates the proposed site as being edge-of-centre site in terms of retail uses and, as such, both the sequential and impact assessment would therefore apply as set out in the Revised National Planning Policy Framework (NPPF) (published by central Government during February 2019), existing adopted Black Country Core Strategy (BCCS) (adopted February 2011), Walsall Council's Site Allocations Document (SAD) (adopted January 2019), and Walsall Council's Walsall Town Centre Area Action Plan (AAP) (2019).

Therefore, as the site is edge-of-centre an accurate and sequential assessment should have been undertaken at the time of the submission of the application as required by the NPPF, existing BCCS (2011) Policies CEN4 (Regeneration of Centres) and CEN7 (Controlling Out-of-Centre Development) and Walsall Council's Walsall Town Centre AAP (2019) policies AAPS1 and AAPS2.

In addition, there are Planning Policy concerns that the proposed new Class A1 retail unit could potentially harm the future delivery of the expanded Bus Station proposals at Bradford Street and Bridgeman Street, Walsall Town Centre. This is identified as a key regeneration priority within Policy AAPT3 (pages 82 to 83) of Walsall Council's adopted Walsall Town Centre Area Action Plan (AAP) (adopted January 2019). The proposals could therefore potentially conflict with the future regeneration aspirations and priorities of the Walsall Town Centre AAP. The adopted Walsall Town Centre AAP is a key material planning consideration for informing decisions on planning applications coming forward within Walsall Town Centre.

The proposal is for A1 retail, defined as a main town centre use within the NPPF. In seeking to maintain the vitality of town centres Section 7 of the NPPF indicates that main town centre uses should be located in town centres and then in edge of centre location and that a sequential test should be applied for main town centre used which are not within the town centre.

Additionally, BCCS Policy CEN7 explains retail development such as this would need to be demonstrated that where it is maintained by the applicant that is unable to be accommodated within the town centre that it meets the tests of BCCS policy CEN6. Saved UDP policy S1 defines town centre uses, S4 seeks to safeguard the existing level of shopping provision in the Town Centre and S7 sets out eight tests (similar to those in CEN6) required to be fulfilled for town centre use proposals in edge-of centre locations which are considered below. Policies AAPS1 and AAPS2 of the Walsall Town Centre Area Action Plan seek to concentrate new retail floor-space within or immediately adjacent to the Primary Shopping Area boundary and only permitting retail development away from the PSA where it can be demonstrated that there are no suitable development site to vacant premises within or immediately adjacent to it.

Sequential Test

The proposal is for A1 retail, defined as a main town centre use within the NPPF. In seeking to maintain the vitality of town centres Section 7 of the NPPF indicates that main town centre uses should be located in town centres and then in edge of centre location and that a sequential test should be applied for main town centre used which are not within the town centre.

In terms of evidence necessary to demonstrate the need for the retail unit proposed, this resubmission is a speculative proposal with no end user identified in the application submission. The supporting statements, again make no case of need for the proposed retail store in this edge of centre location. There is no marketing or any details of expression from end users that demonstrates a need for this development. In the case of the PSA there are a number of vacant properties, it is considered below whether any perceived need can be met within existing provision.

Proposed Condition

In respect of the sequential approach presented in support of this application, the applicants/appellants Planning Statement has explained they would accept a planning condition limiting the retail use to the following:

- DIY and/or garden goods;
- Household furniture and lighting;
- Kitchens, kitchenware, bathrooms and bathroom accessories;
- Carpets, wall and floor coverings;
- Automotive accessories and bicycles;
- Recreational goods and camping goods;
- Pets and pet supplies;

- Electrical goods;
- Office furniture and supplies
- Food and convenience goods

Though this form of condition has, in the past been accept, the above conditions are unable to comply with the six tests are as such are now considered to be unacceptable

Suitability of Sites

The NPPG states that if there are no suitable sites identified in sequentially preferable locations within the PSA then the sequential test is passed. On the other hand, as explained in the NPPF where an application fails to satisfy the sequential test it should be refused.

The applicant/appellant maintains that they have considered a number of current vacant town centre sites, some of which the LPA agree are not suitable on the grounds of suitability due to the size of the vacant units. Their assessment focuses on market and locational requirements but this is difficult to be precise in the absence of a clear end user. For example the requirements of a comparison retail operator are different to a convenience goods retail operator. In the case of this speculative proposal, the LPA must therefore not discount a site that may be suitable for comparison shopping use even if it is not suitable for convenience use – as the application seeks planning permission either scenario. The NPPG guides that there should be flexibility in the format and/or scale of the proposal. It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed.

As before, the applicant/appellant seeks planning permission for a single storey building with a footprint of 877sqm. The detailed drawings propose an internal retail floor space of 638sqm and ancillary areas (offices, toilets, storage) with an internal floor space of 193sqm. The unit would share its service yard with Clearance Bargains. No external storage is proposed as part of the proposal.

The following available sites have been submitted as part of the sequential assessment:

1. Units 1-11, St Matthews

Units, 1 (156sqm plus potential mezzanine of 156sqm*), 2 (473sqm plus potential mezzanine of 237sqm*), 3 (510sqm plus potential mezzanine of 255sqm*) and 4 (510sqm plus potential mezzanine of 255sqm*) are all vacant and next to one another. Unit 6 (789sqm plus potential mezzanine of 492sqm*) is also available.

The Planning Statement for the planning permission at this site (13/1421), para 3.14 states “provision of 11 individual units. However, where levels allow some may be combined to create larger units”. And para 7.1.6 – “11 units are proposed, but there is the potential to combine some, dependent up occupier requirements “

The applicant considers this site unsuitable on the grounds that there is “no dedicated car parking and trolley spaces that would preclude a discount or specialist retailers such as Iceland or Farm Foods which rely on bulk shopping”. As the applicant is seeking a flexible permission it is not possible to be certain a bulky good operator would occupy the unit. Furthermore the applicant/appellant maintains that there are examples of food retailers successfully operating from within the Primary Shopping Area without designated car parking – Co-op and Heron Foods being examples within the PSA. Also B&M operates from this location and sells a number of bulky goods products. B&M also have trolleys available for use in this store.

The applicant/appellant has acknowledged that there is an absence of dedicated storage space which would significantly reduce the sales area. Unlike a dedicated freestanding retail unit, the use of a shared delivery area to the rear prevents any pallet or containerised and chilled storage of food outside of the main building. The service yard is shared with all other units particularly Poundland, The Entertainer and B&M and precludes any external storage. As the applicant is seeking a flexible permission it is not possible to be certain a bulky good operator would occupy the unit. Many other retailers successfully operate from this location including B&M which has bulky goods. In addition detailed drawings proposed as part of this application do not include dedicated storage space and would share the delivery yard with Clearance Bargains. The applicant/appellant therefore dismisses this available site on the grounds that “Re-stocking would be required while the store was open unless part of the unit was used for storage, food preparation and staff accommodation. Otherwise re-stocking would have to occur using ‘just in time’ deliveries outside of store opening with limited scope to re-stock unless dedicated storage was provided internally”. This point is not accepted as many other retailers successfully operate from this location.

Furthermore, the applicant/appellant maintains that “the enclosed nature of the unit would prevent or significantly hamper the ability to provide a bakery which is present in both the M&S Food-hall and Asda stores”. There is no evidence that a bakery could not be delivered and it would be inflexible of the applicant to rule out a town centre unit on the possibility that the end user may require a bakery as part of the unit, especially given the number of retailers in operation that need an in-house bakery.

The applicant/appellant case cites the close proximity of the Asda store to the north which has dedicated car parking and an ability to sell a wide range of non-perishable and perishable items including an in-store bakery would resent a significant level of competition which would substantially reduce the prospect of attracting a non-convenience goods supermarket. However, National Policy seeks to encourage

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competition in recognition of the role it plays in consumer choice and indeed one of the elements of the impact test in the NPPF looks at the impact on “consumer choice”. This point is therefore not accepted.

The applicant/appellant concludes by stating that these units are “suitable for the sale of comparison goods and this is clearly the intention of the developers when constructing the unit with a large ceiling height and the ability to insert a mezzanine floor. There was however no intention to insert a mezzanine floor within the shop unit planned at the Jerome Retail Park. Consequently we believe that both the availability of Unit 6 and that proposed on the park are not mutually exclusive. The unit proposed under App. No. 19/0139 is essentially a repeat of 18/0671 previously refused planning permission last year (September 2019)) is suitable for a food and convenience goods retailer wishing to trade within both the basket and primarily bulk food shopping market i.e. not in the convenience store market. Unit 6 also provides the flexibility to provide a much greater level of space consequent upon the ability to insert a partial mezzanine which could be used for retail trading, a feature which is not planned within the proposal at the Jerome Retail Park. Therefore both units are capable of meeting different market requirements and attracting different operators with varied operational and market requirements”.

This argument is not accepted by this Authority. As the proposed unit is speculative it is not possible to be certain that a mezzanine would not be created. It is also not possible to rule out the occupation of the application site by a comparisons retailer, which as the applicant states the St. Matthews Units are suitable for. It is crucial to remember that the application seeks permission for “either non-food (comparison goods) or food (convenience) goods”. While the proposed conditions seeks to omit some users, the proposed list includes uses that could be accommodated within these units.

The applicant has not provided sufficient justification to rule out this more sequentially preferable location.

2. Former Poundworld (41a Park Place)

Available unit, 672sqm ground floor sales, 13sqm ground floor ancillary, 428sqm first floor ancillary.

The applicant states that due to the “9 internal pillars...these severely limits both the ability to display goods and restrict those seeking to use trolleys.” As the applicant is seeking a flexible permission it is not possible to be certain the retailer would require trolleys. Wilkos operates successfully (including proving trolleys) from a unit with the same configuration as this with internal pillars and adjacent to this one. Discounting a unit due to the ability to display goods is not considered to show sufficient “flexibility on issues such as format and scale” as required by the NPPF.

The applicant explains the “internal floor is split into two halves with steps providing access to the higher level. This inhibits the use of trolleys and those with mobility difficulties.” As the applicant is seeking a flexible permission it is not possible to be certain the retailer would require trolleys. Internal modifications to make a unit more suitable for those with mobility difficulties could be a reasonable alteration to make a unit suitable for occupation and would fall under the requirement in the NPPF to “demonstrate flexibility on issues such as format and scale”. Discounting a unit due to the ability to display goods to not considered to show sufficient flexibility.

The applicant goes on to say that “No storage areas are available the unit comprised largely of a single store with servicing from the rear. This would require retailers to maintain stock on the trading floor which could inhibit both the quality of the retail offer and prevent the full range of stock from being retained on site.” The unit was previously occupied by an operator that runs a business model based on a high turnover of stock which would suggest that issues around storage can be overcome.

The applicant’s statement considers “There is no external space for customer trolleys. This along with the configuration would constrain its use for the sale of food and convenience goods.” As the applicant is seeking a flexible permission it is not possible to be certain a food operator would occupy the unit. The opportunity for trolley storage at the front of unit should be explored further before discounting the unit on this basis. This argument is therefore not sufficient to dismiss the unit.

It is also explained that “Staff facilities are very limited to toilets and a small office. There is no rest or relaxation area for staff.” This argument would rule out the operation of the unit for any retailer and as the unit has been successfully occupied previously, this point is not accepted.

The applicant also says that “Rear servicing is restricted with limitations on the size of delivery vehicles entering the ground level.” The unit was occupied by an operator that runs a business model based on a high turnover of stock which would suggest that issues around storage can be overcome and that this argument is not sufficient to dismiss the unit.

The statement explains “There is no ability for customers collecting goods to access the rear of the store to collect goods purchased which when coupled to any dedicated customer car park, would require goods to be capable of being removed immediately at the point of purchase.” As the applicant is seeking a flexible permission it is not possible to be certain a bulky good operator would occupy the unit. A requirement for Click and Collect or any other detail requirements have not been listed elsewhere and would discount all units within the PSA. This argument is therefore not sufficient to dismiss the unit.

It also explains that “The internal ceiling height is lower than modern standards which when coupled to the depth of the unit provides limited natural light and a relatively confined shopping environment”. This argument would rule out the

operation of the unit for any retailer and as the unit has been successfully occupied previously. Wilko operates from a similar style unit successfully next door.

The applicant also explains “There is no scope to expand or provide a mezzanine floor.” As the application is speculative there is no certainty that a mezzanine would be required, furthermore the applicants states “no intention to insert a mezzanine floor within the shop unit planned at the Jerome Retail Park” so it is not reasonable to now rule out a site because a mezzanine cannot be provided.

The applicant concludes that “overall these factors lead us to conclude that the premises are not suited to modern retailer requirements and it provides in qualitative terms a unit which is not comparable to that proposed on the Jerome Retail Park”. This conclusion is not accepted as the unit has been successfully occupied previously and with investment in the unit this property could provide a high quality unit that meets modern retailer’s requirements.

Further, there are a number of vacant units above the Poundland store which could provide opportunities to overcome some of the constraints raised by the applicant operating on two levels in a similar way to the Wilko unit next door.

3. It is agreed that vacant units, former Marks and Spencer’s (53 Park Street), the Saddlers Centre (Park Street) and the former BHS store (71-75 Park Street), would not be comparable in sequential terms to that current proposed.

4. Crown Wharf Retail Park

Whilst Crown Wharf is also edge of centre and is less well connect physically to the Primary Shopping Area then Jerome Retail Park it’s important to consider the existing vacant units. Unit 5 is currently available, with a floor space of 929sqm. Whilst this may not be sequentially preferable this unit would be suitable to meet a very similar retail need as the proposed retail unit in this application. The creation of an additional edge of centre unit with connected parking is therefore not needed as there are other sites already available. The creation of more retail units on edge of centre sites will therefore simply act to increase the amount of units that are competing against the units within the Primary Shopping Area. In addition Mothercare unit is currently proposed for closure which would create a further vacant unit on this park.

Since the submission of this application, the former TJ Hughes premises located in the Saddlers Centre within the Primary Shopping Area (PSA) of Walsall Town Centre has now become vacant. Given the date of the application, this has not been included in the applicants Sequential Site Search document accompanying this planning application. However, given that this application is now to be determined by the planning Inspectorate within the context of an appeal against non-determination these vacant premises would nonetheless be a material consideration in the determination of this appeal

This Authority therefore maintains that, based on the current available units within the PSA, the scale and need for this store could be met by investment within one of the existing units in the Town Centre.

In respect of not having any adverse economic impact upon the vitality and viability of any centre the additional 877 additional sqm of retail , as proposed, is above the 500sqm threshold for edge-of-centre schemes that is set out in the BCCS. The proposal therefore needs to demonstrate that there would be no significant impact on the centre as set out in BCCS policy CEN3 and AAP Policy S1 and S2.

As the scheme is for a speculative unit with flexibility between comparison and convenience it is difficult to make conclusions of the impact of the scheme. It is also difficult to make any judgement around what conditions could be applied to mitigate the impact of the scheme including the range of uses the applicant explains would be acceptable to them and to ensure the Council would be able to assess changes to the operation of the unit in the future in terms of potential impact. The use of appropriate conditions to control the impact of edge-of-centre schemes on the health of centres is a clear requirement of policy as set out in BCCS Policy CEN7 and emerging AAP Policy AAPS2 subject to meeting the Governments 6 tests for imposing conditions.

However it is impossible to see how the creation of a speculative unit in an edge-of-centre location would not have an adverse impact on the commercial health of the PSA. It is likely that the unit would compete with the vacant units within the PSA in particular those within the St Matthews Quarter Scheme which offer a similar quality unit but without the benefits of parking opposite.

Walsall Town Centres health is vulnerable. Work undertaken as part of the Town centre Area Action Plan (AAP) by DTZ in July 2015 summarised the situation as:

“Comparison retail provision is increasingly focused in a smaller number of larger, prime locations across the UK, which has led to a reduction in multiple retailer representation in smaller Town Centres such as Walsall. This – together with other structural changes in the retail sector, competition from edge/out-of-centre shopping destinations and the Town Centre’s lack of recent investment – has had adverse implications for vacancy rates and for the quality and diversity of Walsall Town Centre’s retail offer, resulting in the continued decline in the health of the Town Centre”.

This resulted in them concluding that in order to protect the vitality and viability of the centre the Council needs to focus investment in the PSA and have a strong control on the goods sold from edge- of-centre sites in order to retain retailer representation within the PSA. They go on to warn that “even relatively small adverse impacts on Walsall Town Centre arising from competing retail development, individually or cumulatively, may have significant effects on the decisions of retailers, developers

and investors and further reduce the town's health and attractiveness." (DTZ July 2015).

The applicant/appellant states that the impact of the scheme must be considered in light of the projected growth of the centre as set out in the DTZ study but given the number of vacant units and the new units that remain unlet it is not possible to be certain that the projected growth is on course. As the DTZ study was undertaken in August 2015 Planning Policy are of the view that given the increased rate of retail closures and uncertainty in the retail market the health of the town centre is likely to have only declined since the study was concluded. Furthermore the projected growth forecast in the DTZ study was based on the presumption that the PSA would be strengthened by directing investment into vacant units and that any scheme that had even a "relatively small adverse impact" of the centre would be refused.

Given the health of the centre and the flexibility required by the applicant it is not possible to conclude that the proposal would not have an adverse impact on the health of the centre. A retail unit in this location has the potential to draw investment away vacant town centre sites and divert trade from existing businesses. Furthermore there is potential for cumulative impact as there are already units available in other edge-of-centre sites such as Crown Wharf which are competing for those on offer in the PSA and this scheme would only add to this supply.

Extant use

The applicant/appellant has advised that the open space (yard) where the building is proposed had previously been used for outdoor retail use and that such an outdoor retail use forms part of the extant consent.

The building currently used as Clearance Bargains was originally built for the purpose as a garden centre (subsequently planning permission BC09097P/C was implemented and operated by Homebase), with an open yard to be used for external display. This area was controlled by condition 10 defined to be gardening and DIY materials only.

It is not clear when Homebase vacated the site, but the current occupier Clearance Bargains were there in 2009 (possibly earlier) who do not operate a garden centre. Aerial photos from 2004 do not include any external retail displays in this area and in a sequence of aerial photos from 2006 the area appears to have been used for storage of shipping containers. Therefore it is questionable whether this land now has an established lawful use for external storage rather than display of gardening and DIY materials for sale.

If it were established that the garden centre use remains, as a fall-back position, clearly there is a difference between the retail offer of a garden centre compared to use for food and convenience goods, and the impact in sequential terms upon the Town Centre.

It remains that there are more sequentially available sites within the Primary Shopping Area and the lawful use of this piece of land would not justify departure from directing investment into the most sequentially preferable location.

Impact Assessment

As the proposal is for 877 additional sqm of retail it is above the 500sqm threshold for edge-of-centre schemes that is set out in the BCCS. The proposals therefore needs to demonstrate that that there would be no significant impact on the centre as set out in BCCS policy CEN3 and AAP Policy S1 and S2.

As the scheme is for a speculative unit with flexibility between comparison and convenience it is difficult to make conclusions of the impact of the scheme. It is also difficult to make any judgement around what conditions could be applied to mitigate the impact of the scheme and to ensure the Council would be able to assess changes to the operation of the unit in the future in terms of potential impact. The use of appropriate conditions to control the impact of edge-of-centre schemes on the health of centres is a clear requirement of policy as set out in BCCS Policy CEN7 and emerging AAP Policy AAPS2.

However it is impossible to see how the creation of a speculative unit in an edge-of-centre location would not have an impact on the health of the PSA. It is likely that the unit would compete with the vacant units within the PSA in particular those within the St Matthews Quarter Scheme which offer a similar quality unit but without the benefits of parking opposite. The work undertaken by the applicant considers the impact in the context of the St Matthews Scheme not being completed which is incorrect. This scheme has indeed been completed and the trade diversion from this scheme needs to be fully considered.

Walsall Town Centres health is vulnerable. Work undertaken as part of the Town centre Area Action Plan (AAP) by DTZ in July 2015¹ summarised the situation as:

“Comparison retail provision is increasingly focused in a smaller number of larger, prime locations across the UK, which has led to a reduction in multiple retailer representation in smaller Town Centres such as Walsall. This – together with other structural changes in the retail sector, competition from edge/out-of-centre shopping destinations and the Town Centre’s lack of recent investment – has had adverse implications for vacancy rates and for the quality and diversity of Walsall Town Centre’s retail offer, resulting in the continued decline in the health of the Town Centre”.

¹ The DTZ report can be viewed at:

https://go.walsall.gov.uk/Portals/0/images/importeddocuments/dtz_final_walsall_aap_report_18.09.2015_wiht_appendicies-3.pdf

This resulted in them concluding that in order to protect the vitality and viability of the centre the Council needs to focus investment in the PSA and have a strong control on the goods sold from edge- of-centre sites in order to retain retailer representation within the PSA. They go on to warn that “even relatively small adverse impacts on Walsall Town Centre arising from competing retail development, individually or cumulatively, may have significant effects on the decisions of retailers, developers and investors and further reduce the town’s health and attractiveness.” (DTZ July 2015).

The applicant states that the impact of the scheme must be considered in light of the projected growth of the centre as set out in the DTZ study but given the number of vacant units and the new units that remain unlet it is not possible to be certain that the projected growth is on course. As the DTZ study was undertaken in August 2015 Planning Policy are of the view that given the increased rate of retail closures and uncertainty in the retail market the health of the town centre is likely to have only declined since the study was concluded. Furthermore the projected growth forecast in the DTZ study was based on the presumption that the PSA would be strengthened by directing investment into vacant units and that any scheme that had even a “relatively small adverse impact” of the centre would be refused.

Planning Policy therefore consider that given the health of the centre and the flexibility required by the applicant it is not possible to conclude that the proposal would not have an adverse impact on the health of the centre. A retail unit in this location has the potential to draw investment away vacant town centre sites and divert trade from existing businesses. This in turn could impact on Council investment such as the Primark Scheme and the Saddlers Centre. Furthermore there is potential for cumulative impact as there are already units available in other edge-of-centre sites such as Crown Wharf which are competing for those on offer in the PSA and this scheme would only add to this supply.

Highway safety

The site is accessible from the PSA with footpaths providing an easy walking connection to the nearby bus stations and the train station all with regular services. A footpath runs directly in front of the proposed unit from the PSA. Directly opposite is an existing pay and display car park that provides 380 parking spaces. The Transport Statement explains that due to the nature of the proposed use the majority of trips generated will not be new and will either be linked, diverted or pass-by. The statement says in a worse-case scenario (assuming no linked trips) the development is anticipated to generate four additional vehicle movements in weekday am peak and 29 in pm peak. With 59 during the Saturday peak hour (14:00-15:00).

A Transport Statement incorporating a Travel Plan Framework has been provided explaining that the site will have a designated Travel Plan Coordinator and Staff Travel Information packs will be provided to all the staff, containing details of location

of bus stops, routes and timetables, walking and cycling routes. In addition Travel plan notice board will be placed in communal areas

Highways support this application subject to the use of conditions in regard to demarcating and keeping clear the HGV turning area, implementation of the Staff Framework Travel Plan and the submission of a Constriction Methodology Statement, the development would not give rise to severe transportation impacts.

Conclusions and Reasons for Decision

Overall Planning Policy considers that the application should be refused. Planning Policy believes there are sequentially preferable sites which could accommodate this proposals which are available now (St Matthews and Poundworld) and that could be made available with alterations (Marks and Spencer's) and that the applicant has not provide adequate details or show sufficient "flexibility" as required by the NPPF to dismiss these sites. The applicant's conclusions that that the proposal would be unlikely to result in significant adverse impacts are not supported by their sequential assessment and are also contrary to the requirements of both National and Local Policy in respect of the location of retail units as proposed. It is therefore considered that the siting of the proposed retail unit located outside of the PSA would have a material and adverse impact upon health of the centre. This coupled with the flexible nature of the centre mean that the potential for adverse impact cannot be ruled out in this instance. In order to support a scheme in this location Planning Policy would need to have a clear understanding on the type of retailer operating from the site in order to make a judgement about the likely impact and in order to utilise planning conditions effectively to limit the potential impact on the PSA. To date this detail not been forthcoming in support of this application

Taking into account the above factors the economic harm would outweigh any social and environmental benefits and it is considered that the application should be recommended for refusal. The development is considered to be contrary to the aims and objectives of the National Planning Policy Framework, Black Country Core Strategy policies CEN3 and CEN7, saved policies S1, S2, S4 and S7 of the Walsall Unitary Development Plan and policies AAPS1 and AAPS2 of the Walsall Town Centre Area Action Plan adopted January 2019

Positive and Proactive Working with the Applicant

Officers have worked with the applicant's agent exploring in detail the availability of existing units and the needs of the applicant. Due to the speculative nature of the proposal and this edge-of-centre location it has not been possible to lend support to the scheme. It has been explained that if an end user was promoted the precise impacts on the Primary Shopping Area and any necessary mitigation planning conditions could be considered.

Recommendation

Refuse

Reasons for Refusal

The application has failed to demonstrate that there is a need for this speculative town centre use within this edge-of-centre location and that the use cannot be provided by directing this investment within one of the existing vacant and available units within the Primary Shopping Area. The occupation of this site for speculative retail use would result in the diversion of trade away from the Primary Shopping Area which is already suffering from high vacancy rates and whose health is already considered to be vulnerable. The proposal would be to the detriment of vitality and viability of the Primary Shopping Area. The proposal has failed to satisfy the sequential test. Accordingly the development is contrary to the aims and objectives of the National Planning Policy Framework, Black Country Core Strategy policies CEN3 and CEN7, saved policies S1, S2, S4 and S7 of the Walsall Unitary Development Plan, and policies AAPS1 and AAPS2 of the Walsall Town Centre Area Action Plan adopted January 2019.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 28-Nov-2019

Plans List Item Number: 5.

Reason for bringing to committee: Major Application

Location: FORMER METAFIN SITE, GREEN LANE, WALSALL

Proposal: ERECTION OF 72, 1 AND 2 BED FLATS IN 4 X 3 STOREY BLOCKS, CAR AND CYCLE PARKING, LANDSCAPING, ACCESS AND ASSOCIATED WORKS.

Application Number: 19/0245

Applicant: Mr Corbett

Agent: Mr Sam Davey

Application Type: Full Application: Major
Use Class C3 (Dwellinghouses)

Case Officer: Barbara Toy

Ward: Birchills Leamore

Expired Date: 30-May-2019

Time Extension Expiry: 06-Dec-2019



Recommendation Summary:

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a S106 Agreement to secure contributions towards the provision of Affordable Housing and Urban Open Space.

Proposal

This application proposes the redevelopment of the former Metafin industrial site for residential purposes.

The application has been amended since submission and now proposes to provide 72 apartments (6 x 1 bed and 66 x 2 bed) within 4 three storey blocks that would be set back from Green Lane with parking on the frontage. The four blocks would sit north to south facing Green Lane and backing onto the Wyrley and Essington Canal, with a feature square situated between the central blocks.

Each block would be constructed from red multi facing bricks with blue brick features to windows, with a grey tiled gable roof that would have large gable features to the front and rear elevations. All the flats would be single aspect and each would have a Juliet balcony off the lounge area.

Block A (19.4m x 13.7m, 3 storey 12.5m maximum height)

- 12 flats, 6 x 1 bed and 6 x 2 bed
- A single central staircase and single projecting entrance feature to the front elevation.
- Northern elevation to Rayboulds Bridge Road would have windows, the southern elevation would have no windows.

Block B (41.8m x 13.7m, 3 storey 12.5m maximum height)

- 24 x 2 bed flats, 8 on each floor
- Two stairwells and projecting front entrance features to the front elevation
- Southern elevation would have side facing windows overlooking the feature square
- Second Floor windows to the front and rear elevations would be set above the eaves level.

Block C (41.8m x 13.7m, 3 storey 12.5m maximum height)

- 24 x 2 bed flats, 8 on each floor
- Two stairwells and projecting front entrance features to the front elevation
- Northern elevation would have side facing windows overlooking the feature square
- Second Floor windows to the front and rear elevations would be set above the eaves level.

Block D (21m x 13.7m), 3 storey 12.5m maximum height

- 12 x 2 bed flats

- A single staircase and projecting entrance feature to the front elevation
- Southern elevation would have side facing windows

The applicants have advised that the proposed flats would be for 100% private market sale.

Access to the site would use the existing site access to the north off Rayboulds Bridge Road for entrance and exit and entrance only via an access at the southern end of the site off Green lane.

72 parking spaces would be provided on the frontage, including 8 disabled spaces and 7 with electric vehicle charging points. Two bike storage facilities are indicated between blocks A and B and C and D providing bike storage for 36 cycles. Bin storage facilities would be provided at the northern and southern end of the site.

Landscaping and trees would be provided to the frontage of Green Lane with additional trees within the site, within the feature square and grass provided to the rear adjacent to the canal.

The proposals would have a density of 107 dwellings per hectare.

The following have been submitted in support of the application:

- Planning Statement
- Heritage Statement
- Archaeological Report
- Design and Access Statement
- Financial Viability Appraisal
- Preliminary Ecological Appraisal Report
- Tree Survey and Constraints Assessment
- Air Quality Assessment
- Flood Risk Assessment with Drainage and SUDS Strategy
- Noise Impact Assessment
- Residential Travel Plan Statement by Mode Transport Planning Feb 2019
- Transport Statement
- Stage 1 Ground Investigation Report

Site and Surroundings

The site (0.67ha) is situated on the western side of Green Lane (A34 Strategic Highway Network and Red Route), to the south of Rayboulds Bridge Road. The site runs north/south and sits between Green Lane and the Wyrley and Essington Canal. It was formerly occupied by a number of industrial buildings operated by Metafin, the buildings were demolished and the site cleared of trees earlier in the year.

The canal towpath is on the opposite side of the canal from the site. Rayboulds Bridge is a Grade II listed bridge and is set immediately to the north/west of the site. The boundary of the Walsall Locks conservation area is immediately to the south west of the site and Grade II listed Top Lock and two canal side properties (Boatman's Rest and Old Birchills Toll House) are situated further to the south west.

To the north of the site beyond Rayboulds Bridge Road is a vacant site covered in trees and landscaping with industrial premises beyond. To the west of the site on the opposite side of the canal is the former Caparo site which has a recent outline planning consent for up to 252 dwellings. To the south of the site, up to the corner of Old Birchills are a number of commercial premises; catering services, car sales, car wash, fencing sales, paint centre, air products and boat builder's yard, that infill the corner between Green Lane and the canal. To the east on the opposite side of Green Lane are industrial premises, a vacant site and a kidney treatment centre. Stockton Close opposite comprises a number of industrial premises. The closest residential premises to the site are No 1 Alma Street (off Green Lane) and 36 and 38 Green Lane to the south east of the site.

Relevant Planning History

None for the site itself.

Caparo Site to the west of the canal

11/1411/OL, outline for residential development of up to 252 dwellings, (access and scale to be considered) GSC and S106 Agreement 21-10-19.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**

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- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV26: Industrial Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas

- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H4: Affordable Housing parts g, h, i and j
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV6: Open Space, Sport and Recreation
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC1: Land allocated for New Housing Development
 HC3: Affordable Housing and Housing for People with Special Needs
 T4: The Highway Network
 T5: Highway Improvements
 IND3: Retained Local Quality Industry

- IN31 – West of Green Lane, Birchills

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Transportation – No objections subject to conditions relating to the surfacing and drainage of all parking and manoeuvring areas, cycle storage, construction method statement and modifications to the existing dropped kerbs.

Pollution Control – No objections subject to conditions relating to intrusive contaminated land investigations, construction management plan, acoustic mitigation measures and compliance with the Air Quality SPD

Coal Authority – No objections subject to conditions to secure a Stage 2 ground investigation, as recommended by the Stage 1 report.

Strategic Planning Policy – Support proposals. .

Canal and River Trust – Supportive of the development. Consider that the proposals would have a positive impact on the canal corridor, offering a strong frontage of open living space and a core amenity area that looks directly onto the canal. The scale of the development is considered appropriate, the revised layout provides breaks between the buildings. Concerns about the stability of the canal wall, a condition survey is required to identify any repair works necessary. A new piled bank is likely to be necessary to prevent further erosion of the canal bank. Previous neglect of the site resulted in materials and debris falling into the canal, which need to be removed. Brickwork should match existing local examples. Conditions required to ensure additional landscaping to the canal frontage, a construction methodology statement and lighting.

Archaeology – No objections. Following initial concerns further archaeological evaluation has been undertaken throughout the course of the application and confirms no archaeological remains that pre date the mid 19th century, no further work is therefore required at the site.

Fire Officer – Water supply and vehicle access needs to comply with guidance and Part B Building Regulations. Flats not fitted with a fire mains should have vehicle access for a fire appliance not more than 45m from all points within each dwelling.

Severn Trent Water – No objections to the drainage proposals, note to applicant recommended

West Midlands Police – No objections, comments on security relayed to the applicant. Secured by Design recommended

Housing Standards – No comments

Highways England – No objections

Natural England – No objections

Historic England – No comments

Representations

One letter of objection received relating to the original submission and one relating to the amended scheme.

Original objections:

- Please to hear about the redevelopment of the site but concerns about the size, scale and setting of the development.
- Block B would be further south than the previous buildings
- Detrimental impact on privacy and views from Old Toll House and Boatman's Rest, both Grade II Listed
- Significant alteration to the landscape
- Increase in height over previous buildings and moved further south
- Loss of light to Old Toll House and Boatman's Rest, previously enjoyed day light from sunrise to sunset which will be lost
- Development over bearing as a backdrop to the nearby heritage assets and Walsall Locks conservation area
- The area to the south east of the site should not be developed, closest to the heritage assets, should be open space
- Overdevelopment, block too large in scale for the setting
- Development should be sympathetic to the local heritage assets, the local environment and character of the neighbourhood
- Three storey apartments unprecedented in the area
- No heritage statement submitted
- Conflict to policy EN4 Canals
- No objection to the principle of development, but proposals overdevelopment and will negatively impact and views and light to nearby listed buildings, insensitive to heritage assets and local environment.

Amended Scheme objections:

- The development will be seen within a view of surrounding listed buildings which must be considered as well as the Walsall Locks conservation area.
- The development will be overbearing as a backdrop to these heritage sites, detrimental to the heritage of the area and the surrounding listed buildings
- The development of the site will be detrimental to the heritage of the area and have an adverse effect on the setting of the nearby listed buildings.
- The land to the south east should be open space
- The heritage statement does not define the 'zone of visual influence' which would demonstrate that the proposal is unproportioned within the zone.
- Disagree with the Heritage Statement that the Boatman's Rest and the Old Birchills Toll House do contribute to the setting. The proposals will not enhance the setting of these heritage assets.
- Block D will affect the views from The Boatman's Rest and Old Toll House and will impact on privacy

- The buildings will be further to the south east of the site than the previous buildings on site and the proportions of the buildings increased
- Impact on light to Old Toll House and Boatman's Rest from increased height and new positioning of new buildings over the previous single storey building
- Over development of the site and blocks too large in scale for their setting
- Three storey apartment blocks unprecedented in this area, other developments in keeping and only two storey
- Conflict with Policy EN4 Canals
- Not opposed to the principle of development but current proposals insensitive to the heritage assets and the local environment.

Determining Issues

- **Principle of the Development**
- **Design and Layout**
- **Impact on the amenities of the surrounding occupiers, the street scene and nearby heritage assets**
- **Wyrley and Essington Canal**
- **Access and Parking**
- **Land Stability**
- **Planning Obligations**
- **Local Finance Considerations**

Assessment of the Proposal

Principle of the Development

The site forms part of site IN31 identified within policy IND3 of the adopted SAD as Retained Local Quality Industrial Land. The nature and constraints of the site, including its narrowness, its relationship to the canal, the proximity to the A34 and to the Walsall locks conservation area and nearby listed buildings would make the site difficult to redevelop for modern industry. The remainder of the IN31 site to the south of the application site is now no longer in industrial use, rather it is occupied by commercial uses. The loss of the application site to residential has been compensated for by the investment by Metafin, (the former owners/occupiers of the site) in upgrading and moving to a site in Northcote Street, which is identified in the SAD under Policy IND4 as an area that could be considered for release to other uses, subject to an adequate supply of employment land being retained. The retention of this consider for release site can therefore be seen as compensation for the loss of the application site from industry to residential use.

Whilst the land to the south of the application site up to the Old Birchills road junction forms part of the IN31 site, this is not included in the application site, which is disappointing. However the applicants have provided an illustrative site plan that demonstrates how the site could be developed for residential use in the future where the current proposed application layout would not constrain its development. The Caparo site on the opposite side of the canal now has an outline approval (subject to

conditions and a S106 Agreement) for residential redevelopment up to 252 dwellings. Redevelopment of the application site for residential development would provide a more comprehensive residential development in the area and improve the general environment for the future residents of both sites. The redevelopment of the remainder of IN31 site would be encouraged, and it is recognised that the proposed layout of the application proposals would not preclude this.

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. This is a previously developed site. The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development.

This is a sustainable location, close to Walsall town centre, situated on a strategic highway route that provides good public transport, walking and cycling links and within walking distance of urban open space. The principle of residential development of the site is considered acceptable subject to impacts upon the character of the area, the residential amenity provided, highway safety and parking.

The density of the development at 107dph far exceeds the recommended 35dph within Policy HOU2 of the BCCS. It must be recognised however that the site is in a sustainable location on a strategic route into and out of the town centre, where higher density development is more likely to be acceptable. Also, it is inevitable that apartment schemes provide a higher density than traditional housing. On balance it is considered that the proposed density would be acceptable in such a sustainable location.

The principle of the provision of 72 dwellings on an identified brownfield site for residential use, that would sit comfortably with the approved residential development of the Caparo site to the west and would not hinder or constrain the redevelopment of the remainder of the site to the south for residential is considered acceptable and accords with the aims of local and national planning policies.

Design and Layout

The design and layout of the blocks of apartments has been amended since submission, from two very large blocks to the four now proposed, which has split up the blocks to reduce the overall impact. The roof profile on blocks B and C (the larger two) has been amended to provide differing levels, with some of the third floor windows now sitting above the eaves level. This design adds interest together with blue brick detailing added to windows and Juliet balconies added to each apartment which adds variety to the window detailing and both the front and rear elevations. Windows would be provided to the end elevations of each block, to provide interest to the visible gables and provide overlooking/surveillance of public spaces, which should help to improve security.

The location of bins stores and cycle storage has been amended to reduce their impact on the street scene as well as the canal to the rear.

Trees and landscaping would be provided to the frontage to soften the impact of the parking on the frontage and the three storey development. A grassed area would be provided to the rear of the blocks backing onto the canal, with further landscaping and trees situated within the feature square set in the centre of the site between blocks B and C. The open square (approx. 28m wide) would allow views through the site from the road to the canal (and beyond to the Caparo site) and vice versa.

Whilst the feature square in the centre of the site would provide some relief from the built form and some amenity space. It is recognised that the level of amenity space (476m²) would not fully comply with the 20m² per flat required by Appendix D of Designing Walsall. However, Sydenham playing fields sits just 170m to the south of the site, the canal sits to the rear and Reedswood Park sits to the north west of the site within walking distance, so the level of amenity on site is considered appropriate in this case. Rayboulds Bridge immediately to the north west of the site would provide direct access for residents to the canal towpath on the opposite side of the canal. The Juliet balconies allow improved visual amenity to each flat and there is also a benefit from being accessible to Walsall town centre and the amenity benefits this offers.

Whilst parking on the frontage of a site is not always the best form of urban design, in this case it is considered appropriate. Green Lane (A34) forms part of the strategic highway network and is a busy strategic route into and out of the town centre. It is therefore considered appropriate for the proposed flats to be set back from the highway with the car parking on the frontage with a landscaping buffer to the street, to reduce the impact of traffic noise to the future residents and ensure that the buildings address the canal appropriately to the rear.

The three storey buildings proposed are considered appropriate as they would reflect the height and style of buildings that historically would have lined the canal. Indeed the Juliet balconies now introduced could be seen as reflecting the design of upper floor openings in historic canal side buildings for loading and unloading onto barges for transport.

The revised design and layout of the scheme is considered appropriate.

Impact on the Amenities of the Surrounding Occupiers, the Street Scene, Nearby Heritage Assets and the Canal

As a site formerly used for industry the site sits within an industrial/commercial area, on a busy strategic highway route into and out of the town centre. It is considered that the proximity to the industrial uses on the opposite side of Green Lane would not adversely impact on the operations of the industrial uses and would not constrain the future operations of the industrial uses.

Mitigation measures to provide acoustic glazing have been recommended to ensure that the future occupiers are not adversely affected by traffic noise or noise from industrial/commercial activities.

It is considered that the canal to the rear and the future development of the Caparo site beyond the canal for residential use would provide an appropriate residential environment for the future occupiers of the apartments.

The site layout with the buildings set back from the road with landscaping and parking on the frontage would help to provide an appropriate residential environment for the future occupiers whilst providing an acceptable street scene to the main road.

It is considered that the proposals would have no adverse impact on the amenities of the surrounding occupiers or the street scene.

The site sits just outside the Walsall Locks conservation area and in close proximity to a grade II listed bridge, grade II listed top lock and two canal side buildings (Former Boatman's Rest and Old Birchills Toll House) both grade II listed. A heritage statement has been submitted in support of the proposals, which concludes that the development would not significantly impact on the Walsall Locks conservation area or affect the setting of the listed bridge or listed buildings.

The listed Lock, Toll House and Boatman's Rest all sit within the Walsall Locks conservation area to the south west of the site beyond the bend in the canal and have a strong relationship with each other which provides their setting. The Lock, Toll House and Boatman's Rest are set approx. 140m to the south of the southern end of the site and would not be seen in direct views. Rayboulds Bridge immediately to the north west of the site would be seen against a backdrop of the new buildings however the principle setting of the bridge is the canal itself, which would be unaffected by the proposals. The bridge would not be utilised for access to the development

The former industrial premises on the site were shed style buildings of no historical importance that did nothing to enhance the setting of the listed bridge or the conservation area to the south. The proposed development would provide buildings adjacent to the canal similar in style and positioning to traditional canal side properties from the past, which is considered would enhance the setting of the bridge over the previous buildings on the site.

It is considered that the proposals would have no adverse impact on the character or appearance of the Walsall Locks conservation area or the setting of the grade II listed bridge, Lock, Toll House and Boatman's Rest that are situated in the immediate area.

A condition is recommended to ensure that the materials used, in particular the facing bricks are matched to local examples.

The former use of the site for industrial purposes resulted in a poor visual appearance of the site from the canal, the rear of the site was neglected and resulted in some materials from the site ending up in the canal. The proposals would result in direct overlooking of the canal and towpath, providing surveillance and hopefully reducing potential for anti-social behaviour that occurs around Raybould Bridge.

Wyrley and Essington Canal.

The applicant is involved in continuing negotiations with officers from the Canal and River Trust about stability of the canal wall and canal bank works that will be required as a result of the development. Conditions are recommended by Canal and River Trust to ensure that appropriate details of the works required are agreed prior to implementation. The applicant has agreed to the conditions.

Access and Parking

The proposals would provide 72 off street parking spaces (including disabled spaces and electric vehicle charging spaces), equating to 100% parking, falling short of the 150% required by Policy T13 of the UDP. Given the site is situated in a relatively sustainable location, with good public transport and walking/cycling links, the level of parking is considered acceptable in this case. The site sits less than 0.5 miles from the Reedswood retail park and less than 0.4m from Walsall Town Centre, with good transport links to both.

Secure cycle storage would be provided between blocks A and B and C and D.

The main two way access to the site would be at the northern end, utilising the existing access off Rayboulds Bridge Road, which already benefits from a ghost right turn lane on Green Lane. A secondary access only would be retained at the southern end of the site off Green Lane, with all other footway crossings along Green Lane to be reinstated to full height kerbs. The access and egress arrangements for the development are considered acceptable and would not adversely impact on the existing highway network.

A Travel Plan Statement has been submitted and its content agreed, the document is secured by condition.

The amended scheme also includes improved segregated pedestrian links within the site and onto Green Lane.

Land Stability

The site falls within a defined Development High Risk Area, and site records indicate that the site is likely to have been subject to historic unrecorded underground coal

mining at shallow depth. A Stage 1 Ground Investigation Report has been submitted in support of the application which concludes that shallow mine workings pose a potential risk to the proposed development and that a Stage 2 Site Investigation comprising rotary boreholes to 30mbgl is required and being undertaken. A condition is recommended to ensure that this investigation is completed and a report of the findings is submitted for consideration by the Coal Authority. The Coal Authority are satisfied that the Stage 1 report submitted is sufficient at this stage to meet the requirements of the NPPF to demonstrate that the site is or can be made safe and stable for the proposed development.

Planning Obligations

The development of the site for the provision of 72 residential units would trigger the Council's policies for contributions towards Urban Open Space and Affordable Housing.

Urban Open Space

In accordance with policies GP3 and LC1 of the UDP, policy DEL1 of the BCCS and Supplementary Planning Document: Urban Open Space, identify that the proposals trigger the need for an urban open space contribution. In accordance with the policies an urban open space contribution of £96,738.00 is required towards open space improvements in the neighbourhood.

Affordable Housing

Policies HOU3 and DEL1 of the BCCS and Supplementary Planning Document: Affordable Housing, identify that the proposals trigger the need for affordable housing. In this case a Commuted Sum in lieu of onsite provision has been recommended by Housing Strategy. Policy AH5(c) of the SPD allows for a Commuted Sum to be paid, calculated to enable a similar amount of affordable housing to be provided with a housing partner. It is therefore considered acceptable that the developer pay a Commuted Sum in lieu of onsite provision.

The figure adopted to provide affordable housing provision elsewhere is based on advice from WHG and Accord Housing Association and is currently £31,562.50 per unit. In this case 25% of 72 units is calculated at £568,125.00.

Viability Assessment

The applicant has submitted a viability appraisal that has been independently assessed by an expert valuer Lambert Smith Hampton (LSH).

The LSH report agrees that the residual method of valuation approach used by the applicant is considered appropriate. The report advises that the benchmark adopted land value used by the applicant in their appraisal is considered excessive and a lower benchmark land value was adopted by LSH in their calculations. Other costs and assumptions made by the applicant are considered appropriate and have been adopted by LSH.

LSH viability assessment identifies a significantly improved viability position compared to that of the applicants appraisal and has produced a developer profit on cost of 20.09% (16.73% on GDV). Whilst this viability position is significantly improved given the site specifics, it falls short of the targeted developer's profit margin of 17% on GDV.

The report concludes that LHS are satisfied that due to the associated abnormal costs and low value location the proposed scheme does not show a sufficient level of developers profit to sustain any affordable housing or S106 contributions.

The applicant however included in their original appraisal a CIL payment of £16,867.00. Whilst Walsall MBC has not adopted CIL, the viability report included this contribution and the LSH report concludes that the application scheme can sustain this level of contribution without prejudicing the deliverability of the scheme.

It is therefore recommended that a Section 106 Agreement is required to secure this contribution and that the amount is proportionally split between the provision of Affordable Housing and Public Open Space. A proportional split would equate to 14.55% (£2,454.15) towards urban open space and 85.45% (£14,412.85) towards the provision of affordable housing.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 72 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

Whilst the site falls within site IN31 of SAD policy IND3 as retained local quality industrial land. The nature and constraints of the site would make the site difficult to redevelop for modern industrial use. The former industrial occupiers of the site have now invested in an alternative site that was considered for release for other uses,

which can be seen as compensation for the loss of the industrial site for residential use. The layout of the site is such that it would not preclude further residential development of the land to the south for residential use and the Caparo site on the opposite side of the canal has a recent consent for residential development. This would add to the comprehensive residential development in the area and improve the general surrounding environment. The site sits in a sustainable location on a busy strategic route where higher density development is considered appropriate. The principle of the redevelopment of the site for residential purposes is therefore considered appropriate in these circumstances and in compliance with policies HOU2 and CSP4 of the BCCS, Policy HC2 of the SAD and H3 and ENV14 of the UDP.

The amended design and layout is considered appropriate for the site and its surroundings and in compliance with policies GP2, ENV32 and T13 of the UDP and Appendix D of Designing Walsall.

It is considered that the development would have no adverse impact on the amenities of the surrounding occupiers in compliance with policies GP2 and ENV32 of the UDP and Appendix D of Designing Walsall.

It is considered that the proposals would have no adverse impact on the character or appearance of the adjacent Walsall Locks conservation area or the setting of the grade II listed bridge, Lock Toll House and Boatmans Rest that are situated in the immediate area, in compliance with policies ENV27 and ENV29 of the UDP.

The Canal and River Trust have advised that a solution to ensure the integrity of the canal wall and canal bank is part of continued negotiations with the applicant and have recommended appropriate conditions to ensure these details are confirmed prior to the commencement of any development on site, in compliance with Policy ENV4 of the BCCS.

The access and parking arrangements for the development are considered appropriate. Although the parking levels would fall below the 150% required by Policy T13 of the UDP, the site is situated in a sustainable location on a strategic route with good access to public transport and within walking distance of Reedswood retail park and Walsall town centre.

The site falls within a defined Development High Risk Area. The Coal Authority are satisfied that the Stage 1 report submitted is sufficient at this stage to meet the requirements of the NPPF to demonstrate that the site is or can be made safe and stable for the proposed development and in compliance with Policy ENV14 of the UDP.

The viability assessment undertaken by Lambert Smith Hampton concludes that due to the associated abnormal costs and low value location the proposed scheme does

not show a sufficient level of developers profit to sustain any affordable housing or S106 contributions. A contribution of £16,867 was calculated into the figures as a CIL payment and LSH have confirmed that the application scheme can sustain this level of contribution without prejudicing the deliverability of the scheme. A Section 106 Agreement is therefore appropriate to proportionally split this contribution between the provision of affordable housing and urban open space.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the layout and design, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a S106 Agreement to secure contributions towards the provision of Affordable Housing and Urban Open Space.

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2: This development shall not be carried out otherwise than in conformity with the following approved plans: -

- Location Plan Drawing D00 Rev A submitted 22-07-19
- Topographical Survey Drawing 2884/0001 submitted 20-02-19
- Site Plan Drawing D02 Rev B submitted 22-07-19
- Block A Plans & Elevations Drawing D100 Rev A submitted 22-07-19
- Block B Elevations Drawing D102 Rev A submitted 22-07-19
- Block B Plans Drawing D101 Rev A submitted 22-07-19
- Block C Elevations Drawing D104 Rev A submitted 22-07-19
- Block C Plans Drawing D103 Rev A submitted 22-07-19
- Block D Plans & Elevations Drawing D105 Rev B submitted 24-09-19

- Street Scenes Drawing D200 Rev A submitted 22-07-19
- Landscape and Boundaries Plan Drawing D14 Rev D submitted 19-11-19
- Site Sections Section A-A & B-B Drawing D106 Rev A submitted 22-07-19
- Site Sections Section C-C & D-D drawing D106 Rev A submitted 22-07-19
- Bin Enclosure Drawing D04 submitted 24-09-19
- Illustrative Site Plan – Showing possible future residential development on adjacent land Drawing D03 Rev A submitted 22-07-19
- Visibility Splays Drawing J32-3863-PS-001 submitted 22-07-19
- Swept Path Analysis Drawing J32-3863-PS-002 submitted 22-07-19
- Transport Statement – Mode Transport Planning submitted 20-02-19
- Residential Travel Plan Statement by Mode Transport Planning submitted 20-02-19
- Flood Risk assessment with Drainage and SUDS Strategy by GHW Consulting Engineers Ltd submitted 20-02-19
- Change of Use Statement submitted 20-02-19
- Stage 1 Ground Investigation Report by Johnson Poole & Bloomer Consultants submitted 20-02-19
- Design and Access statement submitted 20-02-19
- Noise Impact Assessment submitted 20-02-19
- Air Quality Assessment submitted 20-02-19
- Tree Survey & Constraints Assessment BS5837:2012 submitted 20-02-19
- Preliminary Ecological Appraisal Report submitted 20-02-19
- Archaeological Report dated June 2019 submitted 22-07-19
- Benchmark Archaeology, An Archaeology Field Evaluation 2019 Report Titled: Land at the Former Metafin Site, Green Lane, Walsall, WS2 *JG (NGR 400505 299657) submitted 24-09-19
- Heritage Statement submitted 22-07-19
- Planning Statement submitted 24-09-19
- Viability Assessment by Squarespace Ventures Ltd submitted 19-06-19

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

3a. No development above damp proof level shall commence until samples of all facing and roofing materials, plus all proposed hard surfacing within the site have been submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity, including local heritage assets.

4a. Prior to the commencement of development, including demolition a Construction Working Plan shall be submitted for written approval of the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

4b. The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

Reason: To protect the amenities of the surrounding occupiers and minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway due to the access constraints to the site, in the interests of amenity and highway safety in accordance with Policy GP2, ENV32, T7 and T13 of the UDP.

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

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

- iv) The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works, or the construction of the approved development, unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved UDP policies GP2, ENV10 and ENV14

6a. Prior to built development commencing a scheme of intrusive site investigations adequate to assess the ground conditions and the potential risks to the development by past shallow coal mining activity shall be undertake.

6b. A report of the findings arising from the intrusive investigations, including any gas monitoring undertaken and a scheme of proposed remedial works shall be submitted to and approved in writing by the Local Planning Authority.

6c. The development shall not be carried out otherwise than in accordance with the approved scheme of remedial works.

Reason: In order to ensure the stability and safe development of the site in connection with Coal Mining legacy in compliance with Policies GP2 and ENV14 of the UDP.

7a. Prior to the commencement of the development hereby approved, a Construction Methodology shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that any proposed earthmoving, excavations, details of piling and foundation construction or other building operations can be safely carried out without adversely affecting the stability of the adjacent canal infrastructure.

7b. The development shall not be carried out otherwise than in accordance with the approved details.

Reason: In order to ensure no adverse impact on the stability of the canal or associated infrastructure and protect the integrity of the Walsall Canal in accordance with Paragraphs 170 & 178-179 of the NPPF and Policy ENV4 of the BCCS.

8a. Prior to the commencement of the development hereby approved, a survey of the condition of the existing waterway wall, and a method statement and schedule of the repairs/measures identified, including piling where necessary, to repair and protect the wall from erosion shall be submitted to and approved in writing by the Local Planning Authority.

8b. Any heritage features and materials identified by the survey shall be made available for inspection by the Canal & River Trust and where appropriate, preserved in-situ or reclaimed and re-used elsewhere.

8c. The repair works identified shall not be carried out otherwise than in accordance with the method statement and repairs schedule, in accordance with dates to be agreed.

Reason: In the interest of the structural integrity of the waterway wall, waterway heritage, navigational safety and visual amenity and in compliance with Policy ENV4 of the BCCS.

9. The development shall not be carried out otherwise than in accordance with the approved the drainage scheme detailed in the submitted report: GHW Consulting Engineers Ltd, 18-3571 Report Titled: Proposed Residential Project, Green Lane, Walsall, Flood Risk Assessment with Drainage and SUDS Strategy, Dated February 2019 and shall be retained for the life of the development.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

10a. Prior to commencement of the development hereby approved a scheme of landscaping phased in relation to any phasing of the development and which shall include details of both hard and soft landscape works and earthworks, a planting scheme to screen the bin stores, and reference to plant species types, surface treatments, fences and walls, any signage and information boards, and together with the means of on-going maintenance shall be submitted to and approved in writing by the Local Planning Authority.

10b. The approved scheme shall be carried out in the first planting season following the completion of each development phase.

10c. Any trees shrubs or plants that die within a period of 5 years from the completion of each development phase or are removed and or become seriously damaged or diseased in that period shall be replaced and if necessary continue to

be replaced in the first available planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area and adjacent canal and to enhance the biodiversity of the area, in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan and Policy ENV4 of the BCCS.

11a. Prior to the occupation of the development hereby permitted, full details of the proposed lighting scheme shall be submitted to and approved in writing by the Local Planning Authority.

11b. The development shall not be carried out otherwise than in accordance with the approved lighting scheme and retained for the life of the development.

Reason: In the interest of ecology, visual amenity and the waterway setting and in compliance with Policy ENV4 of the BCCS.

12a. Prior to the first occupation of the dwellings, written details shall be submitted to and approved by the Local Planning Authority on how the requirements of the Black Country Air Quality SPD will be implemented.

12b. The agreed measures shall be implemented prior to occupancy and a written validation statement shall be submitted to the Local Planning Authority.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy Air Quality SPD

13a. Prior to any dwelling identified in the Noise Impact Assessment Report first being occupied, the following details shall be submitted for written approval of the Local Planning Authority

- The acoustic specification of the glazing to be installed within each of the premises,
- Details of the acoustic ventilation systems to be installed within each of the premises.

13b. Prior to the effected dwellings being occupied, a validation report confirming the approved details have been installed shall be submitted for written approval of the Local Planning Authority.

Reason: To protect human health and amenity of future occupiers in compliance with Policies GP2 and ENV10 of the UDP.

14a. Prior to the first occupation of any flat on the development, all access ways, pedestrian routes, parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these

areas does not discharge onto the highway or into any highway drain. All parking bays shall be clearly demarcated on the ground. Internal pedestrian routes shall have tactile dropped kerb crossings when they cross vehicular routes.

14b. These areas shall thereafter be retained and used for no other purpose.

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

15a. Prior to the development first coming into use, full details of the proposed cycle shelters, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

15b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

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

16. None of the flats hereby approved shall be occupied until the following highway works have been carried out:

i) The modification of the existing retained dropped kerb access/egress onto Green Lane to a kerbed bellmouth with a tactile pedestrian crossing,

ii) The reinstatement back to full kerb height all existing dropped kerb footway crossings on Green Lane made redundant as a result of the development.

Reason: To ensure the satisfactory completion and operation on the access/egress onto the A34 strategic highway, in the interests of the free flow of traffic along the public highway, in the interests of highway safety and in accordance with UDP Policy GP2 and T4.

17. The development hereby approved shall not be occupied until the provisions of the Residential Travel Plan Statement by Mode Transport Planning dated February 2019 have been implemented.

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and UDP Policy T10.

18. Notwithstanding permitted development rights under part 3, class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) there shall be no change of use of any apartment hereby approved to a use falling within class C4 (house in multi occupation).

Reason: To safeguard the amenities of the occupiers of adjoining premises and provide adequate parking provision and in accordance with UDP policy T7 and T13.

Notes for Applicant

Canal & River Trust

- 1) The applicant/developer should contact the Trust's third party works engineer and refer to the current "Code of Practice for Works affecting the Canal & River Trust" to ensure that any necessary consents are obtained (<https://canalrivertrust.org.uk/business-and-trade/undertaking-works-on-our-property-and-our-code-of-practice>).
- 2) The applicant/developer is advised that any encroachment over or into the canal will require the agreement of the Canal & River Trust, and is advised to contact Keith Johnston, Estates Surveyor at keith.johnston@canalrivertrust.org.uk to discuss any commercial agreements / licences that will be required.
- 3) The applicant is advised that any surface water discharge to the waterway will require prior consent from the Canal & River Trust. As the Trust is not a land drainage authority, such discharges are not granted as of right where they are granted they will usually be subject to completion of a commercial agreement. Please contact Joanna Bryan, Utilities Surveyor at Joanna.bryan@canalrivertrust.org.uk to discuss this further.

West Midlands Police

Recent developed security and fire standard doors may be appropriate.

In the interests of safety, security and crime prevention I recommend all door sets to each apartment to PAS 24: 2016 standard and the communal front entrance doors to standard LPS 1175.

Secure mail is recommended without providing unnecessary access to private areas.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

Below is a link to secured by design recommendations regarding selecting flat entrance doorsets. This includes combined fire resistance with security.

https://www.securedbydesign.com/images/downloads/DOORSET_BROCHURE_200319.pdf

The development is suitable for crime prevention and home security through Secured By Design.

Please see

: https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

Pollution Control – Contaminated Land

CL1

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

CL2

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

CL3

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any

post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Pollution Control - Air Quality SPD

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Ultra-low NO_x boilers discharge NO_x at or below 40mg/kWh. The latest models are future-proofed to the European Union's Energy-related Products Directive 2018 NO_x levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NO_x, and are eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 28-Nov-2019

Plans List Item Number: 6.

Reason for bringing to committee: Major Application

Location: THE ARMSTRONG BUILDING, C/O THE GREEN & BOOTH STREET, DARLASTON, WS10 8JP

Proposal: DEMOLITION OF EXISTING BUILDING AND ERECTION OF 24 NEW AFFORDABLE RESIDENTIAL UNITS, ACCESS, LANDSCAPING AND ASSOCIATED WORKS.

Application Number: 19/0768

Applicant: Mr Tom Ayers

Agent: Mr Gerry Ruiz

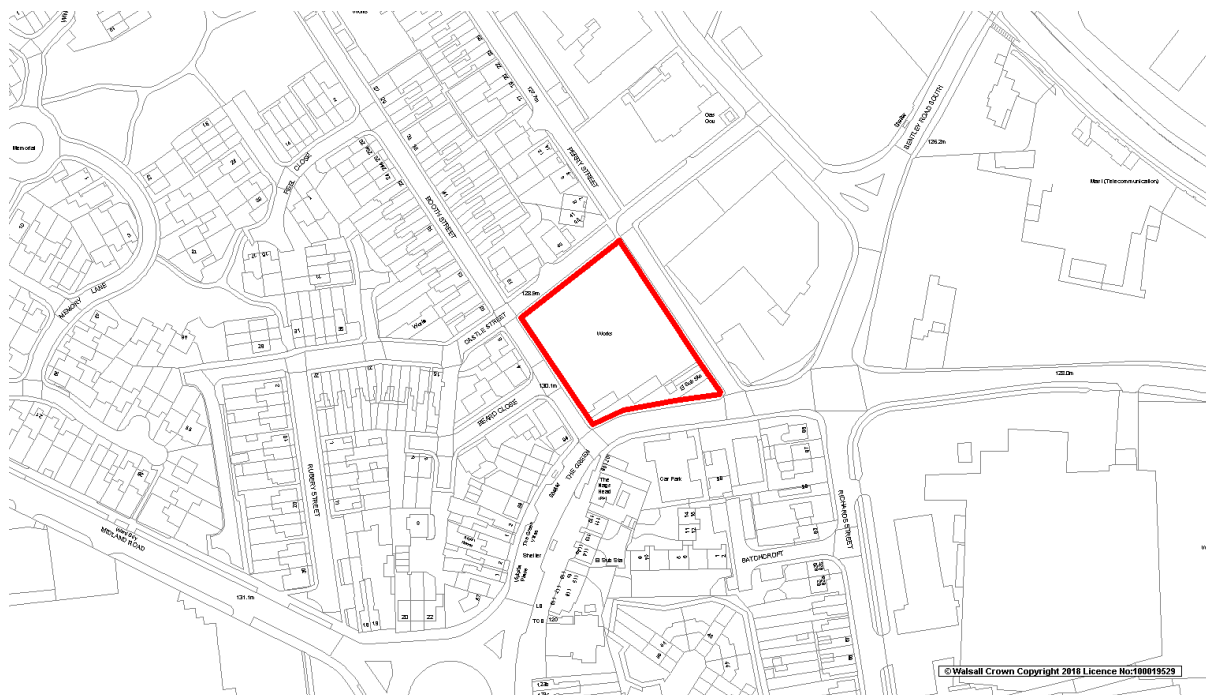
Application Type: Full Application: Major Use Class C3 (Dwellinghouses)

Case Officer: Helen Smith

Ward: Bentley And Darlaston North

Expired Date: 30-Sep-2019

Time Extension Expiry:



Recommendation Summary: Planning committee resolve to delegate to the Head of Planning, Engineering & Transportation to grant planning permission subject to;

- I. Resolving pollution control concerns regarding noise
- II. The confirmation of a Section 106 legal agreement to protect 25% of the development for affordable housing triggered if the development is sold for open market housing or via the right to buy.
- III. Provide a Section 106 contribution of £31,185 for open space in the vicinity
- IV. Landscape management plan for the in perpetuity maintenance of the hard and soft landscaping within the development site

Application and Site Details

This application seeks permission for the demolition of the existing buildings on site and the erection of 24 new affordable residential units, access, landscaping and associated works.

The application site is a former light industrial unit with ancillary offices which have been demolished and lies approximately 0.8 miles to the north-east of Walsall Town Centre. Proposed new housing would front surrounding roads with private rear amenity areas facing inwards and small areas of landscaping to the front. Vehicle access would be from existing highways onto drives/individual frontages for most dwellings apart from a small private parking court serving plots 08 to 15.

The proposal includes a mix of housing types as follows;

Plots 01 & 02 – Pair of two storey, 3 bedroom, semi-detached houses

Plots 03, 04 & 05 – Three x two storey 3 bedroom terraced houses

Plots 06 & 07 – Pair of two storey, 3 bedroom, semi-detached houses

Plots 08 to 15 – Part two and part three storey flats comprising 2 x 2 bedroom flats and 6 x 1 bedroom flats. 1 parking space per flat provided plus two visitor parking spaces. These would occupy a prominent corner location.

Plots 16 & 17 – Pair of two storey, 3 bedroom, semi-detached houses

Plots 18, 19 & 20 – Three x two storey 2 bedroom terraced houses

Plots 21 to 24 – Two storey flats comprising of 4 x 1 bedroom flats. One parking space per flat plus two visitor parking spaces

A total of 40 car parking spaces and two cycle storage areas would be provided. Private garden areas serving proposed new houses would range between 49.5 and 95 square metres. The proposed garden area serving plots 08-15 (flats) would be 120 square metres and plots 21-24 (flats) 85 square metres.

This industrial building is not in use and part of its roof has been removed. There is a two storey office element facing the Green and a warehouse element to the rear.

The broadly square flat site has an area of 0.33 hectares and is bounded by Castle Street to the north, Perry Street to the east the Green to the south and Booth Street to the west. Castle Street is residential with bollards to the eastern part to separate

from commercial traffic that use the one way Perry Street. Perry Street provides access to a shed and fencing business and a waste transfer site (BJD recycling) immediately to the east of the application site.

There are residential properties to the north and west (Beard Close) with a public car park across the road. There is a decommissioned substation solely within the ownership of the landowner and mature trees immediately to the south but outside of the application boundary. The site is located within the Coal Development High Risk Area.

The development would have a density of 72 dwellings per hectare. There is a convenience store, chip shop and hairdressers further along The Green.

The application is supported by the following documents;

Design and Access Statement

- Describes the character of the area and application site
- Aims to provide a high quality and attractive residential development which combines with the existing residential area
- Proposal accords fully with national, regional and local planning policies including the NPPF
- Appropriate levels of provision for vehicle parking have been made with additional visitor parking proposed
- Maximum and efficient reuse of a previously developed brownfield site
- Will provide much needed affordable housing provision

Planning Statement

- 24 affordable dwellings with access
- Mix of house types and walk up flats designed to make efficient use of this brownfield site
- Variety of house types chosen to fit in with the existing residential character in the area contributing to a sense of individual identity
- Sustainable location
- Local plan supports the development of residential dwellings on the site

Drainage Statement by Banners Gate

- Concludes that the proposed development drainage strategy will offer considerable betterment to existing surface water flow rates with a corresponding reduction of flows to the adoptable sewer network

Drainage Strategy by Johnson Poole & Bloomer

- Summary of ground conditions and feasibility of for the use of soakaway drainage

Demolition and Construction Environmental Management Plan by Village Partnerships Ltd

- Outlines how the developers will manage and where practicable minimise the impact of the developer's construction upon the surrounding buildings and residents

Site Investigations

- Further works should be carried out to determine the nature of any coal workings beneath the site
- Made Ground identified and foundation design solutions will be required
- No protective measures with respect to naturally occurring Radon would be necessary
- Low methane and carbon dioxide flow rates
- Depending on final foundation solution remedial works required to mitigate against ground gas levels.

Noise Report

- Ambient noise levels at the periphery of the proposed development are relatively high, particularly along The Green.
- Suitable glazing configurations are recommended
- 2.3m high garden wall/fence is necessary to protect the gardens of houses adjacent to The Green
- Mechanical ventilation is not necessary.

Mining and Mineshaft Risk Assessment Report by JPB Ltd

- Old mining represents a potential significant risk to the site and future re-development
- Recommended that investigative drilling is undertaken to assess the shallow mining structure beneath the site and whether remedial works are required.

Demolition Survey by Bradley Environmental

- Identifies asbestos within the building and sets out a programme for its removal.

Transport Statement by Steve Woods Consultants dated 2/5/19

- The existing roads are not heavily trafficked, and the proposed development would not have an adverse effect on highway safety or capacity.
- Footways fronting the site would be widened and a new turning head provided in Castle Street.
- There are bus stops 25m away, including two services that operate between Walsall, Darlaston and Willenhall, running past the site between 06.26 to 23.44

Relevant Planning History

17/0859 - Outline application with all matters reserved for later consideration for: Demolition of existing industrial building and redevelopment for residential purposes for up to 14 dwellings – GSC 18/7/18

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 10 – Supporting high quality communications**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions**, the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic.

We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV13: Development Near Power Lines, Substations and Transformers
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H4: Affordable Housing
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces

Black Country Core Strategy

- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- HC1: Land allocated for New Housing Development (Allocated site HO316)
- HC3: Affordable Housing and Housing for People with Special Needs
- OS1: Open Space, Sport and Recreation
- EN3: Flood Risk
- EN4: Canals
- T2: Bus Services
- T4: The Highway Network
- T5: Highway Improvements

Supplementary Planning Documents

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Appendix D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 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 20 sq. metres useable space per dwelling where communal provision is provided.

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value

- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Transportation - No objections subject to the inclusion of planning conditions in respect of highway works, details of cycle shelter facilities, provision of a construction methodology statement and hard-surfacing if permission is granted.

Highways England – No objections

Strategic Planning Policy – No objections subject to a Section 106 agreement to provide for a contribution to off-site open space.

Pollution Control – No objections in principle pending receipt of satisfactory additional noise information. To be updated at planning committee

Housing Strategy – no objections and require a 25% on site affordable housing contribution and provide details of their preferred housing mix

Housing Standards – has commented that bedrooms have floors less than the standard minimum sizes however there is no planning policy for minimum bedroom sizes

Local Lead Flood Authority – No objections subject to the inclusion of planning conditions to secure the implementation of the measures detailed in the Drainage Statement and Strategy if approved.

West Midlands Police – Designing out Crime Officer – No objections and recommend the applicant considers Secure by Design and SBD New Homes

Public Health – No objections and recommended the submission of a Health Impact Assessment, recommend electric vehicle charging points and consideration given to the impact on local amenities including access to primary care provision needs to be considered.

Archaeology – No objections subject to the inclusion of a planning condition, should consent be granted, to identify and record any archaeology affected by the proposed development.

Natural England – No comments

Coal Authority – No objections subject to the inclusion of a planning condition requiring the undertaking of a scheme of intrusive site investigations, the submission of a findings report for approval and implementation of those remedial works.

Fire Authority – No objections subject to the approval with Part B of the Building Regulations 2010

Severn Trent Water – No objections subject to the inclusion of a planning condition requiring the provision of drainage plans for the disposal of foul and surface water flows for approval if planning permission is granted and the inclusion of an informative note in respect of public sewers.

Network Rail – No comments

Historic England – No objections

Health and Safety Executive – No objections as site not within the consultation distance of a major hazard site or major accident hazard pipeline

Sport England – No objections

Representations

None

Determining Issues

- Principle of Development
- Impact on the Character and Appearance of the area
- Impact upon residential amenities
- Noise
- Air Quality
- Ground conditions
- Coal
- Archaeology
- Drainage and Flood Risk
- Access and Parking
- Planning Obligations
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

This site which has been vacant since 2015 and has been subject to a fire has outline planning permission for residential development (17/0859) and is allocated as a housing site, reference HO316, under SAD Policy HC1 and in principle is supported on planning policy grounds.

Policy HC1 states that each site should achieve a density of at least 35 dwellings per hectare, except where part of the site is needed to provide open space or other facilities in accordance with other policies of this Plan. The proposed density for this site would achieve 72 dwellings per hectare.

Paragraph 3.2.1 Policy Justification under SAD Policy HC1 states that the former employment land identified comprises sites where there is no reasonable prospect of the land coming forward for industry in the future.

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. The principle of up to 24 houses on a brownfield site within an existing sustainable mixed residential area is considered acceptable and accords with the aims of the local and national planning policies.

The previous permission was subject to a S106 to provide for a contribution to off-site open space and it is considered that this agreement should be carried forward to this current proposal.

Public Health recommended that the impact on and availability of local amenities, including access to primary care provision, needed to be considered during the planning process. Walsall Healthcare NHS Trust and Education Walsall have been consulted on this proposal and no adverse response has been received.

This site is proposed to be allocated for housing (site HO316) with an estimated capacity of 11 dwellings however the proposal includes apartments as well as housing which increases the capacity of the site to 24 dwellings.

This proposal would return an existing derelict site into use and this re-use is recommended for approval subject to all other matters being acceptable.

Impact on the Character and Appearance of the area

The application proposes a mix of two and three storey dwellings and apartments located around the perimeter of the application site and fronting highways surrounding this site.

The application site is surrounded by a mix of residential properties of varying age and design along with commercial properties to the east. It is considered that the introduction of additional housing consisting of houses and apartments on this former industrial site would integrate with the existing street scene and urban form. The proposed buildings, whilst of their own style and character are considered on balance to contribute to the existing mixed architectural character of the area.

Beard Close to the south west has a density of 70 dwellings per hectare, and the area of Booth Street and Perry Street to the north a density of 74 dwellings per hectare. The proposal at 72 dwellings per hectare would not be out of character with its surroundings and is considered would integrate into the area. This comparable level of density is considered would not constitute overdevelopment of this site when considering neighbouring housing densities.

The roofs of the proposed houses are 3 metres lower than the proposed three storey corner apartments (plots 08-15) however as the apartments would form a landmark corner feature and it is considered this height would not have a significant impact on the surroundings and provides a suitable transition between housing and the three storey apartments.

Separation distances between rear facing habitable room windows in this development would be limited to 21 metres across private gardens which would be less than the recommended limited separation distance of 24 metres between facing habitable room windows as referred to in Appendix D of Designing Walsall. It is considered in this instance that as limited separation distances are a character of this area when considering the densities of surrounding houses this would be acceptable. To protect residents' amenity permitted development would be removed for single storey rear extensions to Plot no's 01 to 08 and Plots 6 to 20. The apartments do not have any permitted development allowances for extensions and these plot numbers have not been included in this condition.

Planning conditions which meet the 6 tests can be included in respect of the provision of details of the proposed facing materials to be used in the development along with details of the proposed finished floor levels, ridge and eaves heights of the buildings.

Impact upon residential amenities

The nearest housing to the proposal is located on Castle Street, Booth Street and The Green. There is considered to be an adequate distance between the proposed new properties which are on the opposite sides of the highway to existing housing and the proposals are considered not to have any significant impact on the outlook or privacy of existing occupiers

The proposed development would provide secure private rear amenity spaces for new residents. Private garden areas serving proposed new houses would range between 49.5 and 95 square metres. Whilst four house plots would be marginally lower than the recommended 68 sq. metres of recommended private amenity space as referred to in Appendix D of Designing Walsall SPD it is considered when weighing the planning balance that the level of provision is acceptable and the re-use of this site for affordable housing has the greater weight in this instance.

The proposed garden area serving plots 08-15 (flats) would be 120 square metres and plots 21-24 (flats) 85 square metres. For plots 08-15 the area of communal amenity space available would equate to 15 sq. metres per flat whilst for plots 21-24 (flats) this would be 21.25 sq. metres per flat which is a marginal overprovision against the recommendations included in Appendix D of Designing Walsall SPD of 20 sq. metres useable space per dwelling where communal provision is provided. Again, it is considered when weighing the planning balance, the level of provision is acceptable in this instance and the re-use of this site for affordable housing has the greater weight in this instance.

The proposal is an infill development which would sit within the existing urban landscape and it is considered its scale that does not warrant the submission of a Health Impact Assessment in this instance.

The proposal would bring a vacant site back into use and provides the opportunity to achieve Secure by Design contributing to the control of and hopefully reduction in anti-social behaviour in the area. This can be secured by a safeguarding condition that meets the 6 tests.

On balance the proposal is considered acceptable and would have a limited impact on residential amenity for existing and proposed new residents.

Noise

Pollution Control are satisfied that the noise data accurately characterises the acoustic climate at the site, however it does not fully assess the proposal in context of ProPG: 'Planning & Noise Professional Practice Guidance on Planning & Noise New Residential Development, issued by the Association of Noise Consultants, Institute of Acoustics and Chartered Institute of Environmental Health, May 2017.

This aspect needs to be assessed and following discussions with the applicant and their acoustic consultant they have been advised and confirmed that we specifically require this exercise to be undertaken, recognising that ProPG is cited in the government's Planning Practice Guidance.

Upon receipt of the information described above, Pollution Control will provide further recommendations regarding noise.

Air Quality

Pollution Control have requested charging points for each proposed new house and a ratio of 1 electric charging point for every 2 parking spaces serving the flatted proposals. In addition, the installation of low NOx boilers in the development to help address air quality concerns as set out in the Air Quality SPD. This can be secured via a safeguarding condition that meets the 6 tests.

Ground conditions

Regarding contaminated land, the application includes a report from Johnson Poole and Bloomer Land Consultants (Site Investigations at The Green, Darlaston, May 2017, report Number RB002-02/JCB/NJW). The applicant has provided a copy of the site investigation plan (reference: RB002/03 Site Investigation Plan) in support of this proposal.

Pollution Control is satisfied with the site investigation and, based upon its findings, recommends planning conditions to ensure safe development of the site and to protect human health and the environment. The planning conditions will require a remediation statement for agreement and a subsequent validation report to ensure that the agreed measures have been implemented in accordance with requirements.

Coal

The Coal Authority has confirmed that the application site falls within the defined Development High Risk Area; therefore, within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority's information indicates that historic unrecorded coal mining is likely to have taken place beneath the site at shallow depth.

The Coal Authority concurs with the recommendations of the Mining and Mineshaft Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site and to inform any remedial measures necessary to ensure the safety and stability of the proposed development.

Should planning permission be granted for the proposed development, a pre-commencement condition should be included to require intrusive site investigations, to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigation measures to be identified and carried out before building works are commenced on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

Archaeology

Archaeological remains relating to the Eagle Nut and Bolt Works would be of local significance and the Council's archaeologist has confirmed does not form a major constraint. Any remains do have the potential to reveal information about the history and development of the site and the processes employed.

On this basis the Council's archaeologist recommends a programme of archaeological work to be required as a condition of planning consent should consent be granted, to identify and record any archaeology affected by the proposed development. In the first instance this should include a trial trench evaluation prior to commencement of groundworks, to ascertain the presence, nature, date, depth of any remains, along with desk-based research to put the site in context (particularly to look for plans, photographs and company documents in the archives), and an assessment of the impact on any remains of the chosen site remediation strategy. The results of this work would inform any further mitigation that may be necessary prior to or during development itself.

Drainage and Flood Risk

The application site is located within Flood Zone 1 and the updated flood risk map for surface water shows ponding affecting the highway to the northern and western boundaries of the site. There are no watercourses within 5 metres of the site.

The Lead Local Flood Risk Authority has confirmed that the development will only be acceptable if the measures detailed in the Drainage Statement and Strategy submitted with this application are implemented and secured by way of planning condition if planning permission is granted.

Severn Trent Water have no objections to the proposal and require the inclusion of a planning condition in respect of drainage plans for the disposal of foul and surface water flows have been provided to prevent or avoid exacerbating any flooding issues and to minimise the risk of pollution. An informative note in respect of public sewers that may be located within the site will be included.

Access and Parking

The Local Highway Authority has confirmed that the proposed level of parking provision in this site which has a relatively sustainable location is acceptable.

Taking into account to level of vehicle trips and parking associated with the extant industrial/commercial use on the site that could come back into operation, the Highway Authority considers the residential redevelopment of the site will be a betterment over the extant uses in transportation terms and is likely to have a beneficial impact on road safety. It will not have severe cumulative impacts on the operation of the road network and is therefore acceptable under the NPPF 2018 paragraph 109.

Planning Obligations

As the planning proposal is for 24 new dwellings this would trigger a contribution towards open space of £31,185 which is based on the mix of bedrooms within a development. It will be necessary for the applicant to enter into section 106 agreement with monies to be spent towards improvements to urban open space in the area.

In accordance with BCCS policy HOU3 Housing Strategy require a 25% on site affordable housing contribution. This equates to 6 affordable units which would normally consist of 75% social rent (4 to 5 units) and 25% shared ownership (1 to 2 units). However, due to the low numbers of shared ownership involved, the applicant (in consultation with the housing association market) may decide to provide all social rent which would be acceptable.

Housing Strategy's preferred option would be a mix of either:

- Block of 5 flats, plus 2 or 3 bed houses. In this instance the flats would be social rent, and 1 shared ownership house (or alternatively this could be social rent)
- 6 houses, being a mix of 2 and 3 bed. In this instance it would be practical to provide 4 social rent and 2 shared ownership. Again, the alternative is to provide all 6 units as social rent

The provisions of an in perpetuity Management Strategy for the areas of open/amenity space within the development site would be required.

Regarding vacant building credit the Local Planning Authority considers this to have fallen away, as the previous land owner demolished the building without the benefit of permission, leaving the boundary walls at the request of the council to protect the site from anti-social behaviour and unauthorised encampments

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing. This application proposes 24 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301. The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed development would integrate with the character of the area. The proposed buildings whilst of their own style and character are considered to contribute to the existing mixed architectural character of this area and this development would

Beard Close to the south west has a density of 70 dwellings per hectare, and the area of Booth Street and Perry Street to the north a density of 74 dwellings per hectare. The proposal at 72 dwellings per hectare would not be out of character with its surroundings and is considered would integrate into the area. This comparable level of density is considered would not constitute overdevelopment of this site when considering neighbouring housing densities.

The proposal is considered would have a limited impact on the amenity for neighbouring occupiers.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP4, CSP5, DEL2, HOU1, HOU2, TRAN1, TRAN2, TRAN4, TRAN5, ENV2, ENV3, ENV5, ENV6, ENV7 and ENV8 of the Black Country Core Strategy and saved policies 3.6 to 3.8, GP2, GP3, GP6, ENV10, ENV11, ENV13, ENV14, ENV17, ENV18, ENV23, ENV25, ENV32, ENV33, ENV40, H4, T1, T7, T8, T9, T10, T11, T12, T13 and LC1 of Walsall Unitary

Development Plan, policies HC1, HC3, OS1, EN3, EN4, T4 and T5 of Walsall's Site Allocation Document and Supplementary Planning Documents Designing Walsall, Open Space, Sport and Recreation, Affordable Housing and Air Quality. Taking into account the above factors it is considered that the application should be recommended for approval.

The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

Officers with the applicant and their agent and in response to concerns raised regarding the initial layout, amended plans have been submitted which enable a positive recommendation to be made.

Recommendation

Planning committee resolve to delegate to the Head of Planning, Engineering & Transportation to grant planning permission subject to;

- I. Resolving pollution control concerns regarding noise
- II. The confirmation of a Section 106 legal agreement to protect 25% of the development for affordable housing triggered if the development is sold for open market housing or via the right to buy.
- III. Provide a Section 106 contribution of £31,185 for open space in the vicinity
- IV. Landscape management plan for the in perpetuity maintenance of the hard and soft landscaping within the development site

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Location Plan, deposited 01/07/19
- Site Layout, deposited 01/10/19

- Plans and Elevations, Plots 1-2, drawing no. D10 revision B, deposited 08/10/19
- Plans and Elevations Plots 3-5, drawing no. D11 revision B, deposited 08/10/19
- Plans and Elevations, Plots 6-7, drawing no. D12 revision C, deposited 08/10/19
- Plans and Elevations, Plots 8-15, drawing no. 8-15 revision B, deposited 08/10/19
- Plans and Elevations Plots 16-17, drawing no. D14 revision A, deposited 08/10/19
- Plans and Elevations Plots 18 - 20, drawing no. D15 revision B, deposited 08/10/19
- Plans and Elevations Plots 21-24, drawing no. D16 revision B, deposited 08/10/19
- Plans and Elevations Plots 21-24, drawing no. D17, deposited 27/06/19
- Planting Plan, drawing no. D900 revision A, deposited 21/10/10
- Street scenes, drawing no. D50 revision B, deposited 09/10/19
- Airtech Assessment Report for Ambient Noise, report number OH16-09-031-Rev3, deposited 18/11/19
- Design and Access Statement, deposited 21/10/19
- Planning Statement, deposited 21/10/19
- Demolition and Construction Environmental Management Plan by Village Partnership Ltd, deposited 27/06/19
- Transportation Statement by Steve Woods Consultants dated 2 May 2019, deposited 12/06/19
- Demolition Survey by Bradley Environmental, report no. J057270, deposited 12/06/19
- Mining and Mineshaft Risk Assessment Report by JPB Ltd, reference RB002-01/JCB/NM, dated 18 May 2017, deposited 12/06/19
- Drainage Strategy by Johnson Poole & Bloomer Consultants, reference RB002-03/JCB dated 23/6/17 and deposited 12/06/19
- Drainage Statement by Banners Gate Ltd, 2nd Issue, dated 19/10/19 and deposited 21/10/19.
- Site Investigations Report by Johnson Poole & Bloomer Consultants, reference RB002-02/JCB/NJW dated May 2017, deposited 19/06/19

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

3: a) Prior to the commencement of the development hereby approved, a scheme of intrusive site investigations which is adequate to assess the ground conditions and the potential risks posed to the development by past shallow coal mining activity.

3: b) Prior to the commencement of the development hereby approved, a report of the findings arising from the intrusive site investigations and a scheme of proposed

remedial works to ensure the safety and stability of the development such remedial works shall be submitted too and agreed in writing with the local planning authority.

3: c) The development shall not be constructed otherwise than in accordance with the agreed remedial works and thereafter retained for the life of the development

Reason: To ensure the safety and stability of the development and to comply with NPPF Paragraphs 178 and 179 and saved policies GP2 and ENV14(c) (ii) of Walsall's Unitary Development Plan.

4: a) Prior to the commencement of development, including demolition a Construction Working Plan shall be submitted for written approval of the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary porta-cabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

4: b) The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

Reason: To protect the amenities of the surrounding occupiers and minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway due to the access constraints to the site, in the interests of

amenity and highway safety in accordance with Policy GP2, ENV32, T7 and T13 of the UDP.

5: a) Prior to demolition and removal of any buildings and/or structures a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement shall be submitted to the local planning authority detailing actions and time scale to be taken to prevent localised contamination.

5: b) Following demolition and removal of any buildings and/or structures a validation report shall be submitted to the Local Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials therein.

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

6: a) Prior to the commencement of the development hereby approved a Remediation Statement setting out details of remedial measures to deal with the identified and potential hazards of any land contamination on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority.

6: b) The remedial measures as set out in the 'Remediation Statement' required by part (a) of this condition shall be implemented in accordance with the agreed timetable.

6: c) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part a) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

6: d) 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 ensure safe development of the site and to protect human health and the environment.

7: a) Prior to the commencement of any building or engineering operations of the development hereby approved details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be

measures against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.

7: b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: In the interests of the amenities of the area in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

8: a) Prior to commencement of the development hereby approved a written scheme of investigation and a programme of archaeological work in accordance with the written scheme of investigation shall be submitted to and approved in writing by the Local Planning Authority.

8: b) The development shall not be carried out otherwise than in accordance with the approved details and programme.

Reason: In order to secure an adequate record of the site's archaeology in accordance with saved policy ENV25 of Walsall's Unitary Development Plan.

9: a) Notwithstanding the details as submitted and prior to the commencement of the hereby approved development above damp proof course until a plan is submitted to and agreed in writing with the Local Planning Authority that provides details of the proposed electric vehicle charging points for every new house and a ratio of 1 electric charging point for every two car parking spaces serving the approved apartments

9: b) The agreed scheme shall be fully implemented in accordance with the approved details before the development is first brought into use.

Reason: To conserve and enhance the natural environment:

10: a) Notwithstanding the details as submitted and prior to the commencement of the hereby approved development above damp-proof course until a schedule of facing materials to be used in the development has been submitted to and agreed in writing by the Local Planning Authority.

10: b) The development shall not be constructed otherwise than in accordance with the agreed details and thereafter retained for the life of the development.

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

11: a) prior to the commencement of the hereby approved development above damp-proof course until details of the proposed cycle shelter facilities for residents, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority. and the facility shall be fully implemented in accordance with the approved details.

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11: b) The development shall not be constructed otherwise than in accordance with the agreed details and thereafter retained for the life of the development and used for no other purpose.

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

12: None of the apartments and dwellings hereby approved shall be occupied until the following highway works have been carried out:

- Existing footways surrounding the site have been widened
- All redundant footway crossings and access points have been reinstated back to full height
- Existing dropped kerb access crossings are modified to align with the new parking arrangements
- Tactile pedestrian dropped kerb crossings across the Perry Street/The Green junction, the Booth Street/The Green junction and the Castle Street/Booth Street junction have been installed.

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

13: a) Prior to the first occupation of any dwelling on the development, all parking and vehicle manoeuvring areas serving that dwelling shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the public highway or into any public highway drain, together with the clear demarcation of all parking bays.

13: b) All parking and vehicle manoeuvring areas shall thereafter be retained and used for no other purpose.

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

14: The development shall not be constructed otherwise than in accordance with the agreed details set out in the approved Drainage Statement (19th October 2019 / 19107 / Banners Gate) and the following mitigation measures:

- Limiting the surface water run-off generated by the 100 year + 40% climate change critical storm so that it will not 31.7 l/s and not increase the risk of flooding off-site.
- Provision of adequate attenuation flood storage on the site to a 100 year + 40% climate change standard.

- Ensure a responsible body will maintain the surface water system over the lifetime of the development according to an acceptable maintenance schedule and that is achievable.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

15: No boilers shall be installed and used in any of the units hereby approved, save for boilers which have maximum NOx emissions no greater than 56 mg/kWh for gas and liquefied petroleum gas (LPG) boilers and a maximum of 120 mg/kWh for oil-fired boilers.

Reason: To conserve and enhance the natural environment:

16: Notwithstanding the details submitted all vehicular access points shall, at all times, shall provide a 2.4 metre x 3.4 metre pedestrian visibility splays, measured from the centre of each access at the back of the reconstructed footway, within which no planting or structures exceeding 600mm in height above footway level shall be permitted.

Reason: To provide adequate inter-visibility at the proposed remodelled access points in the interests of highway safety and UDP Policy GP2.

17: Notwithstanding the information shown on submitted plans, the development hereby approved shall not be constructed otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- i. Rear access alleyways should have walls/fencing, which is of a robust construction and at a height of 2.1m, with 2.1m gates into each garden served by the rear alleyway, the gates should be key lockable from both sides. The access point to the rear alleyway itself needs to be gated to the same specifications, with a self-closing mechanism incorporated to maintain the security of the gate; the gate should be sited as near to the front building line as possible.
- ii. All ground floor windows and any accessible windows should have at least one pane of 6.4mm laminated glass. This includes French doors and patio doors.
- iii. PAS 24:2012 doors should be on all external entrance and exit doors.
- iv. A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks.
- v. Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.
- vi. No Lead or metal should be used on the ground floor as the West Midlands is suffering high levels of metal theft where possible lead substitute products should be used.

- vii. All ground floor windows and any accessible windows should comply to BS7950 or WCL4 standards and have at least one pane of 6.4mm laminated glass. This includes French doors and patio doors.
- viii. All door sets both external and internal should comply to PAS 24:2012 doors.
- ix. A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks.
- x. Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.
- xi. All ground floor front windows should have an area of defensible space across their width, made up of densely planted shrubs, suitable for the environment they are to be planted in, to provide a buffer area between the windows and other public or private space, making it more difficult for offenders to access such windows.
- xii. Where plants / shrubs are to be used in front of windows or around parking spaces the plants should be such that they grow to no more than 1m in height when mature. Plants and shrubs should also suit the environment they are to be located in terms of soil and light.
- xiii. Perimeter and Boundary walls/fencing should be at least 2.1m in height, the walls/fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m walls/fencing should include 300mm trellis topping in order to offer protection of the vulnerable rear of the properties. Any fixing should be made of galvanized steel or stainless steel with a design life to match the timber components between panels / slats around posts, should create a secure mechanical bond to resist attack by pushing, pulling and lifting.
- xiv. All the buildings on this development should be suitably fitted with an intruder alarm

Reason: To ensure the safety and security of the development and its occupiers in compliance with saved policy ENV32 of Walsall's Unitary Development Plan.

18: The accesses, turning area and parking facilities shall not be used for any purpose than for access, turning and parking respectively thereafter.

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

19: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no rear extensions to plots 01 to 08 and plots 6 to 20 shall be installed in any part of this development.

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

Notes for Applicant

1. Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets must be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent. Please note if you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851. If your query is regarding drainage proposals, please email to the aforementioned email address and mark for the attention of Rhiannon Thomas (Planning Liaison Technician).
2. The repositioning of any street lighting columns to accommodate highway works shall be with the agreement in writing with Walsall Council's street lighting partner Amey.
3. Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 20). Buildings not fitted with fire mains, less than 2000m² and top storey less than 11m from ground level should have access for a pump appliance to within 45m of all points on the projected plan of the building or 15% of the perimeter, whichever is the less onerous (ADB Vol 2, 16.2 & Table 19, p.108). Blocks of flats not fitted with fire mains should have vehicle access for a fire appliance not more than 45m from all points within each dwelling, measured on a route suitable for laying hose. The direct distance is reduced to two thirds to allow for internal layout. If this cannot be met a fire main should be provided (ADB Vol 2, 16.3; BS 9991:2015 50.1.2). Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 15 and "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK:
<https://dl.dropboxusercontent.com/u/299993612/Publications/Guidance/Firefig>

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<http://www.walsall.gov.uk/planning/national-guidance-document-on-water-for-ffg-final.pdf> For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net The approval of Building Control will be required to Part B of the Building Regulations 2010

4. The existing Traffic Regulation Orders in Perry Street shall be reviewed and modified to take account of the development. The existing one-way arrangement along Perry Street shall be revoked and made two-way, with the One-Way retained on Castle Street to Willenhall Road. The current parking restrictions on Perry Street shall also be modified to take account of the change to residential use. Consultation with Walsall Traffic Management on the procedures is advised on 01922 654646. All costs shall be borne by the applicant.
5. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
6. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.
7. No construction, demolition, or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall otherwise only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).
8. The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points: An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded. The charging unit is to be supplied by its own independent radial circuit. Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following: West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance, Black Country Air Quality Supplementary Planning Document (SPD), General Procurement Guidance

9. CL2: (please refer to condition no. 6) When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

10. CL3: (please refer to condition no. 6). Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive, and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 28-Nov-2019

Plans List Item Number: 7.

Reason for bringing to committee: Major Application

Location: LAND ADJACENT 48, WOLVERHAMPTON ROAD, WALSALL

Proposal: PROPOSED RESIDENTIAL DEVELOPMENT - 71 APARTMENTS.

Application Number: 19/0295

Applicant: Square Space Ventures Limited

Agent: McBains

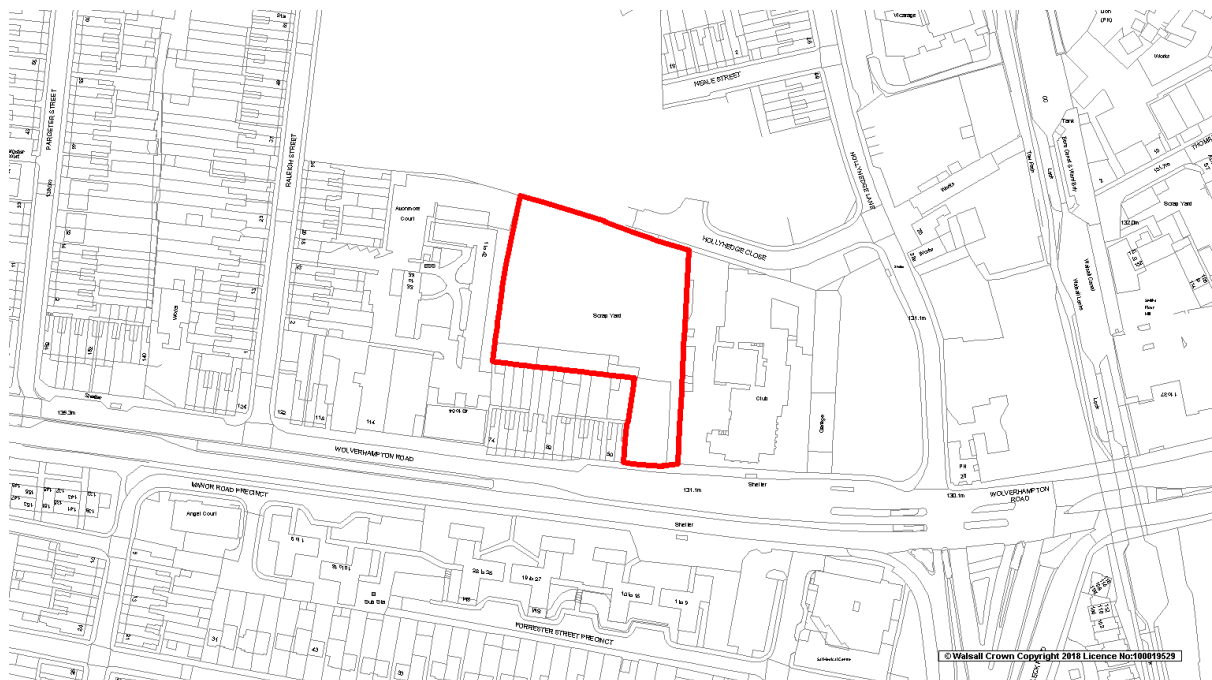
Application Type: Full Application: Major
Use Class C3 (Dwellinghouses)

Case Officer: Helen Smith

Ward: Pleck

Expired Date: 30-May-2019

Time Extension Expiry:



Recommendation Summary: Planning committee resolve to delegate to the Head of Planning, Engineering & Transportation to grant planning permission subject to planning committee confirming the Section 106 triggers for the receipt of monies and whether the Section 106 includes either an uplift clause to reassess the development value during construction/occupation or protects the Councils affordable housing policy should the land be transferred to a private developer. Also, to secure a Landscape management plan for the in perpetuity maintenance of the hard and soft landscaping within the development site

Proposal

This application seeks planning permission for 71 residential apartments. The proposed development consists of three separate blocks of apartments which comprise as follows;

Block 1

- 4 storeys high rectangular shaped block
- North to South orientation
- 56.5 metres in length
- 14.5 metres deep
- 12.3 metres high
- Flat roof design
- 48 no. 2 bedroom apartments
- Single aspect apartments
- 3 lifts
- Habitable room windows in all exterior elevations
- Three communal entrances facing eastwards onto the communal car park area
- Secure private amenity space to the west of the block of 1060m² (22m² per apartment)
- Positioned 20 metres from Avonmore Court
- Storage 30 no. cycles located adjacent to the south facing elevation of the block with secured access
- 19 metres habitable room window to window separation distance between Block 1 and plot no's 39 and 40 on the former Harvestime Bakery site (planning application reference 19/0945)

Block 2

- 2 storeys high rectangular shaped block
- North to south orientation
- 41 metres long
- 9 metres deep
- Gable roof design, 5 metres high to the eaves and 9 metres high to the ridge
- 10 no. 2 bedroom apartments
- Dual aspect apartments
- Private main entrance doors to each unit
- Habitable room windows in all exterior elevations
- Secure private amenity space to the east of the block of 205m² (20.5m² per apartment)
- Positioned 21 metres from the Emmanuel School/ Afro Caribbean Community Association

Block 3

- Stepped part 2 and part 3 storeys block
- T shaped block
- 33.5 metres at the longest point
- Between 8 and 17 metres wide
- Flat roof design
- 2 storey element would be 6.2 metres high
- 3 storey element would be 9 metres high
- Located to southern element of the site
- 3 storey element would front Wolverhampton Road with two storey element to the rear
- Rear facing angled windows proposed at 1st and 2nd floor opposite gardens serving terraced dwellings fronting Wolverhampton Road
- 7 no. two bedroom apartments
- 6 no. one bedroom apartments
- Dual aspect apartments
- 4 communal entrances (one fronting Wolverhampton Road) and private entrances for 2 apartments
- Secure private amenity space to the east of the block of 177.2 m² (13.6m² per apartment)
- Positioned 1.5 metres from the blank side elevation of 48 Wolverhampton Road and 16 metres from the Emmanuel School/ Afro Caribbean Community Association
- Set back between 1 and 2.5 metres from Wolverhampton Road footpath with railings and planting
- Side facing habitable room windows

In addition to the above the proposal includes the following additions;

- Single vehicular entrance to the site off Hollyhedge Close
- Central communal parking area positions between the 3 apartment blocks
- 58 car parking spaces which includes 5 electric vehicle charging parking bays
- 3 x secure detached bin storage structures. One positioned near to the northern boundary, the second within the centre of the car park and the third alongside the rear garden boundary of 48 Wolverhampton Road
- Sub-station near to the shared boundary with the Emmanuel School/ Afro Caribbean Community Association
- Existing boundary walls to be retained to the north, west and south of block 1
- Weld mesh 2.5m boundary fencing to secure private amenity space serving Block 3
- Blunt metal railings to secure frontage facing Wolverhampton Road
- Defensible planting proposed along southern boundary of carpark
- Demolition and relocation of a sub-station

The development would have a density of 40 dwellings per hectare.

The application has been supported by the following documents:

Design and Access Statement by McBains dated September 2019

- Proposal fits and reflects the existing context and street scene
- Close proximity to the Walsall retail centre and transport links
- Current site has no trees and very little vegetation
- Existing boundary walls have been retained
- Majority of the surrounding buildings are in brick
- Requirement within the area to provide accommodation
- 'Book stop' design for the end of terrace as per the previous development flatted block along Wolverhampton Road to the east
- Front block would be set back from the existing building line with railings and planting to provide a buffer from the pavement
- Lifts provided to all flats within the 4 storey block
- Development will utilise the existing site access onto Hollyhedge Close
- 58 parking bays including 7 electric vehicle charging parking bays
- Cycle storage for 30 bicycles
- Use of brown/buff and brickwork with blue brick sills, soldier courses and corners to larger window panels to reflect the industrial heritage of the area and interlocking grey plain concrete tiles
- Site has a movement strategy to provide well-lit access to all units and rear accesses will have lockable gates enclosed by 1.8 metres high fences
- Layout designed to accommodate refuse collection

Preliminary Ecological Appraisal Report by Indigo Surveys Ltd

- Site is of limited value to wildlife and is restricted to the scattered scrub and small amount of perennial vegetation
- No invasive or notifiable species
- No birds were recorded and there were no old or in use birds' nests with limited potential for nesting birds within the scrub
- No evidence of areas suitable for bat roosting and/or hibernation.
- Site has very low potential to foraging bats as there was no cover and very limited vegetation to attract prey items
- No evidence of badgers, otters, water voles although some evidence of fox activity
- No standing water for breeding amphibians or foraging opportunities.
- Site considered unsuitable for reptiles and are considered to be absent
- Site dominated by bare ground and it was concluded there was very low potential for significant invertebrate assemblages, in particular those species listed as a priority in the UK Biodiversity Action Plan and/or Local Biodiversity Action Plan
- No further surveys required at this stage
- Recommend the inclusion of ecological planning conditions if approved

Site Investigation Report by GIP Ltd

- Geotechnical considerations including potential historical coal mine workings, presence of former buildings, presence of made ground and variable made ground/natural soils interface and variable geotechnical characteristics of the natural superficial deposits.
- Assessment of contamination from potential historic and current on and off-site contaminants
- Recommends for initial design purposes a 'moderate' hazard potential for ground gas is adopted and early consultation with regulatory bodies is recommended.

Air Quality Assessment by Gem Air Quality Ltd

- Impact of dust soiling and PM¹⁰ can be reduced to negligible through appropriate mitigation measures
- Continual visual assessment of the site should be undertaken, and a log maintained in order to minimise worker exposure

Flood Risk Assessment with Drainage and SUDS Strategy by GHW

- Site is outside of the floodplain and is suitable for the proposed purpose providing the proposed discharge is limited to the existing run-off, with betterment and a SUDs scheme is implemented.

Residential Environmental Noise Survey BY Mach Residential

- Investigations indicate that to provide an acceptable acoustic environment within habitable spaces, façade elements should comply with the minimum sound reduction indices specified in the report
- In the case of exposure level 1 external noise levels are such that mechanical ventilation is recommended and in all other areas natural ventilation is possible

Residential Travel Plan Statement by Systra dated 14/02/19

- Site is in a highly accessible location with walking, cycling and public transport access to a number and variety of services which would encourage the use of sustainable modes of travel
- The developer will fund the requirements of the Travel Plan throughout the development period as well as funding the initiatives and monitoring of the plan
- Before residents occupy the site, a Travel Plan Co-ordinator will be in place and henceforth will work alongside any emerging residents' groups
- A headline modal share has been set representing 5% reduction in vehicle trips

- Initial surveys will be undertaken within 6 months of first occupation for a baseline and monitoring surveys repeated on an annual basis for three years beyond first occupation

Transport Statement by Systra dated 16/8/19

- Based on the evidence presented in the report, the authors consider the impact of the proposed development to be minimal and in accordance with the relevant national and local policies
- On this basis the proposed development should not therefore be prevented or refused on transport grounds

Site and Surroundings

This site known as the former Walsall Iron and Steel Works previously a scrap metal site located to the north of Wolverhampton Road and to the south of the former Harvestime Bakery site. Wolverhampton Road forms part of the Strategic Highways Network and is a dual carriageway linking M6 Junction 10 and Walsall Centre.

There is late Victorian terraced housing to the south of the application site, 4 storey modern flats to the west known as Avonmore Court, former Victorian school premises to the east occupied by the Emmanuel School/ Afro Caribbean Community Association and the former vacant Harvestime Bakery site to the north. The wider area has a mix of residential and commercial properties.

Beyond the school premises is Walsall Canal and Locks within the Walsall Locks Conservation Area and a designated SLINC.

The previous owner of the site unlawfully constructed a steel portal frame for a storage unit which has since been abandoned and would be demolished as part of this development. The site is predominantly flat and has no trees and very little vegetation.

Hollyhedge Close sits to the north of the site which would be used to provide vehicular access to the site and was an original access for the former bakery site.

The application site is 680 metres from Walsall Town Centre which has access to public transport links and Wolverhampton Road is served by a high frequency bus services (10 minutes or less daytime).

A planning application for 88 residential units has been received for the adjacent former Harvestime site which is currently under assessment.

Relevant Planning History

None for the application site

Site of Former Harvestime Bakery, Raleigh Street, Walsall Council

15/0385/OL - Outline planning application for demolition of all buildings at the former Harvestime Bakery site and the erection of up to 80 residential units with all matters reserved except means of access – Refused on highway grounds, over development and lack of amenities 12/6/16

16/1514 - Outline planning application for the demolition of all buildings at the former Harvestime Bakery site and the erection of up to 80 residential units with all matters reserved except means of access (re-submission of 15/0385/OL) – GSC 5/12/16

19/0945 – Proposed residential development of 88 residential units comprising 18 x 1 bed flats, 25 x 2 bedroom houses, 41 x 3 bedroom houses, 4 x 4 bedroom houses with associated access, landscaping and 171 car parking spaces – currently under assessment

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**

- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic

and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H4: Affordable Housing
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- CSP5: Transport Strategy
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

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HC1: Land allocated for New Housing Development
HC3: Affordable Housing and Housing for People with Special Needs
EN1: Natural Environment Protection, Management and Enhancement
T4: The Highway Network
T5: Highway Improvements

Supplementary Planning Documents

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Appendix D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 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 20 sq. metres useable space per dwelling where communal provision is provided.

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Transportation – no objections subject to the inclusion of planning conditions requiring the inclusion of a Grampian condition in respect of a new footway in Hollyhedge close, surfacing requirements, the provision of a construction

methodology statement, cycle shelters, dropped kerb requirements and incentives to promote the developments sustainability credentials upon occupation.

Highways England – No objection

Strategic Planning Policy – No objections

Pollution Control – No objections and recommend conditions requiring the implementation of mitigation schemes in respect of the effects of noise and contaminated land along with conditions requiring the incorporation of electric vehicle charging points and low NOx boilers in the development are provided. Conditions are also recommended to minimise environmental impact during the course of building works

Regeneration and Development – No objections subject to the scheme being of high quality and promotes sustainability. A comprehensive scheme would be preferable due to the proximity of this site to other opportunities on Hollyhedge Lane.

Ecology Officer – No objections subject to the inclusion of planning conditions in respect of mitigation measures and biodiversity enhancement gains if approved.

Flood Risk Manager – No objections subject to the inclusion of a planning condition requiring the development to be implemented in accordance with the updated Flood Risk Strategy and Drainage Strategy and mitigation measures if approved.

Housing Standards – No objections

Housing Strategy – No objection and an affordable housing contribution required in the form of a commuted sum of £560,234.37 if approved

Police Architectural Officer – No objections subject to Secure by Design recommendations being included if approved

Coal Authority – No objection subject to the imposition of planning conditions requiring the undertaking of intrusive site investigations prior to the commencement of the development if approved.

Severn Trent Water – No objections subject to the inclusion of pre-commencement conditions in relation to the provision of drainage plans for the disposal of foul and surface water flows if approved.

Network Rail – No objections

Fire Authority – No objections

Historic England – No objections

Natural England – No objections

Sport England – No objections

Public Health – No objections and recommended the submission of a Health Impact Assessment

Archaeology – No objections

Representations

Surrounding occupiers were notified by letter, site notices displayed and advertised in the local newspaper;

One response has been received objecting to the proposal on the following grounds;

- Shortage of parking in the area and the parking bay on Wolverhampton Road can only accommodate 6 cars and parents from the school use these and this development will compound the existing problem for existing residents on Wolverhampton Road

Determining Issues

- Principle of Development
- Impact on the Character and Appearance of the area
- Impact upon residential amenities
- Noise
- Air Quality
- Ground conditions
- Coal
- Ecology
- Drainage and Flood Risk
- Access and Parking
- Planning Obligations
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. This is a previously developed site.

The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development.

This is a sustainable location within an existing residential area with access to shops in Walsall Town Centre, a primary school, and bus stops all within walking distance. The principle of housing in this location is considered acceptable, subject to impact upon the character of the area, residential amenity and parking.

As part of the recently adopted (January 2019) Walsall Site Allocation Document (SAD) the site (HC66b) Policy HC1 (SAD) allocates the former Walsall Iron and Steel works site for housing. This policy requires that any proposed design should take into account its context and surroundings to create places where people want to live, and site should achieve a density of at least 35 dwellings per hectare. This site would achieve a density of 40 dwellings per hectare which would meet the requirements of SAD policy HC1 and is considered would not represent an over development of the site.

The principle of 71 dwellings on an identified brownfield site for residential use within an existing sustainable residential area is considered acceptable and accords with the aims of local and national planning policies.

Impact on the Character and Appearance of the Area

The application proposes a two, three and four storey residential apartment development. The four storey building (Block 1) for flats would sit parallel with the 4 storey Avonmore Court. Whilst the proposal would be taller than the Victorian housing fronting Wolverhampton Road, on balance, it is considered that block 1 would reflect the existing area context and reflect the immediate character of the area.

The proposal would have a smaller 2 storey block (Block 2) to the east of the site with the stepped part 2 and part 3 (Block 3) to the south fronting Wolverhampton Road which is near to the existing two storey Victorian terraced housing. Block 3 fronting Wolverhampton Road would match the roof height of 48 Wolverhampton Road.

The storey heights of blocks 2 and 3 are considered to reflect the evolving character of the area. The proposed buildings whilst of their own style and character are considered on balance to contribute to the existing mixed architectural character of this area.

The proposed former Harvestime Bakery redevelopment, located to the north and partly adjacent to the current application site, would have its southern vehicular

access via Hollyhedge Close and opposite the vehicular entrance to the current application site. Two storey houses and two and three storey apartments are proposed for this adjacent site. On balance, it is considered the two sites would integrate subject to potential layout amendments on the Harvestime site.

Planning conditions can be included in respect of the provision of details of the proposed facing materials to be used in the development along with details of the proposed finished floor levels, ridge and eaves heights of the buildings.

Impact upon Residential Amenities

The current application reflects the adjacent Avonmore Court, with the current proposal, providing a similar relationship to existing residential properties. The nearest residential properties are considered would not, on balance, be unduly affected by the proposals and efforts have been made to reposition the blocks to reduce the impact further. On balance, it is considered, the development will have an acceptable level of impact on the area, whilst limiting the adverse effects on the amenities of neighbouring residents.

Whilst the applicant and agent for the current proposal, were asked to work with the potential developers of the former Harvestime Bakery site to ensure a comprehensive development was delivered, ensuring the overall housing environment would be positive for Walsall's residents. Given that planning applications for the two sites are now running concurrently it would have been positive planning for them to have been brought forward as a single development.

Assessing the proposed relationship between the two sites there would be a 19 metres habitable room window to window separation distance between the side facing windows of the 4 storey Block 1 and rear facing windows of the 2 storey houses plot no's 39 and 40 of the former Harvestime Bakery site (19/0945). This separation distance would be 5 metres less than the recommended minimum separation distance of 24 metres between facing habitable room windows as referred to in Designing Walsall Appendix D.

The side facing habitable room windows of the 4 storey Block 1 would face across gardens to rear facing windows of plot no's 39 and 40. It would be expected, that a greater level of privacy would be expected for residents to benefit from a greater level of privacy at the rear of their houses, than across the public realm. To address the concerns of potential privacy and overlooking, the proposed Block 1 side facing habitable room windows should be conditioned as obscurely glazed with any opening parts 1.7 metres higher than the floor of the rooms they would serve.

The proposed development is considered would secure the private rear amenity spaces serving 48 to 74 Wolverhampton Road by controlling the existing open area to the side by the addition of Block 3 which assists in managing access into and out of the site from Wolverhampton Road. Whilst the addition of Block 3 would result in the loss of some light, it is considered, this can be balanced against managing out

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opportunities for anti-social behaviour in the immediate locality. On balance and for the reasons set out above, block 3 can be supported in this location.

To address overlooking concerns of private rear gardens serving 48 to 74 Wolverhampton Road, the design of Block 3 includes angled habitable room windows to the upper floors of Block 3 which will face towards the central parking areas serving the proposed development. This design approach is considered on balance would maintain an acceptable level of privacy for residents fronting Wolverhampton Road.

The total available shared, private, amenity space for 71 units would be 1422.2m² which overall equates to 20.3m² per unit. Designing Walsall SPD Appendix D requires the provision of 20m² of useable space per dwelling where communal provision is provided. In this instance Block 1 has an over-provision of 22m² of amenity space whilst Block 3 is under-provided at 13.6m² amenity space.

Whilst the amenity space for the 13 units of Block 3 is less than recommended it is considered on balance acceptable as the overall provision for the development meets Designing Walsall, plus Walsall Canal Greenway is within 177 metres of the application site.

To further protect the amenities of residents a planning condition is suggested to prevent any change of use of any apartment hereby approved to a use falling within class C4 (house in multi occupation).

Reason: To safeguard the amenities of the occupiers of adjoining premises and provide adequate parking provision and in accordance with UDP policy T7 and T13.

On balance the proposal is considered acceptable and would have a limited impact on residential amenity for existing and proposed new residents.

The proposal provides the opportunity to achieve Secure by Design contributing to the control of and hopefully reduction in anti-social behaviour in the area. This can be secured by a safeguarding condition that meets the 6 tests.

The proposal is an infill development which would sit within the existing urban landscape and it is considered its scale is too small to require the submission of a Health Impact Assessment.

Noise

The application includes a report from MACH Acoustics Ltd. (Hollyhedge Close, Assessment 8233:2014 4th January 2019) in respect of noise. In summary, this report recommends and provides a noise mitigation scheme for the proposal to achieve the internal noise level requirements of BS 8233:2014. Pollution Control Team are satisfied that the results of the assessment are representative of the noise climate at the proposed development, recommending the noise mitigation scheme is

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implemented via planning safeguarding conditions to address the existing noise climate concerns.

Air Quality

Concerning air quality, to date, review and assessment work undertaken by Pollution Control identifies this location as being outside any area where air quality objectives are exceeded. Regarding the Black Country Air Quality Supplementary Planning Document (SPD) however, Pollution Control Team is of the opinion that this is a type 1 application. The applicant will therefore need to install electric vehicle charging points and low NOx boilers in the development and these elements can be addressed via a safeguarding planning condition that meets the 6 tests.

Ground Conditions

With regard to contaminated land, the application includes a report from Ground Investigation and Piling Limited (Site Investigation Report for a Proposed Residential Scheme at Hollyhedge Close, Walsall, West Midlands, reference - AJM.27727, dated 8th January 2019). The report includes the findings of supplementary phase 1 and 2 investigations and summarises the findings of several previous site investigations.

The assessments show that arsenic, lead and Benzo(a)pyrene contaminants are present in the shallow made ground soils at statistically significant concentrations which could potentially affect human health. Across most of the site however, the Source – Pathway – Receptor pollutant linkage will be broken by the construction of the floor slabs to the apartment's buildings and external hardstanding. In areas of soft landscaping on the site however, the report recommends that the linkage is broken by placing 300mm of clean cover or topsoil.

In relation to ground gases and with reference to BS 8485:2015, the report recommends that a high level of gas protection measures are required and that this could be achieved within the design of the floor and substructure through the construction of ventilation methods and use of a propriety gas membrane. In addition, in view of the presence of hydrocarbon contaminated soils, consideration should be given to the inclusion of a vapour resistance membrane.

Pollution Control Team are satisfied with the contaminated land assessment and its conclusions and recommends that the remediation scheme detailed in the report is implemented. Planning safeguarding conditions that meet the 6 tests to address these issues can be incorporated into any planning approval.

Coal

The Coal Authority records indicate that the site is likely to have been subject to historic unrecorded underground shallow coal mining.

The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site, including an intrusive site investigation. This information has been used to inform a Site Investigation Report (or equivalent) (January 2019, prepared by GIP Ground Investigation and Piling Limited) to accompany the planning application.

The report is able to identify that within borehole RO1 a thin coal seam was recorded from 7.00m to 7.40m and a second thin seam from 15.20m to 15.50m. Within borehole RO2 a thin seam was recorded from 10.40m to 10.50m and within RO3 a thin coal seam was recorded from 10.00m to 10.10m. It is noted that from 21.30m in RO1, 21.60m in RO2 and 21.70m in RO3 the strata descriptions change from the grey coloured mudstones to grey green coloured siltstones. No loss of flush was recorded during the advancement of the boreholes.

The report advances to state that within the rotary drill holes sunk as part of the previous phase of site investigation undertaken by M & J Drilling Services Limited in October 2016, a typical succession of Productive Coal Measures strata was recorded beneath the superficial deposits in the form of grey coloured mudstones, sandstones and occasional coal seams to the full depth of the drill holes at depths of 35m. No coal seams were recorded, however what was described by the foreman driller as 'slight coal traces' was recorded in a horizon of black mudstone in borehole 1 at a depth of between 13.70m to 14.20m. No loss of flush was recorded during the advancement of the boreholes.

In view of the published geological information which records the sub-crop of the Mealy Grey Coal seam in the vicinity together with the presence of what is described as 'slight coal traces' and occasional thin coal seams and the description of 'black mudstones' the report recommends that a proof drilling and grouting exercise is undertaken beneath each of the building footprints.

The applicant should ensure that the exact form of any proof and grouting exercise is agreed with The Coal Authority's Permitting Team as part of their permit application.

The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigation measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

Ecology

The recommendations included in the Preliminary Ecological Appraisal 2019 (PEA) are considered to be accurate however the Council's Ecologist has commented that data searches, rely entirely on open access data such as MAGIC or open access data sourced from the NBN Gateway. It is considered, these sources are not

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generally considered adequate as the datasets are not necessarily comprehensive or at a fine enough resolution to inform local decision. However, given the habitats present on site, it is considered in this instance that the additional data is unlikely to provide information that will affect the current recommendations and is not requested at this time.

The proposed tree planting and bird boxes are welcomed enhancements for wildlife, although it is considered that opportunities exist to provide additional ecological enhancement within a development of this scale. Without the use of a metric, it isn't possible to clearly demonstrate biodiversity net gain, however it is considered that 4 bird boxes would not satisfy the requirements of the National Planning Policy Framework (NPPF) (2019) Paragraph 170(d). A safeguarding condition can be included to require additional bio-diversity enhancements in the scheme to address this concern. No existing trees will be impacted by the proposed development.

The PEA sets out mitigation methods in Section 4.2 of the report including the timing of works to avoid bird nesting season (March to August inclusive) and nesting bird checks, care during earthworks and escape provision from open trenches. These mitigation measures can be incorporated into planning conditions if the proposal receives planning permission.

Drainage and Flood Risk

The Lead Local Flood Agency identifies the site as being within Flood Zone 1 with a minor surface water risk to the east and south of the site which is expected to be rationalised by the proposed development. There are no recorded past flooding events based on the data held by the Flood Risk Management Team. There are no watercourses within 5 metres of the site.

The Lead Local Flood Agency consider the proposed development will be satisfactory if the measures included in the updated Flood Risk Assessment and Drainage Strategy are implemented and secured by a planning condition. Severn Trent Water require drainage plans for the discharge of surface water demonstrating that soakaways are feasible or not before any connection to the public surface water sewer, with flows restricted to the proposed discharge rate of 5 litres/second prior to commencement of the development.

Access and Parking

The NPPF explains the development should only be refused in transport grounds where the residual cumulative impacts of development are severe. The additional net increase in vehicle movements is considered to not be severe. Existing residents would have been subject to commercial vehicle movements from the bakery and former scarp yard use, the proposal in comparison would bring benefits to residential amenity by virtue of smaller and quieter vehicles associated with the site.

58 parking spaces are proposed which is a level of provision of above 82% including disabled provision which is on par with census data of car ownership levels in the area. Furthermore, taking into account, that the site is considered to be a highly sustainable location being on the edge of the town centre with good nearby public transport, walking/cycling links available and being within reasonable walking distance of a wide range of commercial, public and leisure facilities, on balance the Highway Authority considers the level of parking acceptable.

Access is to be taken off Hollyhedge Close. An assessment of the Hollyhedge Lane/Wolverhampton Road signalised junction demonstrated that it will operate within capacity with the predicted development traffic. The inclusion of a Grampian Condition for the provision of a new footway in Hollyhedge Close to link the site entrance the existing highway footway will be required. Conditions in respect of surfacing requirements, the provision of a Construction Methodology Statement, cycle shelters, dropped kerb requirements and incentives to promote the developments sustainability credentials upon occupation will be required.

A Transport Plan Statement has been submitted and its content agreed, the document is secured by condition.

The Highway Authority considers the development overall will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2018 paragraph 109.

Regarding concerns of fire access plus the need for further detail including hydrants and sprinkler systems will need to be incorporated into the final design. This can be dealt with by building regulations rather than the planning process.

A resident has expressed concerns regarding the impact this development will have on 6 parking bars located along Wolverhampton Road. This proposal is considered to be a sustainable location with good access to public transport and the Highways Authority consider sufficient parking would be provided within the application site to meet residents' needs.

Planning Obligations

This development triggers the Council's policies regarding contributions towards Urban Open Space and 25% Affordable Housing.

The applicant has submitted a viability assessment that has been considered by. Open Space contributions for a development of this size within this ward, require a contribution (defined by Urban Open Space SPD) of £92,726.00 towards open space improvements in the neighbourhood. Reedswood Park is within 600 metres of the application site, the nearest open space to the development and considered a destination park for residents. Whilst this is on the edge of a reasonable walking

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distance, the LPA would advise any open space contributions would be spent at Reedswood Park as this is considered to be related to the proposed development.

To comply with the Council's affordable housing policy, 25% of the units on site should be for affordable social rent. However, in this instance, Housing Standards have confirmed that because this is only for a flatted development and affordable providers don't want to take parts of flatted blocks, a commuted sum of £560,234.37 in lieu of affordable housing would be required.

The applicant has explained, due to viability issues, they are unable to provide any financial contributions for this development. The applicant has provided a viability assessment that has been reviewed by Lambert Smith Hampton on behalf of the local planning authority, who have concluded that the development is unviable at a policy compliant for 25% affordable housing.

Taking into account a reasonable developer profit, the development could sustain a Section 106 contribution of £30,500.00 using the Council's normal triggers for commencement of development. Lambert Smith Hampton have also considered deferring payments until practical completion which would offer a Section 106 contribution of £32,500.00. Alternatively, the Section 106 payments could be phased with 25% payable on commencement, followed by a further 25% payment after 9 months construction programme with the final 50% payment on practical completion, which would yield a Section 106 payment of £31,500.00.

Given the viability appraisal, it is considered planning committee advice whether they want the Section 106 monies to be collected on commencement, near practical completion or phased throughout construction. Whilst it is recognised councillors want to be involved with where Section 106 monies are spent, to comply with the legislation and government policy, Section 106 monies have to be related to the development and in this instance, Reedswood Park is the nearest open space. The local planning authority advises the Section 106 monies are spent at Reedswood Park.

Allowing for the fact, this development is potentially being transferred to an affordable provider, planning committee will need to advise, whether they wish a clause in the Section 106 to consider either uplift in value to take account of time taken for the development to be built or for the land to be transferred to a private developer. Alternatively, consider whether a clause is included in the Section 106 to protect the Council's affordable housing policy position should the land be transferred to a private developer.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

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This application proposes 71 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed development would reflect the evolving character of the area. The proposed buildings whilst of their own style and character are considered to contribute to the existing mixed architectural character of this area.

The proposal is considered would have a limited impact on the amenity for neighbouring occupiers. Whilst the addition of Block 3 would result in the loss of some light particularly for the occupiers of 48 Wolverhampton Road it is considered that given the recorded high incidents of crime in the ward compared to the mean for the borough it is considered that on weighing this balance the improved security is considered acceptable.

A Grampian condition is recommended to secure highway improvements for pedestrian safety is considered appropriate and reasonable in this instance. The use of safeguarding conditions will further ensure that the neighbours' amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP4, , CSP5, HOU1, HOU2, HOU3, TRAN2, TRAN5, ENV1, ENV2, ENV3, ENV5 and ENV8 of the Black Country Core Strategy and saved policies 3.6 to 3.9, GP2, GP3, GP6, ENV10, ENV11, ENV23, ENV32, ENV33, H4, T1, T7, T8, T9, T10 and T13 of Walsall Unitary Development Plan, policies HC1, HC3, EN1, T4 and T5 of Walsall's Site Allocation Document and Supplementary Planning Documents Designing Walsall, Conserving Walsall's Natural Environment, Open Space, Sport and Recreation, Affordable Housing and Air Quality. Taking into account the above factors it is considered that the application should be recommended for approval.

The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

Officers with the applicant and their agent and in response to concerns raised regarding the initial layout, amended plans have been submitted which enable a positive recommendation to be made.

Recommendation

Planning committee resolve to delegate to the Head of Planning, Engineering & Transportation to grant planning permission subject to planning committee confirming the Section 106 triggers for the receipt of monies and whether the Section 106 includes either an uplift clause to reassess the development value during construction/occupation or protects the Councils affordable housing policy should the land be transferred to a private developer. Also, to secure a Landscape management plan for the in perpetuity maintenance of the hard and soft landscaping within the development site

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Site Location Plan, drawing no. WLVRD-MCB-XX-00-DR-A-0100 Status D5-P1, deposited 28/02/19
- Site Block Plan, drawing no. WLVRD-MCB-XX-00-DR-A-0101 Status S3-P9 deposited 03/10/19
- GA Plans Block_01, Drawing no. WLVRD-MCB-B1-ZZ-DR-A-0110 Status D5-P8, deposited 07/08/19
- GA Plans Block_01, Drawing no. WLVRD-MCB-B1-ZZ-DR-A-0111 Status D5-P8, deposited 07/08/19
- GA Plans Block_01, Drawing no. WLVRD-MCB-B1-ZZ-DR-A-0112 Status D5-P4, deposited 07/08/19
- GA Elevations Block_01, Drawing no. WLVRD-MCB-B1-ZZ-DR-A-0113 Status D5-P2, deposited 07/08/19

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- GA Plans Block_02, Drawing no. WLVRD-MCB-B2-ZZ-DR-A-0114 Status D5-P3, deposited 07/08/19
- GA Elevations Block_02, Drawing no. WLVRD-MCB-B2-ZZ-DR-A-0115 Status D5-P3, deposited 07/08/19
- GA Plans Block_03, Ground and First Floor Plans, drawing no. WLVRD-MCB-B3-ZZ-DR-A-0116 Status D5-P11, deposited 30/09/19
- GA Plans Block_03, Drawing no. WLVRD-MCB-B3-ZZ-DR-A-0117 Status D5-P19 deposited 30/09/19
- GA Elevations Block_03, Drawing no. WLVRD-MCB-B3-ZZ-DR-A-0118 Status D5-P5, deposited 30/09/19
- Design and Access Statement by McBains, September 2019, deposited 16/09/19
- Illustrative View, Drawing LHG60485, deposited 16/09/19
- Illustrative View, Drawing LHG60485, deposited 16/06/19
- Illustrative View, Drawing LHG60485, deposited 16/06/19
- Flood Risk Assessment with Drainage and SUDS Strategy by GHW Ltd, February 2019 (with amended flow rates document reference no. 18-3572-100-P2)
- Preliminary Ecological Appraisal Report by Indigo Ltd, reference 18459/E1, deposited 28/02/19
- Residential Travel Plan Statement by Systra, reference no. 108101-R003, deposited 28/02/19
- Transport Statement by Systra, reference no. 108101-R002A, deposited 18/09/19
- Appendix A Masterplan, reference 108101-R002, deposited 18/09/19
- Mach Residential Assessment, deposited 28/02/19
- Air Quality Assessment by Gem Air Quality Ltd, reference AQ1429, dated January 2019, deposited 28/02/19
- Site Investigation Report by GIP Ltd, deposited 28/02/19

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

3. Notwithstanding the details submitted and prior to the commencement of any part of the development hereby approved including demolition, site clearance and site preparation, a plan detailing a new public footway to upgrade the southern verge from the existing adopted footpath on Hollyhedge Close to the site entrance for a distance of 77 metres to an adoptable highway standard and as stated in Systra Residential Travel Plan in paragraph 4.3.1. The constructed new public footpath route shall thereafter be retained and available for use by members of the public.

Reason: To improve accessibility to the site in accordance with saved UDP Policies GP2, T8 and T10

4: a) Prior to the commencement of the development hereby approved, remedial works comprising intrusive proof drilling and grouting exercise is undertaken beneath each of the proposed building footprints to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified.

4: b) Prior to the commencement of the development hereby approved, should site investigation works confirm the need for remedial works to treat areas of shallow mine workings to ensure the safety and stability of the development such remedial works shall be submitted too and agreed in writing with the local planning authority.

4: c) The development shall not be constructed otherwise than in accordance with the agreed remedial works and thereafter retained for the life of the development.

Reason: To ensure the safety and stability of the development and to comply with NPPF Paragraphs 178 and 179 and saved policies GP2 and ENV14(c) (ii) of Walsall's Unitary Development Plan.

5: a) Notwithstanding the information provided prior to the commencement of the development hereby approved, drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers including demonstrating that soakaways are feasible or not before any connection to the public surface water sewer with flows restricted to the proposed discharge rate of 5 litres/second shall be submitted to and approved in writing by the Local Planning Authority.

5: b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

6: a) Prior to the commencement of development, including demolition a Construction Working Plan shall be submitted for written approval of the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development

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- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary porta-cabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

6: b) The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

Reason: To protect the amenities of the surrounding occupiers and minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway due to the access constraints to the site, in the interests of amenity and highway safety in accordance with Policy GP2, ENV32, T7 and T13 of the UDP.

7: a) Prior to the commencement of the development hereby approved a Remediation Statement including a timetable of the works setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority.

7: b) The development shall not be constructed otherwise than in accordance with the agreed remedial statement and the mitigation shall thereafter be retained for the life of the development.

7: c) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part (a) of this condition is encountered, development shall cease until the Remediation Statement required by part (c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

7: d) Prior to the first occupation of any part of the development, a validation report confirming the details of the remedial mitigation 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.

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved UDP policies GP2 and ENV10.

8: a) Prior to the commencement of any building or engineering operations of the development hereby approved details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measures against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.

8: b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: In the interests of the amenities of the area in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

9: a) The development shall not be constructed otherwise than in accordance with the agreed Flood Risk Assessment (18-3572/February 2019/GHW Consulting Engineers), Drainage Strategy 18-3572-100-P2 and the following mitigation measures detailed within the Flood Risk Assessment:

- Limiting the surface water run-off generated by the 100year + 30% Climate Change critical storm so that it will not exceed 5.0 l/s and not increase the risk of flooding off-site.
- The incorporation of two treatment trains to help improve surface water quality.
- Provision of adequate attenuation flood storage on the site to a 100year + 30% Climate Change standard.
- Finished floor levels are set no lower than 150mm above surrounding ground level.
- Confirmation of which responsible body will maintain the surface water system over the lifetime of the development according to an acceptable maintenance schedule and that is achievable.

9: b) The agreed measure shall thereafter be retained for the life of the development.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site, the satisfactory treatment of surface water from the site. To prevent flooding elsewhere by ensuring that storage of flood water is provided and to reduce the impact of flooding on the proposed development and future occupants. To ensure lifetime maintenance of the system to prevent flooding issues.

10: a) The development shall not be constructed otherwise than in accordance with the agreed noise mitigation scheme, specified in the report prepared by MACH Acoustics Limited, reference: 'Hollyhedge Close, Assessment 8233:2014 4th January 2019, revision 00' and thereafter retained for the life of the development.

10: b) Prior to the first occupation of any part of the development hereby approved until a validation report confirming the implemented noise mitigation scheme in accordance with part a has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect local amenity and to meet the requirements of saved UDP policies GP2 and ENV10.

11: The development shall not be constructed otherwise than in accordance with the following precautionary mitigation in relation to terrestrial mammals;

a) Mammal ladders (such as a plank) or earth ramps should be placed in any open excavations at the end of each day.

b) Any open pipework should be capped overnight to prevent mammals from accessing pipework and becoming trapped.

Reason: To mitigate harm to terrestrial mammals

12: The development shall not be constructed otherwise than in accordance with the agreed ecological mitigation measures as set out in section 4.2 of the Preliminary Ecological Appraisal Report by Indigo Surveys Ltd dated January 2019 with the nesting bird check undertaken by a suitably qualified and experienced person. The ecological mitigation measures shall be retained for the life of the development.

Reason: To mitigate harm to the natural environment in accordance with saved UDP policies GP2 and ENV23.

13: Notwithstanding the information shown on submitted plans, the development hereby approved shall not be constructed otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- PAS24; 2016 doors for individual dwellings
- PAS24; 2016 windows where easily accessible
- Removal of pedestrian access from Wolverhampton Road
- Cycle storage to be secured to LPS1175 SR2 or to be Secure by Design
Cycle pods
- Refuse areas to be secured to LPS1175 SR2

- Main apartment ingress and egress LPS1175 SR2 with compatible UL293 access control panel
- Floors compartmentalised on landings with LPS1175 SR2 doors with associated access control

Reason: To ensure the safety and security of the development and its occupiers in compliance with saved policy ENV32 of Walsall's Unitary Development Plan.

14: a) Notwithstanding the information included on the deposited plans and the application form prior to the commencement of the hereby approved development above damp-proof course until a schedule of facing materials to be used in the development has been submitted to and agreed in writing by the Local Planning Authority.

14: b) The development shall not be constructed otherwise than in accordance with the agreed details and thereafter retained for the life of the development.

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

15: a) Notwithstanding the information provided prior to the commencement of the hereby approved development above damp-proof course full details of a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate biodiversity improvements on the application site and make the site more attractive to wildlife.

15: b) The development shall not be constructed otherwise than in accordance with the agreed details and thereafter retained for five years from the first occupation of the development with any plants or trees, dying, being damaged or removed replaced with the same species within the first available planting season.

Reason: To provide biodiversity enhancements and environmental improvements in accordance with saved UDP policies GP2 and ENV33, ENV23 and Conserving Walsall's Natural Environment SPD.

16: a) Prior to the commencement of the hereby approved development above damp-proof course full details of the proposed sub-station structure, shall be submitted to and approved in writing by the Local Planning Authority

16: b) The development shall not be constructed otherwise than in accordance with the agreed details and thereafter retained for the life of the development.

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

17: a) Prior to the commencement of the hereby approved development above damp-proof course, details of the proposed cycle shelters, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority.

17: b) Prior to the first occupation of any dwelling of the development, the development shall not be constructed otherwise than in accordance with the agreed cycle shelter facilities and thereafter retained and available for the use of future occupiers of the development and used for no other purpose.

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

18. a) Prior to the first occupation of any dwelling of the development, the development shall not be constructed otherwise than in accordance with the access road, parking and vehicle manoeuvring areas being consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the clear demarcation of all parking bays. These areas shall thereafter be retained and used for no other purpose.

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

19: a) Prior to the commencement of the hereby approved development above damp-proof course, details of the proposed bin storage facilities, shall be submitted to and approved in writing by the Local Planning Authority.

19: b) Prior to the first occupation of any dwelling of the development, the development shall not be constructed otherwise than in accordance with the agreed bin storage facilities and thereafter retained and available for the use of future occupiers of the development and used for no other purpose.

Reason: To ensure the satisfactory appearance and operation of the development and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

20: Prior to the first occupation of any dwelling of the development, the development shall not be constructed otherwise than in accordance with the existing dropped kerb vehicular access onto Wolverhampton Road, made redundant as a result of the development, shall be reinstated back to full kerb height.

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

21: a) Prior to the commencement of the hereby approved development above damp-proof course, details of the number, type and location of the proposed electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority.

21: b) Prior to the first occupation of any dwelling of the development, the development shall not be constructed otherwise than in accordance with the agreed electric vehicle charging points and thereafter retained and available for the use of future occupiers of the development and used for no other purpose.

21: c) The development shall not be constructed otherwise than in accordance with any boilers installed and used in any of the residential units hereby approved, with a maximum NOx emission no greater than 56 mg/kWh for gas and liquefied petroleum gas (LPG) boilers and a maximum of 120 mg/kWh for oil-fired boilers.

Reason: To conserve and enhance the natural environment and in accordance with saved UDP policies GP2 and ENV10.

22: The development hereby approved shall not be occupied until the provisions of the Residential Travel Plan document by Systra dated 14/02/19 have been implemented.

Reason: Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and UDP Policy T10.

23: a) No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted to and approved in writing by the Local Planning Authority.

23: b) No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

24: Notwithstanding permitted development rights under part 3, class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) there shall be no change of use of any apartment hereby approved to a use falling within class C4 (house in multi occupation).

Reason: To safeguard the amenities of the occupiers of adjoining premises and provide adequate parking provision and in accordance with UDP policy T7 and T13.

Notes for Applicant

1. Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a

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solution which protects both the public sewer and the building. Please note if you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851. If your query is regarding drainage proposals, please email to the aforementioned email address and mark for the attention of Rhiannon Thomas (Planning Liaison Technician).

2. Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 20). Turning facilities should be provided in any dead-end access route that is more than 20m long (ADB Vol 2, Diagram 50, designed on the basis of Table 20) Blocks of flats not fitted with fire mains should have vehicle access for a fire appliance not more than 45m from all points within each dwelling, measured on a route suitable for laying hose. The direct distance is reduced to two thirds to allow for internal layout. If this cannot be met a fire main should be provided (ADB Vol 2, 16.3; BS 9991:2015 50.1.2). Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 15 and "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK:
<https://dl.dropboxusercontent.com/u/299993612/Publications/Guidance/Firefighting/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net. The approval of Building Control will be required to Part B of the Building Regulations 2010

3. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
4. The applicant will be expected to enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.
5. No construction, demolition, or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall otherwise only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (** Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday*)

6. The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points: An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded. The charging unit is to be supplied by its own independent radial circuit. Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following: West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance, Black Country Air Quality Supplementary Planning Document (SPD), General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015), Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.
7. CL2: (please refer to condition no. 6) When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.
8. CL3: (please refer to condition no. 6). Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive, and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.
9. NOTE for condition 3. Residential Footways Highway Specification: Footways and footpaths in residential areas that are not expected to take Vehicle traffic. Construction: 30mm AC6 asphalt concrete dense surfacing 100/150 Cl. 909 50mm AC20 dense binder 100/150 Cl.906.100mm Sub-

base. If the sub-grade has a CBR of only 3%, then the sub-base should be thickened up to 350mm.

10. It appears that part of the highway verge may be supported by an existing retaining wall forming the school boundary. The condition of this wall should be assessed to ensure it is suitable for the proposed purpose, and the parapet wall/chain-link & barbed wire fence considered for height, suitability and possible vehicle impact.
11. With respect to planning condition no. 4 the applicant should ensure that the exact form of any proof and grouting exercise is agreed with The Coal Authority's Permitting Team as part of the permit application.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 28-Nov-2019

Plans List Item Number: 8.

Reason for bringing to committee: Major Application

Location: FORMER BRITISH LION WORKS, FOREST LANE, WALSALL, WS2 7AX

Proposal: DEMOLITION OF EXISTING BUILDINGS, CONSTRUCTION OF 16 DWELLINGS (2X2 BED AND 14X3 BED) WITH ASSOCIATED ACCESS ROAD AND PARKING.

Application Number: 17/1240

Applicant: c/o the agent

Agent: Julian Hill

Application Type: Full Application: Major Use Class C3 (Dwellinghouses)

Case Officer: Stuart Crossen

Ward: Blakenall

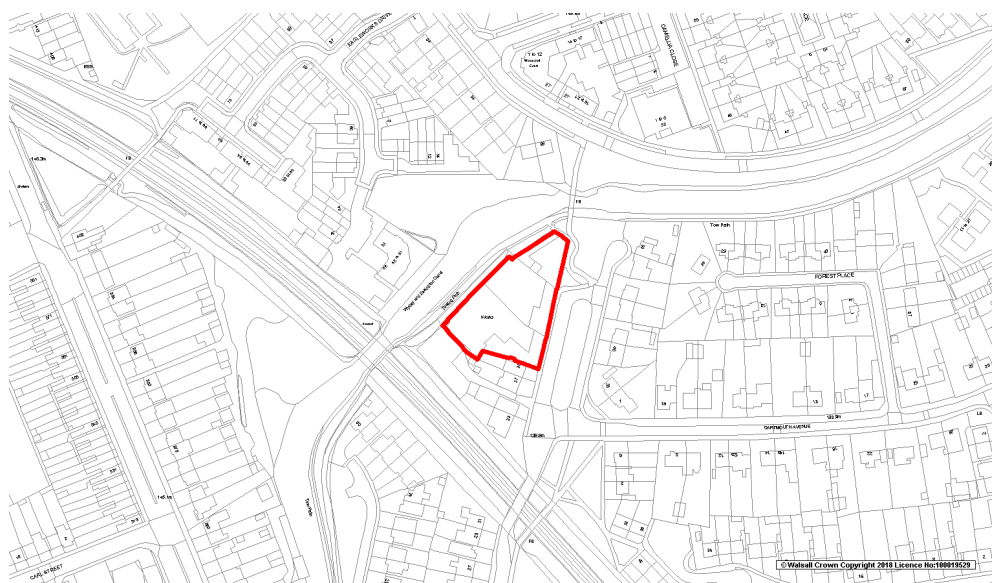
Expired Date: 24-Jan-2018

Time Extension Expiry:

Recommendation Summary:

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and subject to;

- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed.



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Current Status

The application was first considered by Committee on 7th June 2018 where the following resolution was made:

To be delegated to the Head of Planning, Engineering and Transportation to grant permission, subject to an amended parking plan, revision or removal of conditions and subject to the completion of a Section 106 Agreement to provide for affordable homes (or to demonstrate that conditions are not viable), open space, motorcycle barriers and resurfacing of the public right of way, and details of the future management/maintenance of the canal boundary structure. In the absence of a completed section 106 or amended parking plan, delegation was sought for the Head of Planning, Engineering and Transportation to refuse the scheme on his basis.

Since this resolution amendments were received to address consultee concerns and the District Valuer also confirmed that the scheme was not viable to provide contributions for affordable housing or open space. In the circumstances at Committee on 21st February 2019 agreed an amended resolution as follows:

That the Head of Planning, Engineering & Transportation be delegated the authority to grant permission in accordance with the officer's report and supplementary report and the reasons contained therein, subject to:

☐ *Conditions including the revision or removal of any conditions as required;*

☐ *Completion of a Section 106 Agreement to secure the future management/maintenance of the canal boundary scheme for the lifetime of the development; and to*

☐ *Refuse the scheme in the absence of a completed S106 Agreement on that basis.*

Since the resolution on 21st February 2019 officers have been negotiating a S106 Agreement to secure the management/maintenance of the canal boundary scheme but the plans have been amended to retract the application site boundary along the rear garden boundaries to exclude the retaining wall along the canal as this is within the ownership of the Canal & River Trust. In the circumstances there is no longer a requirement for the developer to be obligated to complete a S106 Agreement to secure the management/maintenance of the canal boundary as this is entirely within the remit of the Canal & River Trust.

Measures to secure boundary treatments adjacent to the public right of way referred to in the earlier reports as requiring a S106 Agreement have been revised following receipt of amended plans and will now be secured by conditions.

The approved plans condition will need to be updated to reflect the new plans.

Committee report from 21st February 2019 now follows with amendments to the areas which refer to a S106 Agreement to reflect the fact that a S106 Agreement is no longer required and reflect the amended recommendation.

Proposal

The application is for 16 houses at a former industrial site.

The scheme was originally for 18 houses, however the scheme and layout has now been reduced to improve amenity and access.

The application proposes to use the existing access off Forest Lane to create a mix of terraced houses and semi-detached houses with a mix of driveway parking and shared parking areas.

There are 6 house types proposed as follows:

House type A is a 2.5 storey 3 bedroom house with a ground floor kitchen, living room and toilet, 2 bedrooms on the first floor and another bedroom and the bathroom in the loft with rear velux and front dormer window. Side elevation windows would be secondary or not serve main habitable rooms.

House type A2 is a 2.5 storey 3 bedroom house with a ground floor kitchen, living room and toilet, 2 bedrooms on the first floor and another bedroom and the bathroom in the loft with rear velux and front dormer window. Side elevation windows proposed would be secondary or would not serve main habitable rooms.

House type B is a 3.5 storey 3 bedroom house with a ground floor utility room, living room/kitchen on the first floor, 2 bedrooms and a bathroom on the second floor and another bedroom with ensuite in the loft with rear velux and dormer window and front dormer window. Side elevation windows would be secondary or not serve main habitable rooms.

House type C is a 3 bedroom house with a ground floor kitchen, living room and toilet, 2 bedrooms on the first floor and another bedroom in the loft with rear velux and front dormer windows. Side elevation windows would be secondary or not serve main habitable rooms.

House type D is a 2 bedroom house with a ground floor kitchen/dining room, living room and toilet, 2 bedrooms and a bathroom on the first floor. Side elevation windows would be secondary or not serve main habitable rooms.

House type D2 is a 2 bedroom house with a ground floor kitchen/dining room, living room and toilet, 2 bedrooms and a bathroom on the first floor. Side elevation windows would be secondary or not serve main habitable rooms.

The application includes a phase 1 habitat survey which concludes:

Desk study data and survey work carried out at the Industrial Units off Forest Lane, Walsall, indicate that the proposed development scheme should consider protected species legislation with regard to nesting birds. Consideration should also be given to the protection of the adjacent Wyrley and Essington Canal corridor.

The Design and Access Statement makes the following relevant statements:

Access - The existing building will require demolition, and the existing area of hard standing would be the location of a new site access point.

Layout - The proposal is for a perimeter development, with some dwellings looking into the site, and some looking outward, towards Forest Lane.

Amount - The size of the proposed dwellings are as follows:

2 beds - 67.2sqm. (type D)

3 beds - 91.0sqm. (type A)

3 beds - 115sqm. (type C)

3 beds - 113sqm. (type B, w/garage)

A bin store is proposed near to the junction to the proposed access.

The total development has a net area of 1834.1sqm.

Site and Surroundings

The site is located on the western side of Forest Lane. This part of Forest Lane is approached from a narrow bridge over the railway which has weight restrictions imposed (11 tonnes). There is alternative access available from Dartmouth Avenue. The highway splits in two as it surrounds a large landscaped central reservation which has several mature trees on it. There is also a turning head outside 48/50 Forest Lane on the opposite side of the highway. The Wyrley & Essington Canal and towpath are at the rear of the site and there is a footbridge over the canal to the north of the site. The southern boundary of the site adjoins the boundary of semi-detached houses and a transport haulage yard. There are semi-detached houses opposite the site.

The Definitive map of Public Rights of Way show the site affected by the line of a public footpath (WAL33), between Forest Lane and Hawbush Road over the canal. A new 2 metre wide footway is proposed to link to the canal footbridge and the existing informal link to the canal towpath will be retained.

Relevant Planning History

06/0314/FL/E4 – Demolition of industrial units and erection of 24 apartments with new access driveway and landscaping and relocation of existing footpath linking up to the canal towpath – Granted subject to conditions and a S106 Agreement 20/6/06. The S106 Agreement was to secure contributions towards Education provision (£45K) and refurbishment of the footbridge over the canal (£10K). Both obligations were to be paid on or before occupation of 50% of the dwellings. The proposed building is four storeys high.

10/1090/OL - Outline application for the demolition of existing buildings and construction of new 60 bed extra care accommodation, access and layout only for consideration. GSC 20/11/13

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 8 - Promoting healthy communities**
- **NPPF 10 - meeting the challenge of climate change, flooding and coastal change**
- **NPPF 11 - Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

- **Local Policy**
www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites

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- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H5: Housing for People with Special Needs
- H6: Nursing Homes and Rest Homes for the Elderly
- H7: Hostels and Houses in Multiple Occupation
- Policy JP7: Use of Land and Buildings in Other Employment Areas
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm

- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Housing Standards – No objections - requires 25% on site affordable homes.

Public Footpaths Officer – No objections subject to conditions to protect the public right of way, a condition for boundary treatment details to be submitted for the area next to the public footpath.

Fire officer – No objections, notes for applicant regarding fire standards.

Pollution Control - No objections subject to conditions to mitigate for noise, contaminated land and air quality.

Police – No objections

Canal and Rivers Trust – No objection conditions regarding the foundations and construction methodology.

The Coal Authority – No Objection subject to Coal Mining Risk Assessment proposed mitigation measures.

Severn Trent – No objections subject to conditions for drainage.

Inland Waterways Association – No objections

Highways - No objections to the general principle. Whilst the original layout of parking spaces for plots 13, 14, & 15 was on balance acceptable an amended plan has been provided that offers some improvement in terms of proximity to the dwellings they serve. Further amendments are sought.

Representations

None

Determining Issues

Principle of Residential Development

Amenity

Design and Character of the Area

Public Rights of Way

Canal

Ecology

Pollution Control

Coal Mining

Parking

Section 106 Contributions

Assessment of the Proposal

Principle of residential development

Planning permission was granted for an apartment scheme on this site in June 2006. Although that scheme was for 24 apartments in a four storey block and the proposal is for 16 houses the principle of a residential use is established and the loss of the employment site accepted. It is also considered that redevelopment of this vacant industrial site will improve the environment for surrounding residents. On this basis residential development is considered acceptable in principle.

Amenity

The separation between houses ensures there would be no significant overbearing impact or loss of light.

An amended plan is being sought to relocate the parking areas closer to the houses they serve. The current location of these spaces (serving 13,14 and 15) is on balance acceptable and will not result in any significant noise or disturbance impacts due to their distances to houses. There would be visual surveillance of these spaces from adjacent proposed houses.

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All houses have private amenity space, most meet the Council's minimum standards some are less at 45m2.

Design and Character of the Area

The traditional 2.5 storey design with sloping roofs would be a little higher than the surrounding 2 storey houses however the proposal is more in character than the existing derelict industrial buildings and the 0.5 storey element provides some visual surveillance of public space which offsets any detrimental impact to the wider character.

The amended scheme which has reduced the number of houses and improved the layout has resulted in an acceptable scheme which is considered to be a significant betterment to the character of the area.

Public right of way

There are no public rights of way objections to this proposed development, but additional details are required to ensure that the potential impacts on the adjoining public footpath 33 Walsall, greenway and link path are addressed.

There are concerns about the proposed layout with rear amenity space backing on to the public footpath and canal towpath/ green way. The proposed development, fencing and landscaping may impact upon these pedestrian and cycle links and will require careful design to ensure safety and security of both proposed residents and path users. Secure by Design Principles should be applied.

In particular, the rear gardens to plots 10-13 could suffer overlooking due to the height of the footbridge, and may be particularly vulnerable to crime and ASB in an area of reported issues, due to the footbridge level in relation to the proposed dwellings and window heights. Based upon the current proposed layout, additional details for the proposed boundary treatments, to include details of the proposal for retention or replacement of the high brick wall and mesh panel which forms the original factory boundary could provide mitigation.

The public rights of way officer has requested that the houses face onto the towpath and considers that the scheme does not enhance the overlooking of the public right of way and towpath. In this instance it is considered that the scheme provides significantly improved visual surveillance of these public spaces than the existing situation and that the layout follows the existing character of the adjoining estate. For these reasons the layout is supported by the case officer.

The Public Rights of Way Officer states that there have been reports of ASB at the junction of the footpath, footbridge and greenway. The re-use of this site combined with the additional visual surveillance represents a positive solution to these existing issues.

Canal

The Trust previously advised that a cross section should be provided identifying the treatment to be used to retain the embankment toe and they have provided conditions which require the detail prior to commencement.

Detailed information for the proposed retaining structure and methodology for the demolition/ construction will be required before a planning permission can be granted. The full details of the type and construction of the retaining wall, including a cross section through this part of the development and drainage proposals, should be submitted prior to the commencement of any works in this part of the site.

The Canal and Rivers trust have asked that the applicant provides a heritage statement because the site is opposite a grade 2 listed aqueduct. The site is actually 20 metres away which combined with the level difference between the canal and application site would mean there would be little impact on the setting of the aqueduct to justify a heritage statement.

Ecology

The Ecology statement provided concludes that the site has very limited Ecology value but that improvement works could take place as part of the scheme.

In accordance with the works to the scrub areas could be conditioned to take place outside of the bird breeding season unless an ecologist is present, a condition can be added to use fencing to protect the canal corridor and a landscaping scheme can be requested to ensure that native plant species can be planted in the rear gardens.

Pollution Control

From a search of previous planning applications for this site, it is noted that an Outline Application (10/1090/OL) for a Care Home was made in 2010/2012, with permission granted subject to conditions. The Application included a number of Documents in support of the application, unfortunately, Pollution Control do not have access to all of these, which may have assisted the current Applicant.

The Documents included an Asbestos Survey. It is recommended that if asbestos has not been removed from the site since the 2010 Application was submitted, then a new report is undertaken and asbestos removed in accordance with National Legislation, before any demolition works commence. A condition has not been requested so this can be added as a note to applicant.

As there is going to be substantial demolition and construction works, a Working Plan needs to be agreed in writing, with the Local Planning Authority, to minimise disruption to local residents and infrastructure, roads and footpaths from noise, dust, debris, waste etc.

The Documents also included a Ground Investigation, which was undertaken by Spillman Associates in August 2005, Ref J05068/01. Although Pollution Control has no current access to this Document, it will require updating to reflect current guidance and legislation. If industrial activities have taken place on the site, since the Ground Investigation was undertaken, then additional investigatory works may be required.

Pollution Control recommend a noise survey which reflects current best practice and Standards. The noise survey will need to consider current guidance, British Standard BS8233:2014, BS4141:2014, and Professional Practice Guidance on Planning and Noise (ProPG) May 2017. To the south of the site, there is a Commercial/Haulage activity, as some of the existing walls between the haulage yard and the proposed residential premises may be demolished, acoustic boundary treatment between the two usages needs to be considered as part of the noise survey.

Walsall Council has adopted the Black Country Air Quality Supplementary Planning Document (SPD). Pollution Control is of the opinion that the application falls under the Type 1 category, therefore the Applicant needs to consider installing electric vehicle charging points and low NOx boilers.

Coal Mining

A Coal mining risk assessment has been submitted to the Coal Authority.

Based on a review of appropriate sources of coal mining and geological information, the report identifies that coal mining legacy poses a medium risk to the application site due to the presence of recorded workings in the Deep & Shallow Coal seam (c.36m bgl) beneath the west of the site and possible further unrecorded workings in the Deep & Shallow Coal and in the Gubbin and Ball Ironstone and associated coal seams.

Accordingly, the Report makes appropriate recommendations for the carrying out of intrusive ground investigations in the form of boreholes in order to investigate ground conditions, the depth and condition of the identified coal and ironstone seams of interest, and to inform any necessary remedial measures required.

The Coal Authority concurs with the recommendations for site investigations and appropriate mitigation.

Parking

The parking spaces to Plot 13 and to a certain degree Plots 14 and 15 are remote. For convenience and security reasons residents of these plots are likely to park on street outside their house. Whilst this would not necessarily present a significant

highway problem at this particular location, it is an issue with the layout and amendment has been requested prior to a decision being issued.

The application looks to replace an existing disused factory with a residential development consisting of 16 x two and three bedroom dwellings. 22 parking spaces are proposed which equates to 138%. UDP T13 parking policy for 16 2/3 bedroom dwellings is 32 spaces.

Taking into account the likely parking demand for the existing commercial premises of about 1800sqm GFA requiring 24 spaces under UDP Policy T13 with significantly fewer spaces actually available, and on street parking being available if needs be, on balance the Highway Authority considers the parking level is acceptable.

Section 106 Agreement

Following review of the developer's viability assessment by the District Valuer it has been determined that the proposed development cannot support provision of affordable housing or urban open space contributions.

Boundary to Public Right of Way

Details of boundary treatments can be secured by conditions rather than a section 106 agreement as originally reported.

Open Space

The open space contribution for this development would be £31,510.00 but the scheme has been proven to be unviable.

Canal

It has been determined that the retaining structure at the rear of the site is owned by the Canal and Rivers Trust so future maintenance / management will be undertaken by them and there is no need to obligate the developer through a section 106 agreement to ensure ongoing maintenance.

Affordable Housing

In accordance with Policy HOU3 of the BCCS, 25% of the development should be provided as affordable housing. The Housing Standards officer seek 4 units – 2 x 2 bed and 2 x 3 bed. 1 of the 2 beds would be shared ownership, and other 3 would be social rent. Alternatively all 4 can be social rent. Again the viability assessment has been reviewed by the District Valuer and proven not to be viable.

Conclusions and Reasons for Decision

Conditions requiring construction methodology and boundary treatment detail in relation to the canal and public rights of way and be conditioned and mitigated for and would accord with UDP policy ENV32.

The case officer considers in this instance there is a case for a slight reduction in amenity standards in order to ensure the viability of the site and where amenity reductions do not impact on existing occupants the weight of this determining issue is less than the overall viability. The distance to neighbouring houses, its siting and location is considered acceptable and would not result in any significant loss of amenity to neighbouring residents by way of loss of light or overlooking and accords with UDP policy GP2 and Designing Walsall SPD.

The 2.5 storey design with traditional sloping roofs is acceptable and compatible with the character of the area in accordance with UDP policy ENV32.

The remote parking areas can be addressed through amendments which the agent is currently undertaking. Without acceptable amendments to the layout the current scheme cannot be supported and would be contrary to policies GP2 and ENV32 in particular. If suitable amendments cannot be achieved delegation is sought for Officers to refuse on this basis.

The scheme would if approved increase footfall to the adjacent public footpath which requires enhancement and protection from unauthorised use by motorcycles which can be secured through a legal agreement which would comply with UDP policy T8.

The scheme is considered to minimise any impact on the canal and is considered an improvement because the existing derelict building has a poor appearance and is used for fly tipping. To ensure that the development is acceptable in accordance with UDP policies ENV23 conditions recommended by Canal & Rivers Trust can be attached to planning permission.

The submitted Ecology Report raises no objections and conditions can be attached in accordance with the recommendations of the Ecology Report to control the timing of works to minimise the impact on birds during the bird nesting season, to provide satisfactory landscaping and enhancements; all represent a significant improvement to the sites previous use and current condition in accordance with UDP policy ENV23.

The mitigation measures proposed by Pollution Control Officers regarding potential ground contamination are considered acceptable to protect human health, can be secured by condition and would comply with UDP policy ENV14.

The proposed noise survey requested by Pollution Control Officers are considered acceptable to mitigate for potential noise amenity impacts on the occupiers of the development, can be secured by condition and comply with UDP policies GP2 and ENV10.

In accordance with the Air Quality SPD the proposed requirement for electric car charging points by Pollution Control Officers is considered acceptable and can be attached as a condition. This requirement complies with UDP policies GP2 and ENV10

The applicants Coal Mining Risk Assessment has been deemed acceptable by The Coal Authority who have suggested past Coal Mining mitigation measures which ensures the scheme is acceptable in this regard and complies with policies GP2 and ENV10.

In traffic terms the proposed residential development of the site will remove an element of commercial traffic movements from the street if the site came back into use and on balance the Highway Authority consider the development would reduce the potential of the site to come back into the current use which could result in commercial traffic movement. The development will not have severe transportation implications and is acceptable in accordance with the NPPF in this respect.

The developer has provided a viability assessment that demonstrates the development cannot support provision of an affordable housing or urban open space contribution. The maintenance of the canal boundary will be by the Canal & River Trust and the public rights of way boundary treatments will be secured by conditions. In the circumstances no S106 Agreement is required.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding the relationship between houses, parking and bin layout amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and subject to;

- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed.

Conditions and Reasons or Reasons for Refusal

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

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

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

Location plan and block plan drawing number (Zeb1043/P/001) received 20/03/18

Existing site plan and section (Zeb1043/P/005) received 20/03/18

Proposed site plan (Zeb1043/P/005 revJ) received 29/01/19

House Type A2 (Zeb1043/P/014 revA) received 29/01/19

House Type A (Zeb1043/P/015 revA) received 29/01/19

House Type B (Zeb1043/P/016 revB) received 29/01/19

House Type D (Zeb1043/P/018 revA) received 29/01/19

House Type D2 (Zeb1043/P/018 revA) received 29/01/19

Existing and Proposed Site Sections B-B and C-C (Zeb1043/P/020 revB) received 29/01/19

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

3a) Prior to built development commencing a new or updated site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

3b) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

3c) Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

3d) The remedial measures as set out in the 'Remediation Statement' required by part c) of this condition shall be implemented in accordance with the agreed timetable.

3e) If during the undertaking of remedial works, or the construction of the approved development, unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

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

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

4a) Prior to development or any Demolition, Engineering, and Construction activities, a Construction Methodology Statement shall be submitted in writing to and approved by the Local Planning Authority. The Construction Methodology shall include the following details:

1. The location of parking and turning facilities for site operatives and construction deliveries.
2. Details of the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development;
3. Measures to control the emission of dust and dirt during construction;
4. Details of protective measures (both physical measures and sensitive working practises) to avoid impacts during construction;
5. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons);
6. Details of persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation
 - iii) Installation of physical protection measures during construction;
 - iv) Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;

v) Provision of training and information about the importance of Environment Protection measures to all construction personnel on site.

7. Full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

8. A site survey to identify any potentially hazardous materials shall be carried out and a Method Statement shall be submitted to the local planning authority detailing actions and time scale to be taken to prevent localised contamination.

9. Full details of the proposed retaining structure to the existing canal embankment shall. This detail shall provide cross sections (existing and proposed); drainage measures associated with the retaining structure; provision of a path to enable inspections of the embankment and future maintenance / management regimes for the retaining structure.

10. Details of all proposed earthmoving, demolition and construction works (including foundation details) within 20 metres of the toe of the adjacent Wyrley & Essington Canal embankment (including any works to the embankment itself and construction of any retaining walls or structures), including identification of potential adverse impacts on the canal embankment arising from such works and the proposed means of mitigating any such impacts.

4b) All agreed measures shall be fully implemented and maintained throughout the duration of demolition operations and construction activities.

Reasons: To safeguard the amenities of the area and to comply with BCCS policy ENV4 and UDP policies GP2 and ENV10.

5) The site area shall be secured throughout the development with a perimeter fence to prevent any incursion of machinery, equipment or personnel onto the corridor of the adjacent Wyrley and Essington Canal.

Reason: In order to safeguard the visual amenity of the area and maintain the integrity of the wildlife corridor.

6a) There shall be no clearance of vegetation undertaken during the bird-nesting season (1st March to 31st August inclusive).

6b) Where this is not practicable, any potential nesting habitat to be removed should first be checked no more than three days in advance of vegetation clearance by a qualified ecologist in order to determine the location of any active nests.

6c) Any active nests identified would then need to be cordoned off (minimum 5m buffer) and protected until the end of the nesting season or until the birds have fledged.

Reason: In the interests of protected birds and to comply with UDP policy ENV23

7a) Prior to any development being carried out above damp course level details for an Acoustic Survey shall be submitted in writing and approved by the Local Planning Authority (see Note).

7b) Acoustic Mitigation measures to ensure future residents have a good acoustic environment shall be submitted to and agreed in writing with the Local Planning Authority.

7c) The agreed Acoustic Mitigation measures shall be fully implemented prior to occupation and a Validation Statement shall be submitted in writing to the Local Planning Authority that confirms the installation of the measures.

Reason: To safeguard the amenities of occupiers and to comply with UDP policy GP2.

8a) Prior to the first occupation of any dwelling on the development, all access ways and parking spaces serving that dwelling shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

8b) These areas shall thereafter be retained and used for no other purpose.

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

9) Prior to the first occupation of Plots 13 to 16, the section of existing dropped kerb footway crossing on Forest Lane, made redundant as a result of the development layout, shall be reinstated back to full kerb height to the specification of and shall be in accordance with all statutory requirements.

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

10a) Prior to occupation full details shall be provided for boundary treatments, to include:

- details of the proposal for retention or replacement of the high brick wall and mesh panel which forms the original factory boundary
- a cross section, showing the proposed development, window heights and boundary treatments in relation to the footpath and footbridge height.

10b) The development shall not be carried out otherwise than in accordance with the approved details and retained thereafter.

Reason: To safeguard the occupiers of the houses and to comply with UDP policy GP2 and ENV32

11a) Prior to occupation details of electric charging points to serve each property shall be submitted to and approved by the Local Planning Authority.

11b) The agreed measures shall be fully implemented, a written validation statement shall be submitted to the Local Planning Authority prior to occupancy and the works retained thereafter.

Reason: In the interests of air quality, public health and to comply with UDP policy GP2

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no development within Classes A, B, C and D of Part 1 Schedule 2 of the said Order shall be carried out to the dwellings hereby approved.

Reason: To protect the character and amenities of the area, in the interests of ground gas protection and to comply with policies GP2 and ENV32 of Walsall's Unitary Development Plan.

13a) Prior to occupation a landscape scheme shall be submitted to and approved in writing by the local planning authority. The landscaping shall include native species identified in the Extended Phase 1 Habitat Survey.

13b) The development shall be implemented fully in accordance with the approved scheme prior to the end of the first planting season.

13c) All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period, any trees shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same size and same species as that originally required to be planted,

Reason: In order to safeguard the visual amenity of the area and maintain the integrity of the wildlife corridor.

14) There shall be no demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), on any Sunday, Bank Holiday or Public Holiday*, or between the hours of 18.00 to 08.00; or after 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (** Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday*)

Reason: To safeguard local amenity and to comply with UDP policy GP2

Notes for Applicant

Police

The applicant may wish to consider crime prevention and home security advice contained within SBD New Homes.

Please see [http://www.securedbydesign.com/wpcontent/](http://www.securedbydesign.com/wpcontent/uploads/2017/06/Secured_by_Design_Homes_2016_V2.pdf)

[uploads/2017/06/Secured_by_Design_Homes_2016_V2.pdf](http://www.securedbydesign.com/wpcontent/uploads/2017/06/Secured_by_Design_Homes_2016_V2.pdf)

Any dead end greater than 20 m in length should have an appropriate turning facility for a pump appliance

Suitable water supplies for firefighting should be provided. This shall be subject to consultation with West Midlands Fire Service once a Water Scheme plan has been produced and approved by the relevant Water Company.

The approval of Building Control will be required with regard to Part B of the Building Regulations 2010

Contaminated Land

CL1

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

CL2

When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2

'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

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

Acoustics

Relevant acoustic guidance and documents:

ProPG: Planning & Noise – New Residential Development

Planning Practice Guidance – Noise

BS8233: 2014 - Guidance on Sound Insulation and Noise Reduction for Buildings,

BS4142: 2014 – Methods for Rating and Assessing Industrial and Commercial Noise

WHO Night Noise Guidelines

BS7445: 2003 – Description and Measurement of Environmental Noise

Noise Policy Statement England

Pollution Control cannot verify that the agreed acoustic mitigation measures have been or will be installed as per manufacturer's instructions. It is recommended that such confirmation be obtained from a suitable third party, such as a Building Control Inspector or the acoustic performance verified by a person or organisation certified for the purposes of sound insulation testing by either by the Association of Noise Consultant (ANC) or the United Kingdom Accreditation Service (UKAS).

Air Quality SPD

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

Each charging unit to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Asbestos

The Documents included an Asbestos Survey. It is recommended that if asbestos has not been removed from the site since the 2010 Application was submitted, then a new report is undertaken and asbestos removed in accordance with National Legislation, before any demolition works commence.

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for the dropped kerb reinstatement works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.
3. Condition 10 clarification: Details are of proposed boundary treatments alongside Footpath 33 Walsall (alongside plots 10 - 12) are to be submitted and agreed with the local planning authority, to include details in relation to either the retention of, or the replacement of, the original factory wall and metal rail boundary, as appropriate. Proposed boundary treatments and defensive planting must be in accordance with Secured by Design Standards and must be of a height, positioning and specification to reduce risk of climbing over using the existing hand rails, motorcycle chicane

barrier and RADAR gate, footbridge and guard rail fencing, present within the adjoining public right of way and towpath.

Canal

The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

Coal

The submitted Report identifies that unrecorded mine entries could potentially be present within the application site. We therefore take this opportunity to highlight that should any previously unrecorded mine entry be encountered during development, appropriate treatment will be required i.e. filling and capping. This may also necessitate revisions to the site layout.

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 28-Nov-2019

Plans List Item Number: 9.

Reason for bringing to committee: Called in by Councillor Ferguson on the grounds of local interest and the application requires delicate judgement.

Location: 33 , WARREN PLACE, BROWNHILLS, WS8 6BY

Proposal: PROPOSED THREE BEDROOM TWO STOREY DWELLING AND GARAGE.

Application Number: 19/1199

Applicant: Mrs Joy Bennett-Broad

Agent: Spooner Architects

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

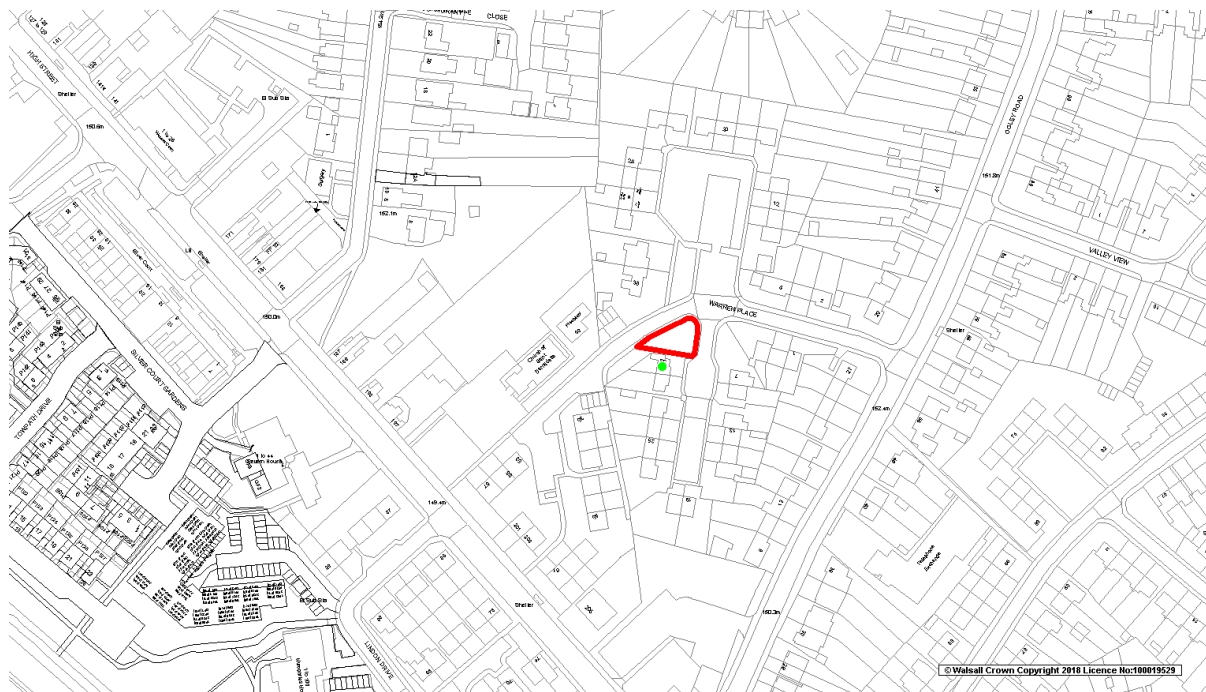
Case Officer: Devinder Matharu

Ward: Brownhills

Expired Date: 11-Nov-2019

Time Extension Expiry: 31-Dec-2019

Recommendation Summary: Refuse



Proposal

Proposed three bedroom two storey dwelling and garage. A dropped kerb would also be provided for vehicular access to the proposed garage.

The proposed house would measure 6m wide, 9.8m in length with a 1.9m rear two storey projection, 4.9m to the eaves and 7.8m to the pitch. The rear projection would be 6.1m high. The proposed garage would be set back 0.8m from the front of the house, measuring 5.5m by 3m, 2.3m to the eaves and 4.2m to the pitch. The proposed house would have side and front gables.

The proposed house would be set 4m further forward and 1m higher than 33 Warren Place.

A rear garden of 70 square metres would be provided with a retained garden space of 111 square metres for no 33.

A Design and Access Statement has been submitted which states:

- The land was formerly used as car parking and underused side garden
- The proposed dwelling has been sited forward of 33 Warren Place to respect the 45 degree code
- The proposals are two storey in height and do not exceed that of its neighbouring properties.
- The design echoes the design of the existing properties
- The dwelling will be built in accordance with code for sustainable development.

Site and Surroundings

The application site is a triangular parcel of land that forms the side garden to 33 Warren Place.

There is rear access to the site opposite number 38, whilst there are double gates, there is no formal dropped kerb and vehicles illegally mount the kerb and are parked in the side garden of 33.

Warren Place is a cul de sac located off the western side of Ogley Road. The houses within this cul de sac are positioned in courtyard style development with houses fronting either a parcel of open space in front houses or the public highway with rear gardens being private and secure backing onto other neighbouring gardens.

The cul de sac is irregular in shape with residential development to the north, south and west. Towards the western side of the cul de sac is a church with a car park accessed from Warren Place. Immediately opposite the church are bungalows. The remainder of the houses within the cul de sac are two storey and in rows of three or four terraces and semi-detached properties are the corners of the cul de sac, in the form of numbers 7 and 9, 31 and 33 and 36 and 38.

There is a pedestrian path linking Warren Place to Brownhills High Street adjacent the church.

The area is residential in character with pockets of open space, as dwellings are set back from the corner frontages.

The design of the houses vary with front and side gables, hipped roofs, brick, render and part tiled frontages, chimneys, bow windows to habitable rooms on ground floor habitable rooms, mono pitch tiled canopies across the site entrance, gable two storey projections to the frontages and pitched roof dormers. The facing materials in the houses vary from brick, tile and render. The frontages to the houses have low level hedges and fencing.

The site lies within 560m from the edge of Brownhills district centre.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**

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- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

Supplementary Planning Documents

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Transportation – no objection subject to parking and access condition.

Severn Trent Water – No objections

Strategic Policy – No objection, proposal is supported by the NPPF paragraphs 117 and 118 in making effective use of previously developed land.

Pollution Control – No objection subject to planning conditions regarding air quality, hours of work and construction management plan.

Representations

Six letters from seven residents have been received objecting to the proposal on the following grounds; case officer comments in italics

- Overdevelopment
- Out of character
- Proposed dwelling further forward compared to others
- Proposed dwelling not parallel to other houses
- Proposed dwelling adjacent narrow one width car cul de sac
- Too close to neighbouring properties
- Overlooking
- Loss of privacy
- Loss of light
- Loss of view – *not a material planning consideration in this case*
- Access and parking issues including: traffic volume increased, no additional parking or visitor space parking, single width narrow cul de sac, no manoeuvring space for vehicles reversing and driving in cul de sac, increased number of cars in the cul de sac, proposals for further parking rejected due to funds, restrict emergency vehicle and delivery vehicle access, junction of the bellmouth at a blind spot, driveway would be adjacent the narrowest part of the road, high volume of traffic from the church, residents with disabilities require clear access, during winter months the cul de sac is treacherous.

Councillor Ferguson has called the application in on the grounds of local interest and the application requires delicate judgement.

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Determining Issues

- Principle of development
- Design and character of the area
- Impact upon neighbouring occupiers
- Access and parking
- Local Finance Considerations

Assessment of the Proposal

Principle of development

The revised NPPF says the use of previously developed land that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist. The NPPF defines previously developed land as land, which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.

The site is previously developed land as defined in the NPPF. The NPPF sets out the Government's objective of boosting the supply of homes (para 59) and promoting the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (chapter 11, especially paras 117 and 118).

The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development. There are three elements to sustainable development, economic, social and environmental. For economic: the need to ensure that sufficient land of the right type is available in the right places and at the right time. For social: to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment and environment. For environmental: contributing to protecting and enhancing our natural, built and historic environment, including making effective use of land assisting with biodiversity and minimising waste and pollution and adapting to climate change.

In Walsall, the five year requirement of housing supply is currently being met through the allocation of housing land and granting of planning permission (which is significantly brownfield land). The Government published the Housing Delivery Test in February 2019, which confirms that delivery over the 3 years 2015-18 still equalled 99% of Walsall's housing need being met. The SHLAA states Walsall is currently exceeding the rate of development expected by the BCCS and the total number of dwellings expected to be completed by 2026 is greater than the total BCCS target. However, a total of 5,348 dwellings still need to be completed over the 9 year period 2017-2026 to meet the minimum figure required by the BCCS, whilst the requirement for the next 5 years, 2017-2022, is 2,899 dwellings (460 x 4, plus 921 x 1, plus a 5% buffer as required by the NPPF).

The SHLAA goes further to state assessments should consider all sites capable of delivering 5 or more dwellings or economic development on sites of 0.25ha. The complex nature of the built-up area of Walsall means that there are many small sites that could potentially accommodate additional homes.

However, even though housing need is being met some housing development on windfall sites is supported in the SAD provided it meets the requirements in respect of sustainable development.

In this instance, whilst the site is classed as previously developed land, the proposal does not necessarily present sufficient land of the right type in the right place for economic purposes. As such, the proposal would be contrary to this element of sustainable development as set out in the NPPF.

With regards to the social aspect of sustainable development, Walsall is currently meeting its 5 year housing land supply and whilst windfall sites under the SAD are supported in principle, it is considered in this instance the proposal fails to provide a well designed environment. As such, the proposal would be contrary to this element of sustainable development as set out in the NPPF.

The proposal is in a sustainable location being within walking distance of Brownhills district Centre, however, the development is not a sustainable form of development if it fails to consider the environmental role - protecting and enhancing our natural, built and historic environment. The report considers this further.

Design and character of the area

The proposed dwelling would sit further approximately 4m further forward than 33 Warren Place and as such would be obtrusive and out of character with the existing pattern of development where the dwellings in the cul de sac all sit in a uniform established building line particularly on this prominent corner. The proposed house would be prominent and visually detrimental in the street scene.

The character of the area is one where dwellings are set back with pockets of open space at prominent corners. The development of this open space would be out of character with the existing pattern of development where it would bring built development closer to the highway eroding the open space and spaciousness at the corner.

The layout of the proposed house is contrived to squeeze a house into an irregular shaped parcel of land where the footprint dominates the site, resulting in a cramped form of development contrary to the existing character of the area.

The proposed dwelling by virtue of its height being 1m taller than 33 Warren Place and set 4m further forward than 33 Warren Place and being positioned in a prominent corner position would be visually obtrusive and dominant at this prominent corner position. As such, the proposed dwelling would be out of character with the existing pattern of development.

The building to plot ratio of the proposed development would be out of character with the building to plot ratio of the existing houses within the cul de sac, in particular this section of Warren Place. Furthermore, whilst the proposed development provides a

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rear garden of 70 square metres, the existing houses within the cul de sac, especially along this section of Warren Place have rear gardens that exceed the minimum requirements. As such, proposed dwelling would be out of character with the existing pattern of development where houses have long rear gardens.

Impact upon neighbouring occupiers

The proposed house would be located on a prominent corner position. The neighbouring houses to the north and east are on the opposite side of the road, as such the proposed house would not result in direct overlooking or loss of privacy to these neighbours as any views across to these properties would be across the highways and therefore interrupted and not direct views.

There are no side habitable room windows facing number 33 Warren Place that would result in loss of overlooking or loss of privacy to the occupiers of 33 Warren Place.

The proposed house would be positioned 4m further forward of 33 Warren Place. Whilst the proposed house may meet the 45 degree code on light from the nearest habitable room windows on the front elevation of 33 Warren place, the proposed two storey house projecting beyond the front elevation of this neighbouring house would unduly harm the visual amenities of these neighbouring occupiers.

The proposed dwelling would comply with the 45 degree code when taken from the nearest habitable room windows at 33 Warren Place from both the front and rear elevations, as such the proposal would not unduly result in loss of light to warrant refusal of the application on this basis alone.

Access and parking

The proposed development seeks to create a new dropped kerb to the eastern side of Warren Place to provide parking facilities in the form of a garage and one driveway space for the proposed dwelling. Policy T13 of the UDP requires three bedroom houses to have two off road parking spaces, which the scheme achieves.

The occupiers of 33 Warren Place are currently using part of the side garden as parking of vehicles by illegally mounting the kerb to the western side of Warren Place. The scheme fails to demonstrate what off road parking spaces would be provided for 33 Warren Place. However, the Highway officer has advised the proposal would not result in an unacceptable impact upon highway safety and the residual cumulative impact on the road network would not be severe.

Neighbouring occupiers have objected to the proposal on the grounds of traffic volumes and number of cars in the cul de sac would be increased, as they already experience high volumes of traffic from the church. They also raise concerns that Warren Place being a single width cul de sac with no manoeuvring space and the

proposed access would be adjacent the junction of the bellmouth at a blind spot with the driveway being adjacent the narrowest part of the road. Whilst the neighbours concerns have been noted, the Highway Officer has no objection to the proposed development. Furthermore, there is no evidence to suggest that the proposed development would result in increased traffic volumes over and beyond what would reasonably be expected in a residential area.

With regards to the neighbours comments relating to emergency vehicle access, formal comments from the Fire Officer are awaited and the report will be updated at planning committee. Nevertheless the access to the property is no different to that for others in the cul-de-sac.

It is unlikely that the proposed access and parking arrangements for the proposed dwelling would affect existing parking arrangements for neighbouring occupiers.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes one new home.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

The proposed development is not a sustainable form of development as it fails to present sufficient land of the right type in the right place for economic purposes, fails to provide a well-designed environment for social purposes and fails to protect and enhance the built environment. As such, the proposal is contrary to paragraph 8 of the NPPF.

The proposed dwelling sitting 4m further forward and 1m taller than 33 Warren Place would be out of character with the existing uniform pattern of development and building lines in the cul de sac, as well as being visually prominent and visually detrimental on this prominent corner. The proposed house being built closer to the highway would erode the open spacious character of the cul de sac. As such, the

proposal is contrary to the NPPF, policies HOU2, ENV2 and ENV3 of the BCCS and saved policies GP2, ENV14 and ENV32 of the UDP, Policy HC2 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

The layout of the proposed house is contrived to squeeze a house into an irregular shaped parcel of land resulting in a cramped form of development. Furthermore, the building to plot ratio and amenity space standards of the proposed development would be out of character with the building to plot ratio and amenity space standards of the existing houses along this section of Warren Place. As such, the proposal is contrary to the NPPF, policies HOU2, ENV2 and ENV3 of the BCCS and saved policies GP2, ENV14 and ENV32 of the UDP, Policy HC2 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Refuse

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

1. The proposed development is not a sustainable form of development as it fails to present sufficient land of the right type in the right place for economic purposes, fails to provide a well-designed environment for social purposes and fails to protect and enhance the built environment. As such, the proposal is contrary to paragraph 8 of the NPPF.
2. The proposed dwelling sitting 4m further forward and 1m taller than 33 Warren Place would be out of character with the existing uniform pattern of development and building lines in the cul de sac, as well as being visually prominent and visually detrimental on this prominent corner. Furthermore the proposed house being built closer to the highway would erode the open spacious character of the cul de sac. As such, the proposal is contrary to the NPPF, policies HOU2, ENV2 and ENV3 of the BCCS and saved policies GP2, ENV14 and ENV32 of the UDP, Policy HC2 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.
3. The layout of the proposed house is contrived to squeeze a house into an irregular shaped parcel of land resulting in a cramped form of development

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where the building to plot ratio and amenity space standards of the proposed development would be out of character with the building to plot ratio and amenity space standards of the existing houses along this section of Warren Place. As such, the proposal is contrary to the NPPF, policies HOU2, ENV2 and ENV3 of the BCCS and saved policies GP2, ENV14 and ENV32 of the UDP, Policy HC2 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.