



# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 1.**

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

**Location:** WASTE CARE WILLENHALL LANE INDUSTRIAL ESTATE, WILLENHALL LANE, BLOXWICH, WS3 2XN

**Proposal:** EXTENSION AND HARD STANDING TO EXISTING WAREHOUSE AND WASTE RECYCLING FACILITY, PROVIDING STORAGE BAYS, ANCILLARY PARKING AND BOUNDARY TREATMENT.

**Application Number:** 16/1191

**Applicant:** Wastecare Ltd

**Agent:** Mr Powell

**Application Type:** County Matters Application

**Case Officer:** Stuart Crossen

**Ward:** Bloxwich West

**Expired Date:** 19-Oct-2016

**Time Extension Expiry:** 10-Nov-2016

**Recommendation Summary:** Grant Subject to Conditions



## **Officers Report**

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

### **Application and Site Details**

The application is part retrospective expanding the existing waste transfer station into the adjacent site and proposing an extension, storage bays and ancillary parking.

This is a proposal to double the size of the existing waste transfer station site (although not necessarily in throughput) by expanding onto adjacent vacant land. The expansion would take place within a new building. The Council's records indicate that the site currently handles batteries, hazardous waste, "office waste" and WEEE (electrical) waste. Information submitted with the application states that the type of material to be stored on the site will depend on the licence agreed by the Environment Agency. General types to include; solvents, dry cleaning residues, batteries, aerosols, gas cylinders, engine oil, laboratory smalls, paints and refrigeration. These wastes will only be passing through the site as a transfer operation. Hazardous wastes will not be treated or processed on the site.

The new building would be located at the rear of the site alongside the existing building and would be a similar height with access facing the access to the site. The key details are:

White composite roof sheeting

White metal guttering

Concrete block or similar elevations

16.5 metres deep

19.5 metres wide

3.8 metres high to the eaves

6.2 metres high to the roof ridge

962m<sup>2</sup> warehouse and unloading/storage area

Total site area 2865m<sup>2</sup>

A new concrete retaining wall with 2.4 metre high wire mesh security fence is also proposed around the site with sliding gates to the front.

The proposed opening hours are 0500 to 1800 Monday to Friday and 0500 to 1200 on Saturday.

**The Design and Access Statement** provides the following key information:

The building continues the current line of building frontage, maintaining the existing distance that the structures are set back from Willenhall Lane.

The filling of approximately half the existing site with hard standing so as to provide a level working area.

A new sheltered unloading space and several storage bays.

The profile of the new extension is intended to mirror the existing portal frame, maintaining the existing ridge line.

A new retaining wall and metal fencing to the South and West boundaries to suit the sites fill.

Vehicular access into the site will be improved by widening the existing gated entrance. Dedicated gated access will be provided for pedestrians from Willenhall Lane. There will also be dedicated safe pedestrian routes within the site.

The proposed development does not seek to remove any existing trees or hedges within the site nor adjacent to the boundary.

The opening types and proposed materials have all been designed to be in-keeping with the appearance and character of the existing warehouse building.

### **Relevant Planning History**

BC64855P - Change of use with no building work involved. New use as a chemical transfer station for sole use of silver lining vehicles working in the area to store containers for collection by other silver lining lorries to transfer to recovery routes. GSC 16/01/02

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **National Planning Policy Framework (NPPF)**

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

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

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Support the transition to a low carbon future...and encourage the use of renewable resources.
- Contribute to conserving and enhancing the natural environment and reducing pollution.

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

- ***NPPF 1 - Building a strong, competitive economy***
- ***NPPF 7 - Requiring good design***
- ***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**

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

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- DEL1: Infrastructure Provision

- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- EMP3: Local Quality Employment Areas
- ENV3: Design Quality
- WM1: Sustainable Waste and Resource Management
- WM2: Protecting and Enhancing Existing Waste Management Capacity
- WM4: Locational Considerations for New Waste Management Facilities
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It is considered in this case that the relevant provisions of the BCCS can be given full weight.

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

- GP2: Environmental Protection
- ENV2: Control of Development in the Green Belt
- ENV3: Detailed Evaluation of Proposals within the Green Belt
- ENV10: Pollution
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- JP5: Core Employment Areas

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

### **Supplementary Planning Documents (SPD)**

#### *Designing Walsall SPD*

Seeks to guide development and deliver high quality design through local distinctiveness and sustainable design.

### **Consultations**

**Transportation** – No objections subject to conditions to ensure parking is retained, electric vehicle charging point, that drainage and spaces are fully implemented, that footway modifications are made to serve the development and cycle parking.

**Pollution Control** – No objection in principle comments and any mitigation to be reported to committee.

**Environment Agency** – No objections (contaminated land only, awaiting final comments)

**Environmental Health** – No objections

**Strategic Planning Policy** – No objections

### **Public Participation Responses**

None

### **Determining Issues**

- Principle of the development
- Design and character of the area
- Impact upon residential amenity
- Access & Parking

### **Observations**

#### **Principle of the development**

The site is within a Core Employment Area in the UDP and is proposed to be allocated as part of a Retained Local Quality Industry area in the emerging Site Allocation Document (SAD).

BCCS Policy WM4 states that transfer stations in enclosed facilities are likely to be suitable on local quality employment areas. Proposals involving the management of hazardous wastes should demonstrate that the proposed use would not cause harm to the environment, human health or neighbouring uses.

BCCS Policy WM2 states that proposals to expand or upgrade an existing waste management site will be supported in principle, subject to compliance with the locational guidance in Policy WM4. The following factors (amongst others) will be taken into account in assessing such proposals:

- Whether the proposal would maintain or increase existing throughput capacity and /or improve operational efficiency;
- Whether the proposal would result in improvements to the design of the buildings and / or layout of the site;
- Whether the proposal would help to address existing land use conflicts and improve the amenity of adjoining occupiers;

Emerging SAD Policy W2 states that the Council will support proposals to upgrade or modify the waste management operations at an existing waste management site, where they would not have unacceptable effects on health, the environment, amenity or infrastructure. Any concerns raised by the relevant regulatory authorities, statutory consultation bodies and infrastructure providers will be an important material consideration.

The site backs onto housing. However, the proposal is for an expansion of an existing operation and will place more of the activities under cover. As such, it should not increase and may in fact reduce any potential for nuisance experienced by neighbouring residents. Subject to amenity issues being addressed, the proposal can therefore be supported in principle on planning policy grounds.

### **Design and character of the area**

The design would include a similar roof to the existing building and is typical of what would be expected in a core employment area having little significant impact on the character of the area.

### **Impact upon residential amenity**

The proposed changes include a new building which combined with the existing building would screen the proposal from the houses to the rear and is considered to improve the amenities of the area having less impact.

The proposed opening hours are considered acceptable for the operation of the site, however it is considered that delivery vehicles are likely to result in significant disturbance to the neighbours at the rear of the site if operated at sensitive times. For this reason the original restricted hours condition relating to deliveries is considered should be repeated subject to final comments from Pollution Control who will confirm whether they support the extended hours or not. Their position will be updated to planning committee.

With reference to noise, whilst Pollution Control has no record of complaints from local residents regarding existing activities at the site, it is pertinent to note that there have been numerous complaints from occupiers of residential premises on Coalway Road concerning activities at nearby industrial units.

There is a concern that extending the current development may give rise to significant noise emissions which could affect the occupiers of nearby residential dwellings. It is widely acknowledged that waste recycling facilities can give rise to problematic noise emissions. Sources of such noise include vehicle deliveries, unloading, manoeuvring, sorting, screening, compacting and the re-loading of waste.

Following further survey work Pollution Control Officers are satisfied that mitigation is possible to resolve the above concerns. Their final comments and any mitigation will be reported to planning committee.

### **Access and Parking**

The proposal includes 11 parking spaces plus 2 disabled spaces provided in formalised parking bays. Motorcycle and cycle stand facilities are also proposed. The existing northern access point is to be retained and widened and the existing southerly access point is to be removed. Conditions have been recommended which includes a condition that consideration should be given for an electric vehicle charge point, however it is considered such infrastructure should be implemented now while surfacing works are taking place and can be conditioned accordingly in the interests of sustainability and air quality.

The Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF.

### **Recommendation**

#### **Grant Subject to Conditions**

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Existing and proposed location plan (00-001) received 24/08/16.

Existing site plan (00-002) received 24/08/16.

Existing roof plan (00-004) received 24/08/16.

Proposed site plan (00-003) received 24/08/16.

Site sections 01 (00-006) received 24/08/16.

Site sections 02 (00-007) received 24/08/16.

Proposed roof plan (00-005) received 24/08/16.

Design and Access Statement received 24/08/16

Reason: To define the permission

3a) The development hereby permitted shall not commence until a plan is submitted for drainage illustrating the disposal of surface water and foul sewage and for the provision of the necessary infrastructure for a future installation of an electric vehicle charging point, have been submitted to and approved by the Local Planning Authority.

3b) The scheme shall be fully 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 as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

4a) Prior to the development first coming into use, the new yard layout including all parking, vehicle manoeuvring space and drainage shall be fully implemented and brought into use in accordance with the approved details.

4b) The parking and vehicle manoeuvring areas at all times be kept free from obstruction and 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.

5. Prior to the development first coming into use, the required widening of the existing dropped kerb footway crossing on Willenhall Lane to align with the widened entrance, together with the reinstatement of the existing southerly dropped kerb crossing, made redundant under these proposals, back to full kerb height, shall be implemented in accordance with the Council's specification and to the satisfaction of the Highway Authority.

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

6. Prior to the development first coming into use, the proposed staff and visitors cycle stand facility, which shall be covered and illuminated in accordance with details to be submitted to and approved in writing by the Local Planning Authority, shall be fully implemented and thereafter 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.

7) No delivery vehicles shall operate to or from the site outside the hours of 0700 to 2000 Mondays to Fridays, 0700 to 1400 Saturdays and not at all on Sundays, or Public Holidays.

Reason: To ensure the satisfactory amenities of neighbours and to accord with UDP policy GP2.

**Notes to Applicant:**

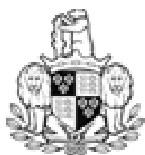
1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

2. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Highway Development Control Team on 01922 655927.

**Recommendation Summary:** Grant Subject to Conditions







# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 2.**

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

**Location:** FIONA FLORIST, 4, GILLITY AVENUE, WALSALL, WS5 3PH

**Proposal:** A SINGLE STOREY EXTENSION TO THE SIDE AND REAR OF 4 GILLITY AVENUE.

**Application Number:** 17/0108

**Applicant:** DRE Group Pension Scheme

**Agent:** DRE Property Services Limited

**Application Type:** Full Application

**Case Officer:** Karon Hulse

**Ward:** Paddock

**Expired Date:** 22-Mar-2017

**Time Extension Expiry:**

**Recommendation Summary:** Grant permission subject to conditions



## **Officers Report**

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

## **Application and Site Details**

Planning permission is sought for the single-storey 111 square metre side and rear extension to No. 4 Gillity Avenue to create an extended retail unit with a total 238 square metres of floor space.

The proposals include the removal of the existing access to the rear service yard area from Gillity Avenue, between the application site and the Broadway United Reform Church (corner of Gillity Avenue and Broadway North) facilitating part of the extension.

The existing rear substation will be retained with a gated pedestrian access provided along the Broadway United Reform Church boundary. Vehicular access from Edinburgh Road to the rear service yard remains as the existing situation.

The application includes;

- Laying the service yard area out to accommodate 5 parking spaces, cycle parking and space for service vehicles.
- Amendments to existing frontage service road parking to form 13 car parking spaces and motorcycle parking
- The existing access from Gillity Avenue into the forecourt will be widened to 6.5 metres with new footpaths being provided.

The application site is currently occupied by a long established florist (A1 Use Class) within a small parade of 5 units fronting Gillity Avenue including; a newsagent (A1 Use Class), solarium (D2 Use Class) and a vacant unit which has recently been granted planning permission for a change of use to a hot food takeaway (A5). A fifth unit fronts Edinburgh Road to the south west and occupied by a hairdressers / beauty salon (A1 Use Class). There is one residential flat above unit no. 6 Gillity Avenue, which is accessed from the rear of the parade.

To the north west of the shops is the Broadway United Reformed Church. To the southeast is residential which is screened from the shops by a mature conifer hedgerow approximately 6 metres tall. On the opposite side of Gillity Avenue and to the rear of the service yard is residential.

The application site is located east of Broadway North and close to the roundabout junction of Broadway North, Sutton Road and Gillity Avenue. Queen Mary's Grammar School is located some 1km away to the west. The nearest local centre is at Park Hall, approximately 1.6km to the south east.

This is a predominantly residential area, the exception being this parade of shops and the adjacent church to the north of the parade.

## **Relevant Policies**

**National Planning Policy Framework (NPPF)** [www.gov.uk](http://www.gov.uk)

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

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

7: Requiring Good Design

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

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

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

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

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

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

On **planning conditions** the NPPF says:

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

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

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

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

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies

should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

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

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

The relevant policies are:

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development

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

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

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

The relevant policies are:

- GP2: Environmental Protection
- ENV10: Pollution
- ENV32: Design and Development Proposals.
- S2: The Hierarchy of Centres
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7: Car Parking
- T13: Parking Provision for Cars, cycles and Taxis

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

### **Supplementary Planning Documents (SPD)**

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

### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address.

### **Relevant Planning History**

BC40812P - Retention of shutters to shop. Granted June 1994.

BC64649P - Change of Use from Retail Shop to Hot Food Takeaway (A3) and installation of flue. Refused 22/11/01 for reasons of car parking, increased noise, smell, litter disturbance and traffic.

05/0971/FL/E3 - Ground floor extension to rear no.8 Gillity Avenue. Granted 1/7/05

08/1114/FL - Change of use of ground floor retail space to D1 use for laser and skin clinic (non-surgical cosmetic treatments) at 10 Gillity Avenue. Withdrawn 25/09/08.

16/1192 – Change of use to hot food takeaway (A5 Use Class) at 10 Gillity Avenue. Granted 04/11/16.

### **Consultation Replies**

**Transportation** – no objections subject to conditions regarding parking spaces demarcated and cycle shelter

**Environmental Health** – No objections

**Pollution Control** – Support the application

### **Representations**

Four representations have been received from local residents objecting on the following grounds:

- no objections to the florist shop
- People would park on our private land (church).
- supermarket would increase litter
- deliveries of flowers by lorries only twice a week
- Supermarket would increase congestion by customers and delivery vehicles parked on Gillity Avenue.
- There are three existing small supermarkets close-by.
- Impact upon the Church.
- detrimental effect on my business (no.6) income which also trades as a convenience store
- evict an established independent trader

- yet another chain store
- Considerable increase in retail space...not in character with the area.
- cars often parked both on Gillity Avenue and Edinburgh Road
- Number of additional parking spaces proposed does not appear to be enough for the increase in size of retail space.
- impact of large delivery vans
- possible noise and other disruption which may arise should this be a convenience store which is open for long hours
- other nearby convenience stores such as The Crescent Post Office and Walsall town centre

### **Determining Issues**

- Principle of development
- Amenity of Nearby Residents
- Highways

### **Observations**

#### **Principle of Development**

The application site forms part of a small parade of shops within a predominantly residential area. It is not identified as a 'Local Centre' in the Unitary Development Plan and not considered as a town centre or edge-of-centre site. UDP Policy S6 encourages small shopping parades to continue to meet the day-to-day needs of their communities and acknowledges that some areas, away from established centres, are poorly served in quantitative and/or qualitative terms by existing local provision. In those circumstances, new small scale extensions to existing facilities can be permitted provided policy requirements are met.

UDP Policy S6 seeks to identify/define where there is a lack of local facilities and in particular in residential areas which are more than 500 metres from a food shop. The application site is located within Park Hall, which is 1.5 km east of Walsall town centre. The main local centre, Park Hall (Gillity Village shopping centre) which serves the wider area is approximately 1.6km to the southeast from the application site, in excess of the 500metres defined in UDP policy S6. It is considered that the existing Gillity Avenue parade of shops (application site), provides local convenience retail to other residents of Park Hall who would otherwise have to travel to Park Hall Local centre or Walsall town centre for their day-to-day convenience foods and goods which is a distance in excess of the 500 metres which is highlighted by policy S6.

The proposed extension will result in a net floorspace increase of 188 square metres. The total floor floor space will be 238 sq mts to provide convenience retail to the immediate local area. The scale and type of provision is in keeping with the residential, suburban environment and will fill a local need within an area which is currently under provided for.

The scale of the extension and the resultant size of the unit is considered will only attract limited passing trade or serve those who live within close proximity. It is considered the extended unit would not 'pull' shoppers from visiting Park Hall (Gillity Village shopping centre). Shoppers to the extended unit will only be visiting for convenience goods. As such the proposed extension would not impact on the Park Hall Local Centre.

BCCS Policy CEN6 supports the extension of existing facilities provided it does not exceed 200 square metres (in total including extensions) in area. The extended unit would be 38 sq mts larger. In this instance, this small increase over the 200 square metres is considered has limited impacts that would be insufficient to sustain a refusal of the planning application.

It is considered that the extended retail unit (A1 Use Class) would be of an appropriate scale and nature to meet specific day-to-day needs of the local residential area within walking distance. Whilst there's a local newsagents within the parade, this provides a limited range of convenience retail goods/food. The proposed extension complies with UDP Policy S6 and BCCS Policy CEN6 and consequently, the principle of development is considered acceptable.

Whilst the occupier of the existing shop will change this is a matter for the landlords of the shopping parade and not a material planning consideration.

### **Amenity of Nearby Residents**

Residents are concerned that the increased floor area will potentially increase traffic movement, car parking on Gillity Avenue and number of deliveries particularly by larger vehicles. It is unlikely that the number of vehicles to the premises will increase above that which already exists. The parade of shops only serves those residents on this part of the estate and unlikely to attract customers from outside the immediate area. Furthermore, it is not anticipated that the number of customers will increase significantly and will not result in any parking on the nearby church car park.

It is acknowledged that deliveries may involve larger vehicles, however, the parade of shops are well served in terms of being able to accommodate deliveries without any impact on the surrounding road network.

As with the hot food takeaway planning permission in terms of litter, the application property frontage sits at the back of a service road and a footpath. There is an existing nearby litter bin which is considered acceptable in this instance.

A condition would be included should permission be granted to restrict the hours to those similar to other units within the parade. The recent planning permission for the hot food takeaway considered appropriate hours of opening to be 1200hours to 21.30pm, a convenience shop usually operates early in the morning to late in the evenings. It is considered that 0730 to 2200 hours would be appropriate in this location whilst continuing to protect neighbours amenity.

A condition is necessary to ensure commercial refuse bins are stored within the rear yard area at all times (except on bin collection days) to ensure they do not cause obstruction to the highway and safeguard neighbours and nearby occupiers amenity.

### **Highways**

The application looks to extend the existing shop by 188sqm from 50sqm to 238sqm. In terms of UDP T13 parking policy the new GFA equates to a requirement for 16 spaces inclusive of 2 disabled bays.

The current shop does not currently have parking of its own but is in a parade of shops with a private frontage service road capable of accommodating several cars. The current proposal, includes 5 additional rear parking spaces for staff bringing the total number of spaces

available to 18. In addition, an area for motorcycle parking is provided on the service road and secure cycle parking for staff to the rear.

Additionally, improvements to pedestrian accessibility to the shop are provided by extending the private footway around the corner of the service road and along the shop frontage. This will provide a segregated pedestrian link between the shops and Gillity Avenue that doesn't exist at present and will provide safety benefits by minimising potential conflicts between pedestrians and vehicles around the shop entrance area and the service road.

Service access is retained to the rear as existing.

Careful consideration has been given as to whether the historic access point at the radius of the Gillity Avenue and Edinburgh Road junction should be closed off to improve the junction layout. However, it has been concluded that the potential impact of this would be to make vehicles manoeuvre around the tight 90 degree bend within the service road which could become obstructed by parked vehicles. Consequently, this could result in parking being displaced on-street. As such and on balance it is considered that the most appropriate option is to retain the historic access point as existing and particularly when local customers are already aware of this arrangement and how it operates.

On balance the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

### **Conclusion/ Summary**

Whilst this is not a designated local centre, planning policy recognises the role, small parade of shops play in providing facilities to the surrounding community within walking distance. The proposal whilst increasing the size of this retail unit is considered to be in-keeping with the scale and function of the existing parade of shops. The proposal would not result in any significant additional impacts on neighbours or nearby occupier's amenity over and above any that arises from existing commercial uses due to the location within Gillity parade of shops. Overall, taking into account the neighbour comments received, testing the proposal against national and local policies, it is considered the proposal would contribute to the vitality and viability of this small parade of shops, is a welcome investment in this area, meeting the aims and objectives of the NPPF and BCCS.

### **Positive and Proactive working with the Applicant**

The nature of the application has not required proactive working with the applicant to enable full support to be given to the scheme.

### **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 91 of the Town and Country Planning Act, 1990, as amended.

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

- Location Plan (FP4.04-01-06) received 25/1/17



- Existing Ground Floor / Site Layout (40-02A) received 25/1/17
- Existing First Floor Layout (40-03A) received 25/1/17
- Existing Elevations (40-04) received 25/1/17
- Proposed Ground Floor Layout (40-28) received 25/1/17
- Proposed First Floor Layout (40-06B) received 25/1/17
- Proposed Elevations (40-18) received 25/1/17
- Environmental statement received 26/1/17
- Planning & Sequential Assessment Statement received 26/1/17

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

3a. Prior to the development first coming into use, the rear parking spaces and hatched 'Keep Clear' markings shall be fully implemented in accordance with the approved plan no.40-17 Rev B

3b. The areas shall thereafter be retained and used for no other purpose.

Reason: To ensure adequate parking and servicing of the development, in accordance with UDP Policy GP2, T7 and T13.

4a. Prior to the development first coming into use, full details of the proposed rear cycle shelter, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority.

4b. The approved cycle shelter facility shall be fully implemented prior to the first occupation of the extended retail unit and thereafter be retained, maintained 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.

5. Prior to the development first coming into use;-

- i) The section of new footway fronting the shop extension and alongside service road to Gillity Avenue shall be fully implemented and brought into use and,
- ii) The widening of the existing service road access point on Gillity Avenue to accommodate the new footway, shall be fully implemented to the satisfaction of the Local Planning Authority in conjunction with the Highway Authority and,
- iii) All frontage parking spaces shall be clearly demarcated on the ground and thereafter retained and used for no other purpose.

Reason: To improve accessibility to the extended shop for all users and to reduce pedestrian and vehicle conflicts around the shop entrance and service road, in accordance with the NPPF and BCCS TRAN2.

6. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00;

and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

*Reason:* To safeguard the amenities of nearby residents.

7. All loading and unloading of goods shall take place within the curtilage of the parade of shops and the service road.

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

8. The premises shall not be open to customers or for deliveries between the hours of 2200 to 0730 daily.

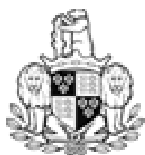
*Reason:* To safeguard the amenity of neighbours, future occupiers of the flat above and of nearby occupiers and to accord with the NPPF and UDP Policies ENV10, GP2 and S10.

Notes for the 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 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.

**Recommendation Summary:** Grant permission subject to conditions



# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 3.**

**Reason for bringing to committee:** Significant community interest

**Location:** LAND ADJACENT 23, GREEN LANE, WALSALL WOOD, WALSALL, WS9 9BE

**Proposal:** ERECTION OF 3 BED DETACHED HOUSE (REVISED SCHEME FROM 15/0621/FL)

**Application Number:** 16/1606

**Applicant:** Mr D and Mrs J Rehman

**Agent:** Norbuild Eco Houses Limited

**Application Type:** Full Application

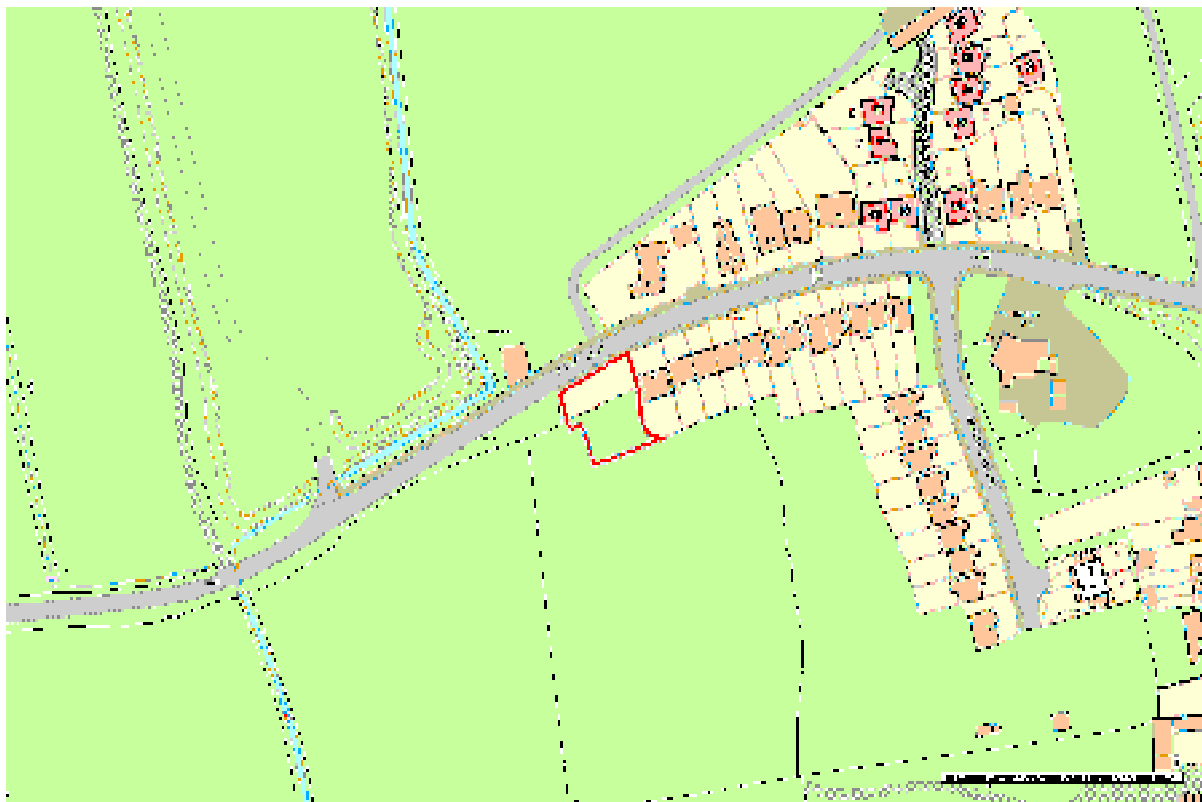
**Case Officer:** Barbara Toy

**Ward:** Aldridge North And Walsall Wood

**Expired Date:** 04-Apr-2017

**Time Extension Expiry:**

**Recommendation Summary:** Grant permission subject to conditions





## **Officers Report**

**REASON FOR BRINGING TO COMMITTEE:** Significant community interest

### **Application and Site Details**

The site is situated on the southern side of Green Lane and comprises the front driveway and land to the west of 23 Green Lane, a detached two storey house. The rear element of the site is situated within the Green Belt, the frontage of the site comprises hardstanding, currently used as a parking area for No 23. The land to the south and west of the site is designated Green Belt land, with the land to the west comprising a coppice of trees. The site is enclosed to the side and frontage by post and rail fencing.

The site is at the western end of a block of detached and semi detached two storey houses of varying sizes and styles, similarly on the opposite side of the road are detached two storey detached and semi detached houses of a variety of styles and designs.

The scheme has been amended since submission and now proposes the erection of a three bed detached two storey house with a garden area to the western side of the building, front driveway parking for 2 cars and retention of green belt land to the rear of the building. The site also includes the frontage of No 23 to ensure the provision of 3 off street parking spaces for the existing house.

The new house would follow the existing building line of No 23 Green Lane and the houses beyond to the east and be of a traditional design with central entrance door and porch feature and be constructed from facing brickwork with arched headers over the ground floor windows and would measure 5.8m x 12.6m with a slate tiled front to back gable roof maximum height 7.4m. There is 169sqm of amenity space to the side of the new building as useable amenity space with the green belt land to the rear left as open land with post and rail fencing separating it from the dwelling.

### **Relevant Planning History**

05/2429/FL/E7, Erection of 3 bed detached house with garage, refused 10-03-06

Subsequent appeal dismissed 21-11-06.

07/1915/FL/H5, erection of 3 bedroom house, granted subject to conditions 16-01-08

11/0033/TE, Time extension on 07/1915/FL/H5, erection of 3 bedroom house, granted subject to conditions 29-03-11.

15/0621/FL, erection of 3 bed two storey detached house, Withdrawn 27-01-17.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

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

environmental terms, and it emphasises a “presumption in favour of sustainable development”.

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.
- Contributing to conserving and enhancing the natural environment.

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

NPPF 6: Delivering a Wide Choice of High Quality Homes

NPPF 7: Requiring Good Design

NPPF: Protecting Green Belt Land

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**

### **Black Country Core Strategy**

- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- CSP2: Development Outside the Growth Network
- CSP4: Place Making

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

### **Unitary Development Plan**

GP2: Environmental Protection

ENV2: Control of Development in the Green Belt

ENV3: Detailed Evaluation of Proposals within the Green Belt

ENV32: Design and Development Proposals.

ENV33: Landscape Design

H3: Windfall Sites on Previously Developed Land

T7: Car Parking

T13: Parking Standards

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

## **Supplementary Planning Document**

### **Designing Walsall**

- DW3: Character
- DW4: Continuity
- DW9: High Quality public realm
- Appendix D

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

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

### **Consultations**

**Transportation** – No objections subject to conditions relating to the implementation of the 3 parking spaces for No 23, provision of parking for the new house, ensure retention of vehicle visibility splay and ensure retention of the existing public footpath.

**West Midlands Police** – Due to the high overall crime experienced in this area the developer should be made aware of the specifications and principles of Secure By Design.

**Severn Trent Water** – Comments to be reported at committee.

### **Public Participation Responses**

Three objections received relating to the original submission and three further letters from the same occupiers received in relation to the amended plans.

Objections to original submission:

- The site boundary projects into the Green Belt, approx half of the proposed property would be in the Green Belt.
- A house should not be built in the Green Belt
- Question the extent of the Green Belt on the submitted plans
- Access to Blackcock Farm is directly opposite the site, and is in constant daily use for wide, heavy loads, agricultural equipment and HGV deliveries.
- Concerned that access to the farm may be impeded or restricted by the new access to the house and nay on street parking that may result from the development.

Objections to the revised scheme:

- Objections remain as previous comments
- A sizable part of the plot remains in the Green Belt to the rear of the property
- Green Belt should be protected.
- If approved this will be pursued with the Planning Inspectorate to understand why a house is approved in the Green Belt
- Question that the Certificate B on the application is accurate for the whole site.

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

### **Determining issues**

PAGE 23 OF 113

- The Principle of the Development
- Design, Layout and Impact on the Green Belt and Character of the Area
- Impact on the Amenities of the Surrounding Occupiers
- Access and Parking
- Local Finance Considerations

## **Observations**

### **Principle of the Development**

The principle of residential development on the site was established through the previous approval for a 3 bed detached house in 2008 and a time extension of this consent in 2011. Whilst the rear portion of the site lies within the West Midlands Green Belt as identified in Walsall's adopted Unitary Development Plan (UDP), the front portion of the site is currently hardstanding and used for the parking of vehicles associated with No 23 and sits outside of the Green Belt. The proposed house would be in the same position on the site and projects no further into the Green Belt land at the rear than the previous approval.

### **Design, Layout and Impact on the Green Belt and Character of the Area**

The size and design of the property has been amended since submission of the application. The width of the building has been reduced by 4.2m, the roof amended from a hip to a gable, solar panels removed and the overall design simplified with a central entrance door and porch feature. The revised width and design of the property now better reflects the character of the street and other properties within the immediate area. Whilst wider than the house previously approved in 2008 the rear elevation would project no further to the rear than the previous approval and would continue to allow for a private useable garden to the side of the house without relying on this land at the rear. The house would continue the existing building line along this side of Green Lane with the garden to the side softening the impact on the Green Belt adjacent. The development would infill the non Green Belt plot on the end of existing residential street in much the same way that No 30a, a modern detached house has done on the opposite side of the road, infilling up to the Green Belt boundary.

The house is broadly in the same position on the site as the previous approval and whilst a small section of the rear of the building would be just inside the Green Belt boundary this is the same as that approved previously. The Green Belt boundary follows an unusual curved line across the centre of the plot so the proposed dwelling cuts across this marginally. On the earlier permission a straight line following the rear elevation of No 23 Green Lane and the houses beyond to the east was adopted so in light of this previous consent it is considered to be unreasonable to not now accept this marginal breach. The Green Belt land to the rear of the building would be fenced by post and rail fencing and left as open land, not used as garden land and an appropriate condition is recommended to restrict the use for the future.

The height of the property would be similar to the other houses in the immediate vicinity and it is considered that the traditional design proposed would sit comfortably within the street scene providing an appropriate end stop to the street and the built up area.

The proposals include the frontage of No 23 to ensure that 3 off street parking spaces are provided for the existing house, as the occupier currently uses the site to park additional vehicles as they only have one off street parking space on the frontage of the property currently.



In response to the objector concern about the accuracy of the ownership certificate this is a matter for the developer who confirms ownership of the site.

A condition is recommended to secure drainage as on the earlier permission.

Given the sensitivity of the site adjacent to the Green Belt it is recommended that permitted development for householders is removed to retain control over developments at the property.

It is considered that the proposals would sit comfortably within the character of the area and the street scene and would have no adverse impact on the character, appearance or openness of the Green Belt land to the side and rear.

### **Impact on Surrounding Occupiers**

The proposals would fully comply with the 45 degree code in relation to No 23 and would fully comply with separation distances required by Appendix D of Designing Walsall.

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

### **Access and Parking**

The proposals show the provision of two off street parking spaces for the new house and three new spaces for the existing house at 23 in compliance with policy T13 of the UDP. The proposed layout would require an extended footway crossing for the existing house and a new one for the new property which are considered acceptable providing a visibility splay of 43m is maintained. The existing telegraph pole will remain and will sit in the gap between the two houses and the two footway crossings. Conditions are included to prevent loss of parking spaces and to maintain adequate visibility for drivers.

Whilst concerns have been raised about the possible restricted/impeded access to the farm access opposite the site it is considered that the proposed house would have no greater impact over the existing situation given the extent of off street parking proposed.

### **Local Financial 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 1 new home.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

The agent has provided an amended scheme following negotiations with the case officer, to allow a favourable recommendation to the application.

## **Recommendation**

Grant permission subject to conditions

## **Conditions**

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

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

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

Proposed Plans Drawing NEH05/20 Rev C submitted 7<sup>th</sup> February 2017

*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 shall commence until samples of all facing and roofing materials 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.

4a. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be completed with the approved details and retained as such.

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

4a. Prior to the commencement of any works on the proposed dwelling, the three retained parking spaces for the existing dwelling shall be fully implemented and brought into use in accordance with the approved details. The parking spaces shall be fully consolidated, hard surfaced and drained so that surface water from these areas does not discharge onto the public highway or into any highway drain.

4b. Prior to the new parking spaces for the existing dwelling first coming into use, new vehicular footway crossings shall be installed to align with the new access points in accordance with Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority. There shall be at least one 900mm full kerb height separation between the most eastern parking space and the dropped kerb to the central parking space.

All works within the public highway shall be in accordance all statutory requirements

*Reason:* To ensure adequate off-street parking is available for the existing dwelling at the onset of the building works, in the interests of highway safety and UDP policy GP2, T7 and T13.

5. Prior to the first occupation of the new dwelling;-

i) The parking and manoeuvring space shall be fully consolidated, hard surfaced and drained so that surface water run-off from this area does not discharge onto the highway or into any highway drain.

ii) A new vehicular footway crossing shall be installed to align with the new access which shall be no wider than 4.5 metres plus two 900mm taper kerbs. The crossing shall be installed in accordance with Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority. There shall be at least one 900mm full kerb height separation between dropped kerb to the new dwelling and the western most dropped kerb to the existing dwelling.

All works within the public highway shall be in accordance all statutory requirements.

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

6. No boundary treatment exceeding 600mm in height above carriageway levels shall be permitted within the 2 x 43m visibility splay shown on the approved plan.

*Reason:* In the interests of highway safety.

7a. Prior to first occupation of the house hereby approved a full landscaping scheme, including boundary treatment, hedging and trees, shall be submitted to and approved in writing by the Local Planning Authority.

7b. The scheme shall be completed in accordance with the approved details before the development is first occupied. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs of plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree. Shrub or plant of the same or greater size and same species as that originally required to be planted.

*Reason:* In order to safeguard the visual amenity and natural environment of the Green Belt area.

8. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or succeeding Orders, the dwelling hereby permitted shall not be altered or enlarged to deprive it of any drive or parking area as approved.

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

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors other than those approved by this permission, no enlargements, additions or other alterations and no fencing gates or walls as defined by Classes A to F of Part 1 and Class A of Part 2 of Schedule 2 of the Order, shall be constructed.

*Reason:* To ensure the Local Planning Authority has control over the development in the interests of preserving and enhancing the character of the area and the adjacent Green Belt.

10. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or

Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 Monday to Fridays and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

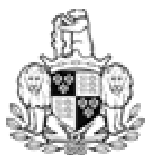
*(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)*

*Reason:* In order to safeguard the amenities of the surrounding occupiers

### **Note to Applicant**

West Midlands Police recommend that due to the high overall crime experienced in this area that the applicant is made aware of the specifications and guidelines that can help secure the development against future crime and the benefits that can be achieved on this site through adopting the principles of Secure By Design. Information can be found at <http://www.securedbydesign.com/pdfs/SBDNewHomes2014.pdf>

**Recommendation Summary:** Grant permission subject to conditions



# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 4.**

**Reason for bringing to committee:** Significant community interest

**Location:** 248, CHESTER ROAD, STREETLY, SUTTON COLDFIELD, B74 3NB

**Proposal:** DEMOLITION OF EXISTING BUILDING PREMISES AND ERECTION OF 2 NO. 3 BEDROOM DORMER BUNGALOWS (AMENDED APPLICATION TO PREVIOUSLY APPROVED 12/1429/FL).

**Application Number:** 16/1823

**Applicant:** Ms Olivia Hatton

**Agent:** Mr Iain Garbett

**Application Type:** Full Application

**Case Officer:** Devinder Matharu

**Ward:** Streetly

**Expired Date:** 02-Mar-2017

**Time Extension Expiry:**

**Recommendation Summary:** Grant permission subject to conditions



## **Officers Report**

**REASON FOR BRINGING TO COMMITTEE:** Significant community interest

### **Application and Site Details**

The application seeks retrospective permission for demolition of existing builders premises and the erection of 2no. 3 bedroom bungalows. This follows that granting of permission 12/1249/FL in November 2013 where all accommodation was provided at ground floor. The current proposal as under construction changes the approved hipped roof to a gable roof with first floor dormer windows and roof lights providing for accommodation at first floor level. A detached double garage is also included within the site.

The dormer bungalows are positioned behind 248A Chester Road set 12.9m from the rear garden boundary. They are each 12.65m in length, 7.5m in width, 2.3m to the eaves and 6.1m to the ridge. The bungalows have a metre gap between them with kitchen windows facing each other at ground floor and bathroom windows facing the boundaries of numbers 250 and 246 Chester Road. The proposal includes a bedroom on the ground floor and two bedrooms within the roof space of each of the dormer bungalows and incorporating two dormer windows serving en-suite rooms on each bungalow facing each other and four roof lights on each bungalow on the northern and southern roof elevations facing towards 250 and 246 Chester Road. There are also windows in the first floor front and rear gables of both dwellings.

The bungalow to the south of the site has a rear garden length of 8.4m and a total amenity area of 74 square metres. The bungalow to the north of the site has a rear garden length of 8.3m and a total amenity area of 73 square metres.

The dormer bungalow to the north of the site would be positioned 0.9m off the boundary with 250 Chester Road and the dormer bungalow to the south of the site would be positioned 0.8m from the boundary with 246 Chester Road.

A detached garage measuring 5.5m by 5.8m, 2.3m to the eaves and 4.5m to the ridge is proposed on the boundary with 248a Chester Road. This was included on the original permission although no elevations were provided at that time.

The proposal would include the provision of vehicular gates to be set back 7m into the site.

The existing buildings on the site have been demolished and the construction works on the site have commenced with the construction of the bungalow to the south of the site up to the first floor gable wall adjacent number 246 Chester Road at the time of the case officer's site visit.

The existing site is access via an existing driveway 4.6m wide adjacent numbers 248A and 246 Chester Road. The driveway extends 37m into the site where it widens to a rectangular parcel of land to the rear of 248a Chester Road. The application site has boundaries with 248A, 250 and 246 Chester Road and numbers 37, 39 and 41 Grosvenor Avenue.

The area is residential in nature with properties fronting Chester Road and Grosvenor Avenue. The area is characterised by substantial traditional detached and semi-detached houses and bungalows, fronting Chester Road, and semi-detached houses fronting

Grosvenor Avenue, all having generous front and rear gardens with hedges, trees and fencing. On Chester Road the rear gardens are generally long with hedges and small trees. The houses on the opposite side of Chester Road are accessed via a slip road with a landscaped buffer fronting the highway.

Outside the application site on the highway verge is a speed camera positioned to face north with the speed limit restricted to 30mph.

The site lies 302m from the edge of Streetly Local Centre which is a 4 minute walk from the application site. There are bus stops along both sides of Chester Road serving bus serves 88, 935, 937 and A52.

The development in the vicinity currently is at a density of 13 dwellings per hectare. As a result of the proposal this would increase to 14.6 dwellings per hectare.

The following documents have been submitted with the application:

- A ground contaminated survey
- Planting specification
- Environmental risk assessment

The bungalows approved under 12/1429 were 12m in length, 6.9m wide, 2.3m to the eaves and 5.3m to the ridge. The rear gardens were 8m in length with a total amenity area of 75 square metres.

The applicant has confirmed in writing that no constructions works have commenced on site since the planning enforcement visit.

### **Relevant Planning History**

12/1429/FL for 2 no. 3 bedroom bungalows which was granted on 28 November 2013.

Planning condition 9 removed permitted development rights for:

- Erection of extensions, outbuildings, or roof enlargements including dormers
- Insertion of windows/roof-lights into any roof slope.
- Insertion of windows into the side elevations (north and south elevations)

To safeguard the visual amenities of the locality and the level of privacy at adjacent dwellings.

### **National Planning Policy Framework (NPPF)**

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

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

- NPPF 4 - Promoting sustainable transport
- NPPF 6 - Delivering a wide choice of high quality homes
- NPPF 7 - Requiring good design
- 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.

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

The key planning policies include

- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing transport impacts of new development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

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

- GP2: Environmental Protection
- 3.113, 3.114, 3.115, ENV32 & 3.116: Design and Development Proposals
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18 and 3.64: Existing Woodlands, Trees and Hedgerows
- ENV17: New Planting
- 3.117 & ENV33: Landscape Design
- ENV23: Nature Conservation and New Development
- ENV40: Conservation, Protection and Use of Water Resources
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T4: The Highway Network
- T7: Car Parking
- T10: Accessibility Standards
- T13: Parking Provision

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.



### **Supplementary Planning Documents (SPD)**

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

#### **Designing Walsall (2013)**

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

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

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

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

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

#### **Conserving Walsall's Natural Environment (2013)**

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for European Protected Species survey requirements.

The following are the relevant policies;

NE7: all applications with the potential to damage trees should be supported by an arboricultural impact assessment.

NE8: All planning applications proposing the retention of trees within a development site should demonstrate that the trees to be retained will survive without causing significant nuisance beyond the development phase. Adequate space should be retained for the trees to develop in the future without causing severe shading or requiring damaging containment pruning.

### **Consultations**

**Transportation** – No objection subject to conditions relating to parking and access

**Landscape** – No objection subject to landscape condition.

**Pollution Control** – No objection but recommends conditions to ensure that suitable mitigation measures are implemented to make the site suitable for a residential end use and the incorporation of electric charging points in the development and to prevent or minimise environmental impact during the course of building works is also provided.

**Severn Trent Water** – No objection subject to drainage condition.

### **Public Participation Responses**

Thirty-two letters from nineteen residents have been received objecting to the original plans on the following grounds:

- Back land development abandoned
- Set precedent for back garden developments
- not in keeping with the rest of the area
- sense of enclosure
- intrusive within street scene
- previous planning application was for erection of a bungalow
- previous two storey dwelling four-bedroom house refused due to overlooking
- proposal for dormer bungalow
- windows in roof space
- gable ends have large windows
- encroachment
- only single storey development should be considered
- pitch of roofs should be reduced to 12.5 to 15 degrees
- Bungalows in close proximity to back boundary of residents in Grosvenor Ave.
- Windows have insufficient distance between the boundaries
- overbearing
- Loss of privacy
- Overlooking including: due to height of the dwellings, neighbouring houses and gardens, from windows even if obscure glazed, from windows which are not obscure glazed, windows that open
- Loss of sunlight
- Cast long shadows
- Noise
- Drainage issues including details of new drainage/sewerage, not wanting drains linked to neighbours, increase in waste cause blockages
- permitted development rights are taken away include any structures including sheds/caravans
- condition no building was to be made into the roof space
- loss of amenity for potential occupiers from obscure glazing
- neighbours want to be notified of planning committee
- parking issues including additional traffic, cars parked on pavement and frontages, accessibility difficulties to access Chester Road, more visitors and more cars, builders park on road, residents unable to access driveways, pedestrians have to walk in the road.

A further nineteen letters from six residents have been received objecting to the amended proposals on the following grounds:

- developer ignored approved plans
- Back land development abandoned
- Set precedent for back garden developments
- not in keeping with the rest of the area
- previous planning application was for erection of a bungalow
- -first time property referred to as dormer bungalow
- previous two storey dwelling four bedroom house refused due to overlooking
- Loss of privacy
- windows in roof space
- gable ends have large windows
- sense of enclosure
- structure imposing on neighbouring gardens

- Loss of view – *not a material consideration in this case.*
- Overlooking including: due to height of the dwellings, neighbouring houses and gardens, from windows even if obscure glazed, from windows which are not obscure glazed, windows that open
- loss of amenity for potential occupiers from obscure glazing
- encroachment
- garage in close proximity to neighbouring fence
- concerns over maintenance of neighbouring fence
- overlooking brick wall of garage
- parking including: parking on pavement, impact for pedestrians

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

### **Determining Issues**

- Principle of development
- Design and layout
- Impact upon neighbouring residential occupiers
- Loss of trees and landscaping
- Parking, access and public rights of way

### **Observations**

#### **Principle of development**

The principle of residential development has already been established in granting the earlier permissions on the site.

Notwithstanding this the NPPF says decisions should encourage the effective use of land by re-using land that has been previously developed. The site was previously used as a builder's premises. Policy ENV14 of the UDP seeks to encourage the development of previously developed sites in the Borough. This is a previously developed site, so in principle the redevelopment of it would be supported.

The NPPF also says that housing applications should be considered in the context of sustainable development. This site is in an established residential area and is located 302m from the edge of Streetly Local Centre which is a 4 minute walk from the application site. Furthermore, there are frequent bus serves along Chester Road. As such it is considered a sustainable location.

Policy CSP2 of the BCCS states that the areas outside the regeneration corridors will provide, amongst other matters, a mix of good quality residential areas where people choose to live, and a constant supply of small scale development opportunities. Policy H3 of the UDP states that the Council will encourage the provision of additional housing through the re-use of previously developed windfall sites, provided that a satisfactory residential environment can be achieved, taking into account the considerations set out in Policy ENV10, and the proposal is acceptable in terms of other policies of the Plan.

Whilst objectors state that back land development has been abandoned and the proposal would set precedent for other back garden developments, the proposal does not represent back land development, as the bungalow to the south of the site would be viewed from Chester Road albeit set back within the site. Furthermore, the site is not garden land, it was previously utilised for commercial purposes where due to the long standing nature of the use there are no restrictions on hours of use. In theory the site can be accessed 24 hours a day

with commercial vehicles also coming and going at all times of the day. The principle of development has been established through the granting of planning permission for two bungalows under planning permission 12/1429. At that time, it was considered that the site for housing was the most appropriate use to remove a non conforming use of a commercial site in a predominately residential area surrounding by residential properties.

The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

Any neighbours that have requested to be notified of the Planning Committee Meeting will be notified as outlined in the original neighbour consultation letter.

### **Design and Layout**

Neighbours have advised that a proposal for a two storey houses was previously rejected. Planning application 12/1429 approved two 3no bedroom bungalows with a planning condition restricting permitted development rights to any works to the roof of the bungalows including outbuildings.

The current application is a retrospective one where construction works on site have commenced and the bungalow to the south of the site has been partially constructed. The current scheme is materially different to the approved scheme under 12/1429 and now seeks to amend the scheme to increase the length of the bungalows by 0.65m, increase the width by 0.6m and the height by 0.8m. The eaves height of the bungalows would remain as previously approved. The proposal would also include two dormer windows on the elevations of the bungalows that face each other and four roof lights on each bungalow facing towards 250 Chester Road and 246 Chester Road. Windows on the front and rear of the dormer bungalows would also be included in the gable wall facing towards number 39 Grosvenor Avenue and 248a Chester Road.

In terms of the layout the current scheme is similar to the approved scheme and is considered acceptable. The current scheme sets the proposed dormer bungalows over 8m back into the site to provide amenity areas for the development. The dormer bungalows would not be constructed adjacent the rear boundaries of the properties on Grosvenor Avenue or any other neighbouring property and as such would not encroach onto third party land. Furthermore, the agent has completed certificate A to state his clients own the application site.

The proposal includes obscure glazing to the dormer windows which serve en-suites, it is considered this is necessary to protect the amenities of the occupiers of both bungalows.

The design of the dormer bungalows is considered acceptable as they are simple in design and would be constructed in materials similar to other houses in the area, those being brick and tile. The slight increase in the dimensions of the proposed dormer bungalows would not have a significant visual impact as the area is characterised by a mixture of housing types and styles, to the north of the site numbers 250 and 250a Chester Road which are bungalows, with number 250a being a larger bungalow and higher than 250. There remains adequate separation distance between proposed and existing housing surrounding the site.

Neighbouring occupiers have stated that the pitch of roofs should be reduced from 12.5 to 15 degrees. The proposal to increase the height of the bungalow roof by 0.8m and utilised the roof space as habitable accommodation would not be dissimilar to the existing housing style in the area. The majority of the existing housing along Chester Road and Grosvenor Avenue

are two storeys high. It is considered that the proposal for a dormer bungalow would not be dissimilar to the character of the properties in the surrounding area.

A detached garage was approved in the north eastern corner of the site under planning approval 12/1429, whilst the floor plans illustrated a garage; no elevations of that garage were submitted. The current proposal includes a detached double garage in the same position. The location of the garage has been previously approved and considered acceptable; it would be unreasonable to now require repositioning of this garage. The elevations are considered acceptable.

The proposed dormer bungalows would not be intrusive within the street scene as they would be set back and seen through long views from the existing access way between numbers 246 and 248A Chester Road. The dormer bungalow to the south of the street scene would provide an active frontage by both the ground and proposed first floor window to contribute to the street scene of Chester Road in a positive way providing surveillance and security of the access way and neighbouring properties. Furthermore, the construction of dormer bungalows on the site would secure not only the site but the neighbouring rear gardens that surround the application site.

The submitted plans show the finished floor levels of the proposed development. There is a slight increase in the proposed finished floor levels from the land levels, this is considered acceptable.

Planning condition 9 of permission 12/1429 took away permitted development rights for alterations to the roof and insertion of windows. The proposal seeks approval for the increase in the roof height and incorporation of dormer windows, roof lights and windows in the end gable elevations. The reason for the imposition of this condition was "in order to safeguard the visual amenities of the locality and the level of privacy at adjacent dwellings". Although the current proposals contravene this condition on the original permission the proposals have been considered in respect of their potential to impact on visual amenities and privacy levels at adjacent dwellings which is discussed within this report as determined not to be severe. It is recommended that the condition is amended to ensure no further windows or alterations to the roof are undertaken to protect neighbouring amenity in the future. Neighbours have requested that permitted development rights are taken away for outbuildings, this was not considered necessary when the original planning application was considered and it would now be considered unreasonable to attach such a condition as the dwellings are not significantly larger.

The proposed development provides rear amenity areas above the Council's minimum standard of 68 square metres and as such considered acceptable. Furthermore, a similar amenity area was previously approved under 12/1429.

Neighbouring occupiers have raised concerns over drainage including details of new drainage/sewerage, not wanting drains linked to neighbours and increase in waste cause blockages. On the original planning application, a drainage condition was attached, details of drainage were submitted and subsequently Severn Trent Water have approved the drainage plans. Any connections into private drains are a civil matter between the developer and neighbours.

Pollution Control have advised planning conditions to ensure that suitable mitigation measures are implemented to make the site suitable for a residential end use and the

incorporation of electric charging points in the development and to prevent or minimise environmental impact during the course of building works is also provided.

### **Impact upon neighbouring residential occupiers**

The front and rear gable elevations of the proposed dormer bungalows have bedroom windows facing towards 39 Grosvenor Avenue and 248a Chester Road.

The Council's Designing Walsall SPD requires a minimum of 24m between habitable rooms. In this case, the separation distance between the rear habitable room windows of 39 Grosvenor Avenue and the proposed rear first floor window in the gable wall of the proposed dormer bungalow is 33m exceeding the distance by 9m. The separation distance from the rear of number 248a Chester Road to the front of the proposed front first floor window in the gable wall of the proposed dormer bungalow is 24.5m exceeding the distance by 0.5m. On this basis the proposals comply with the distances required to protect outlook, privacy and daylight.

Whilst the proposed windows in the front and rear elevations may result in the overlooking of rear amenity areas of neighbouring properties, it would be the bottom part of the gardens and furthermore, the submitted plans show planting towards the rear of the site within the proposed rear gardens and a garage to the front of the site which would provide interrupted views, as opposed to direct views.

On balance, it is considered that the proposed dormer bungalows would not significantly harm the amenities of the neighbouring residential occupiers in terms of overlooking and loss of privacy as the proposal complies with the Council's Residential Standards.

The proposed dormer bungalow includes roof lights facing towards numbers 250 and 246 Chester Road. The roof lights would be positioned at an angle in the roof that would prevent direct views into neighbouring gardens, as any views would be towards the sky. It is considered that these proposed roof lights would not unduly result in overlooking or loss of privacy of neighbouring properties or gardens.

The proposed dormer bungalows would be set off the boundaries with numbers 250, 248a and 246 Chester Road and numbers 37, 39 and 41 Grosvenor Avenue, so that the proposed dormer bungalows are not overbearing or in close proximity to neighbouring boundaries. Whilst the proposal includes a roof height of 6.1m, an increase of 0.8m from the original scheme, the eaves of the roof would remain 2.3m high. The design of the roof is pitched and would slope away from the boundaries of numbers 250 and 246 Chester Road; this would still allow ambient light to the rear gardens of these neighbouring properties without impacting upon the amenities of these neighbours.

With regards to the orientation of the sun, whilst the proposal may result in some loss of morning sun light to the rear gardens of 37, 39 and 41, it is considered that this would not be significant to warrant refusal of the scheme or significantly greater than the earlier permission. The rear gardens of these properties experience some shade during the summer months when the sun is higher in the sky, it is considered this would be for a relatively short period of time in the morning. The rear gardens of these properties are large and would benefit from sun during the majority of the day.

The rear garden of 250 Chester Road would experience some loss of sunlight and shading, however, it is considered this would be to the end part of the garden and would not be

sufficiently detrimental to the amenities of these neighbouring occupiers to warrant refusal of the application.

A planning condition is recommended to safeguard the amenities of neighbouring occupiers from construction works on site. With regards to noise from the development, the former site as a builder's premises had no restrictive hours of opening which mean the site could be accessed 24 hours a day with a mode of vehicles visiting the site. The proposal would reduce this impact.

The proposal includes a detached double garage to the rear of 248A Chester Road. Whilst neighbours have raised concerns over the close proximity of the garage to the neighbouring fence and maintenance of the fence, this garage was previously approved and would now be considered unreasonable to request removal of it. The eaves of the garage would be 2.3m high with a pitched roof at 4.5m high. With the roof sloping away ambient light would be available to the rear garden of this neighbouring property and the roofs would slope away from the boundary of this neighbouring property. There would be no significant impact on privacy.

### **Landscaping**

The Landscaping Officer has advised that the submitted landscape scheme is insufficient and a revised scheme needs to be sought, this can be secured by a planning condition.

### **Parking and access**

This original scheme approved under 12/1429 replaced a former small building company operation with two 3 bed dwellings utilising the existing access point.

The development was considered likely to result in a reduction in the number of vehicles using the existing access compared to the former use and was therefore considered an improvement to the current arrangement in terms of highway safety. There is no evidence to suggest that the proposal would result in greater numbers of vehicle movements from the former use of the site.

Policy T13 of the UDP requires 2 parking spaces per dwelling to be provided, in this case, the proposal complies with policy requirements. Furthermore, there is adequate space towards the front of the proposed dormer bungalows to provide additional parking for visitors, which would eliminate any requirement to park on street or park on the pavement, which neighbouring residents have raised concerns about. Any issues relating to obstruction of the highway by construction vehicles resulting in pedestrians having to walk in the road is a matter for the Police and Highway Enforcement.

The current proposal utilises the previously approved existing access.

The Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

Neighbouring occupiers have requested that permitted development rights are taken away for caravans to be stored on the site. This is unreasonable and would not meet the tests as set out in the NPPF.

Any issues with construction worker's vehicles and deliveries to the site would be a short term issue, a planning condition is recommended to ensure the hours of construction work on site is limited to protect neighbouring amenity.

It is recommended that a condition to secure an electric vehicle charging point is included.

### **Planning Conditions**

The original planning approval sought the following planning conditions.

#### **Condition 2 facing materials**

The materials have been approved. The condition will be amended on this scheme.

#### **Condition 3 existing and proposed floor levels**

The finished floor levels and existing floor levels have been shown on the submitted drawings.

#### **Condition 4 boundary treatments**

The submitted plans shows a 1.8m high close board fence to be erected between the application site and 248A and 246 Chester Road, the existing wall to the rear of the site to remain and the existing wall between the site and 250 Chester Road to be demolished and rebuilt to 2.2m high. It is considered these boundary treatments are acceptable.

#### **Condition 5 drainage**

Drainage details have been approved by Severn Trent Water.

#### **Condition 6 landscaping**

The Landscape Officer has advised this cannot be discharged and an amended landscape plan is required. The amended landscape details will be secured by condition.

#### **Condition 7 sustainable development**

The sustainable development details have been approved and the condition will be amended on this permission.

#### **Condition 8 land contamination**

Part of the condition relating to contaminated land has been discharged. The remainder of the conditions will again be imposed.

#### **Condition 9 permitted development rights removal**

The condition will be retained to safeguard neighbouring occupiers.

#### **Condition 10 hours of operation.**

This condition will be retained.

### **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 the erection of two dwellings.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 792 new homes during 2010-2011 the award of £1,095,219 (which included a premium for affordable housing but also a



deduction for an increase in vacancies) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards might be offset against reductions in the ‘formula grant’ the Council will receive from Government.

The weight that should be given to this, including in relation to other issues is a matter for the decision-maker.

### **Positive and Proactive Statement**

The agent has amended the scheme to overcome planning issues with regards to design and layout.

### **Recommendation**

Grant permission subject to the following conditions:

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 works hereby approved shall only be carried out in accordance with the following drawings:

- Location plan submitted on 6<sup>th</sup> January 2017
- drawing number 1000-112-11/B entitled proposed plans and elevations submitted on 14<sup>th</sup> March 2017.
- drawing number 1000-112-13 entitled garage plan and elevations submitted on 9<sup>th</sup> February 2017.

Reason: To define the permission.

- 3a. Prior to the commencement of the proposed dormer bungalow to the north of the site adjacent 250 Chester Road, a detailed landscaping scheme illustrating planting within the proposed housing site including:

- New tree species and size
- detailing planting densities
- planting numbers
- size of plants to be planted
- soil depth and specification

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

- 3b. The approved scheme shall be implemented within 12 months of any part of the development being brought into use.

- 3c. Any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed within the first 5 years 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.

Reason: Necessary in the visual amenities of the area and the proposed site.

- 4i. The remedial measures as set out in the document “*Method Working Statement for Remediation of contamination and Verification of that for 248 Chester Road Streetly, Sutton*”

*Coldfield, West Midlands, B74 3NB, Report number 15-12-01/Remediation, Date 31st December 2015* by Stuart Guy Consulting) shall be implemented.

4ii. 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.

4iii. 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

5a. The development shall not be brought into use until details are submitted to the Local Planning Authority and agreed in writing with the same for the installation of electric vehicle charging;

And

5b. the agreed details for electric vehicle charging are fully commissioned.

Reason: To conserve and enhance the natural environment

6a. Prior to the first occupation of either dwelling on the development, the access way, parking and vehicle manoeuvring spaces shall be fully consolidated, hard surfaced and drained so that surface water from the development does not discharge onto the public highway or into any highway drain.

6b. 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.

7. The proposed development shall be carried out in accordance with Weiningerberger Kassandra multi facing brick and Forticrete mixed russet concrete interlocking roof tiles. The development shall be completed with the approved details and retained as such.

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

8. The development shall be carried out in accordance with the boundary treatments as shown on drawing number 1000-112-11/B submitted on 14<sup>th</sup> March 2017.

Reason: To protect the amenities of the neighbouring and proposed occupiers.

9. The development shall be completed in accordance with the drainage details as approved under 12/1429/FL. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

*Reason:* Necessary to ensure the development is provided with 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.

10. The development shall be carried out in accordance with the sustainable development details as approved under 12/1429/FL. The development shall be carried out in accordance with the approved details, and the dwellings shall not be occupied before the approved facilities have been installed and made available for use by the occupiers of the dwellings.

*Reason:* In order to deliver high quality and sustainable means of construction.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 other than those shown on the approved drawings none of the following works shall take place without the prior submission of a planning application:-

- Erection of extensions, outbuildings, or roof enlargements including dormers
- Insertion of windows/roof-lights into any roof slope.
- Insertion of windows into the side elevations (north and south elevations)

*Reason:* In order to safeguard the visual amenities of the locality and the level of privacy at adjacent dwellings.

12. 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*).

*Reason:* To protect the amenity of adjoining neighbouring residential properties.

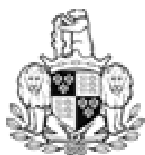
**Notes to Applicant:**

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. 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.

**Recommendation Summary:** Grant permission subject to conditions







# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 5.**

### Reason for bringing to committee: Significant community interest

**Location:** LAND SOUTH OF 8 OAKLANDS WAY, LAND SOUTH OF 8, OAKLANDS WAY, PELSALL, WALSALL

**Proposal:** REMOVAL OF CONDITION 4A OF EA4133 RELATING TO THE CONSTRUCTION AND LAYING OUT OF A PERMANENT HARD WEARING SURFACE.

**Application Number:** 15/1833

**Applicant:** Mr Tom Thursfield

**Agent:** Ms Alison Clack

**Application Type:** Full Application

**Case Officer:** Devinder Matharu

**Ward:** Pelsall

**Expired Date:** 28-Jan-2016

**Time Extension Expiry:** 15-Oct-2016

**Recommendation Summary:** Refuse Permission



## **Officers Report**

### **REASON FOR BRINGING TO COMMITTEE:** Significant community interest

#### **Application and Site Details**

The application site is an irregular shaped parcel of land on the western side of Oaklands Way adjacent number 8. The land is hard surfaced and along the rear western boundary there are a row of semi mature Sycamore trees adjacent the rear gardens of numbers 57, 59 and 63 Station Road. A 2m high close board fence has been erected along the front of the site adjacent the highway.

Permission EA4133 was for the erection of 8 flats and one pair of semi detached houses and 9 lock up garages. The current application proposes the removal of condition 4A of EA4133 relating to the construction and laying out of a permanent hard wearing surface.

Oaklands Way is a cul de sac located off the south eastern side of Railswood Drive in Pelsall. The houses in the cul de sac are linked semi detached properties with chimneys, porches, a mixture of flat and bow ground floor windows and garages that sit further forward of the main front elevation. The front elevations have a mixture of hanging tiles, rendering and cladding. The houses have off road parking spaces in the form of garages and front driveways. Towards the end of the cul de sac are two storey maisonettes which house 8 flats and are positioned at an angle. Flat numbers 7 and 8 have habitable rooms that overlook the application site. These flats have no off road parking facilities, however between numbers 47 and 1 Oaklands Way there is an access that leads to a row of 9 garages for the maisonettes.

The boundary of Pelsall Common Conservation Area is towards the rear of the site, the boundaries with numbers 57, 59 and 63 Station Road. The site is located 319m from the edge of Pelsall Local Centre. Five bus services 8, 8a, 25, 33 and 89 provides between a ten minute to half hour service from Walsall to Bloxwich and Walsall to Aldridge with hourly services on Sundays and during the evening throughout the week.

An accompanying application 15/1835 proposes erection of a single detached house with garage at the site. This is undetermined and appears on this committee agenda for consideration.

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

- The main issue to consider in determination of this Section 73 is whether the condition attached to the approved planning permission is still required having regard to circular 11/95 of the act.
- Paragraph 206 of the NPPF refers to the 6 tests for planning conditions
- In 1963 the condition was considered to be required which pre-dates the 1990 Act.
- In considering whether a condition is necessary the LPA should ask whether permission would have been refused if that condition was not imposed.
- Same principles applied in dealing with applications for the removal of a condition under Section 73 where it states a condition should not be retained unless there are sound and clear cut reasons for doing so.
- The condition was implemented so as to enhance and maintain the visual amenities of the area not for the purposes of providing parking to serve the residential development approved at that time or any highway safety reasons.
- At the time of the assessment the Council's policy relating to car parking had not be adopted, and there was no need to assess whether any surplus car parking availability

would be appropriate, compared to the maximum car parking standards commonly utilised today and need to have regard to sustainability objectives of the adopted plan and the Government's aim to encourage a model shift from the use of the private car

- Highway advisors have questioned the status of the site and previous requirement for car parking use, if the LPA consider it today it would not be considered that there was a definitive need to impose condition 4.

- Material to this application is the fact that [parking spaces available on the site are over and above the dedicated parking provision of parking for nearby residential units and are in excess of the Council's existing parking standards
- There are no sound or clear cut reasons for having regard to the 1990 Act
- There can be no demonstrable or defined need for a condition to be retained, it is considered the condition is unnecessary
- The condition is unreasonable because it is restrictive, it restricts the use of a private piece of land for which there is no lawful access by members of the public
- Condition is no longer relevant, as the houses have two parking spaces and the maisonettes were approved with a garage unit
- The need for a separate parking area is no longer relevant
- On street parking within Oaklands Way is unrestricted
- It is not for the planning authority to legislate over inconsiderate or inappropriate parking.
- Over time the legal and functional relationship of the application site and any surrounding residential development has been severed
- The site is simply a piece of privately owned land upon which no one has any legal rights to use for car parking
- Properties are bought and sold on the basis of having dedicated off street parking and no reliance is placed on any private parking facilities
- No rent is paid by any persons to use the site for parking purposes.
- The condition placed on an application in 1963 is no longer required, reasonable or enforceable
- Applying to remove the original condition placed in 1963 will enable the site to be developed resulting in a new home in a sustainable location
- The land is privately owned with a separate title to any of the surrounding properties
- Researched the freehold and leasehold of surrounding properties there are no access rights to use the application site for car parking nor in the conveyance document is there any reference to it being required for use by any neighbouring residential property.
- Correspondence from solicitors which demonstrates there is no legal, functional or physical link between the application site and neighbouring residential properties.
- Passing of time and severing of titles has removed the rights to parking on the land
- Estate constructed in two phases and car park was probably left over land used as a builders compound.
- It is not for the planning system to legislate over inconsiderate and inappropriate parking
- The subsequent use of the site is not the subject of the Section 73 application
- There is no legitimate right for any adjoining residents to use the application site for parking
- All properties have allocated parking
- Each property would have dedicated parking to serve the occupants

### **Relevant Planning History**

15/1835- Change of use of car park area and erection of single detached house with garage. Currently being considered.



15/0839/FL - Land adjacent 8 Oaklands Way. Change of use of car park area and erection of single detached house with garage and creation of 3 additional parking space. Refused 18 September 2015 for the following reasons:

1)The proposal fails to:

- provide parking survey data to demonstrate the actual usage of the existing car park
- demonstrate whether the 3 proposed replacement resident's parking spaces are sufficient to accommodate any displaced parking. and on these grounds there is insufficient parking information to enable a fully informed and considered decision on the potential impact the proposed development may have on the public highway as a result of any displaced parking.

As such the proposal is contrary to Policies GP2 and T7 of the Unitary Development Plan and to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, to highway safety and the original planning permission.

2) The proposed development has the potential of displacing vehicles indiscriminately onto the public highway and in particular the turning area of Oaklands Way, to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, to highway safety.

3) The proposal to provide the three resident's car parking spaces off the turning area in Oaklands Way would be orientated resulting in vehicles manoeuvring in and out spaces 1 and 3 having to travel along at least 6 metres of public footway. This would be unacceptable particularly on the southern side where two pedestrian access points to the flats join the public footway at this locality and likely to result in pedestrian /vehicle conflicts to the detriment of highway safety.

4)The proposed fence at the end of the cu de sac at 2m high would have a detrimental visual impact upon the street scene. Furthermore, the proposal would seek to provide 3 parking spaces behind this fence would result in inappropriate reversing manoeuvres and would provide no natural surveillance to the security and safety of the vehicles and their owners.

13/1318/FL- Land adjacent 8 Oaklands Way. Change of use of car park area and erection of single detached house with garage withdrawn 2013.

BC 04967P- erection of bungalow on land adjoining Woodsfield house, Oakland's Way. Refused 2<sup>nd</sup> September 1982 on the grounds of, if permitted, would lead to the loss of an existing car parking area and would give rise to parking of vehicles on the highway causing congestion and hazard to vehicular and pedestrian traffic.

EA4133 – erection of 8 flats and one pair of semi detached dwellings and 9 lock up garages on land on the Southern end of Oakland's Way, Pelsall, Plots 34 to 35. Granted 10<sup>th</sup> July 1963. Condition 4 states:

- a. The car parking area shown on the deposited plan shall be properly laid out and constructed with a permanent hard wearing surface to a specification approved by the Local Planning Authority.
- b. A scheme for the landscaping of the car park area shall be submitted to the Local Planning Authority within three months of the development hereby authorised being commenced and such scheme as may be approved by the Local Planning Authority shall be completed within six months of the completion of the development and thereafter maintained to the satisfaction of the Local Planning Authority in accordance with the scheme as approved.

Reason: To enhance and maintain the visual amenities of the area.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

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

NPPF4: Promoting Sustainable Transport

NPPF 6: Delivering a Wide Choice of High Quality Homes

NPPF7: Requiring Good Design

NPPF11. 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.

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

The key planning policies include

- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing transport impacts of new development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

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

- GP2: Environmental Protection

- 3.113, 3.114, 3.115, ENV32 & 3.116: Design and Development Proposals
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18 and 3.64: Existing Woodlands, Trees and Hedgerows
- ENV17: New Planting
- 3.117 & ENV33: Landscape Design
- ENV23: Nature Conservation and New Development
- 3.104 and ENV29: Conservation Areas.
- ENV40: Conservation, Protection and Use of Water Resources
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T4: The Highway Network
- T7: Car Parking
- T10: Accessibility Standards
- T13: Parking Provision

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

### **Supplementary Planning Documents (SPD)**

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

#### **Designing Walsall (2013)**

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

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

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

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

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

#### **Conserving Walsall's Natural Environment (2013)**

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for European Protected Species survey requirements.

The following are the relevant policies;

NE7: all applications with the potential to damage trees should be supported by an arboricultural impact assessment.

NE8: All planning applications proposing the retention of trees within a development site should demonstrate that the trees to be retained will survive without causing significant nuisance beyond the development phase. Adequate space should be retained for the trees

to develop in the future without causing severe shading or requiring damaging containment pruning.

### **Consultations**

#### **Transportation – Objection**

**Coal Authority** – No objection to the proposed development subject to the imposition of a condition to secure intrusive site investigations

### **Public Participation Responses**

Seventeen letters have been received from fourteen residents objecting to the proposal on the following grounds:

- Land sold under false pretences
- Previous application refused
- Previously submitted petition
- Attendance at planning meeting previously
- Condition imposed in 1960's giving residents a permanent car park
- Car usage increases year upon year
- Area fenced off by unauthorised fence
- Applicant instructed to remove fence
- Access and parking issues including: emergency services have access difficulties, emergency services/utility services/refuse vehicles/delivery vehicles have to reverse full length of cul de sac, fire hydrant blocked by parked cars, previous hard surface area useful for parking and turning of vehicles, residents having trouble turning in turning head, no parking facilities for social workers and doctors, always designated car parking, residents park on the pavement, flats at the end of the street unoccupied/rented out when fully occupied cause more parking problems, residents have more than one car, no electricity to garages for residents to park safely, residents have to walk in the road including those with prams and electric mobile scooters
- Medical emergencies could have occurred due to fenced off land and hindrance of access
- Size of the building out of scale for the size of the site and general location – *this is not relevant to this planning application.*
- Not enough space for a two storey dwelling – *this is not relevant to this planning application.*

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

### **Determining Issues**

Whether the planning condition should be removed in respect of:

- The laying out of the car park
- Landscaping scheme

### **Observations**

#### **The laying out of the car park**

Part 4A of the planning condition required the application site, which was formerly a car parking area to be laid out and constructed with a permanent head wearing surface including a dropped kerb point.

Transportation have advised the car park has already been laid out, constructed with a hard wearing surface including a dropped kerb access point and has been used by residents for decades. Only recently has access to the site been prevented through the unlawful installation of a 2m high fence along the street frontage at the back of pavement.

The condition has already been implemented. The agent is seeking removal to avoid the maintenance of the land for parking and landscaping purposes so that it can be developed. .

### **Landscaping scheme**

Part 4B of the planning condition required the application site to be landscaped.

The Landscape Officer has advised that the site contains mainly a line of self set trees along the rear boundary; there is also one *Prunus laurocerasus* and remnants of an old shrub bed which connects to the area beside the turning point.

It is hard to prove conclusively that the area was originally landscaped but it would appear it was and that the beds were unmaintained after planting and became overrun by self set trees. Subsequently it appears that the lower growth of these trees and most remnant shrub planting has been removed explaining the bare trunks and dead branches on the ground. Furthermore there is evidence of some re-growth on the ground and evidence of daffodils which would not have grown if the whole area was hardstanding.

Although the remaining vegetation is not aesthetically pleasing, it is a green screen for neighbouring gardens and it has nature conservation and ecology value.

The condition has already been implemented. The agent is seeking removal to avoid the maintenance of the land for parking and landscaping purposes so that it can be developed.

### **Other matters**

The land was sold by the Council in 1982 to a third party. The original planning condition 4a relating to this parcel of land to be utilised as a car park still stands and was used as a parking area by residents on Oaklands Way until the land was fenced off by a 2m high fence at the back of pavement.

Whilst, the Council can investigate the erection of this unauthorised fence, the land is now in private ownership and a 1m high fence could be erected, which would still prevent residents from utilising the land as parking space.

There is a turning head at the end of the cul de sac which is for used as turning for vehicles. However, as existing residents have been n utilising the turning head for parking since the loss of available parking on the application site, it creates parking problems for vehicles that are unable to turn within the turning head. The turning head should remain obstruction free for its intended purpose.

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

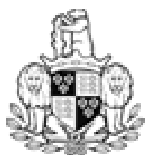
The agent has been advised that the application would be recommended for refusal. A meeting was held with the agent at the Council Offices on 19<sup>th</sup> February 2016 to advise what information was required; to date this information has not been submitted.

### **Recommendation**

That planning permission is for the removal of the condition is refused for the following reason:

1. The loss of off street parking by removal of the condition has the potential to displacing vehicles indiscriminately onto the public highway and in particular the turning area of Oaklands Way, to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, to highway safety. As such the proposal is contrary to policy GP2 of the Unitary Development Plan.

**Recommendation Summary:** Refuse Permission



# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 6.**

**Reason for bringing to committee:** Significant community interest

**Location:** LAND SOUTH OF 8 OAKLANDS WAY, LAND SOUTH OF 8, OAKLANDS WAY, PELSALL, WALSALL

**Proposal:** CHANGE OF USE OF CAR PARK AREA AND ERECTION OF SINGLE DETACHED HOUSE WITH GARAGE.

**Application Number:** 15/1835

**Applicant:** Mr Tom Thursfield

**Agent:** Ms Alison Clack

**Application Type:** Full Application

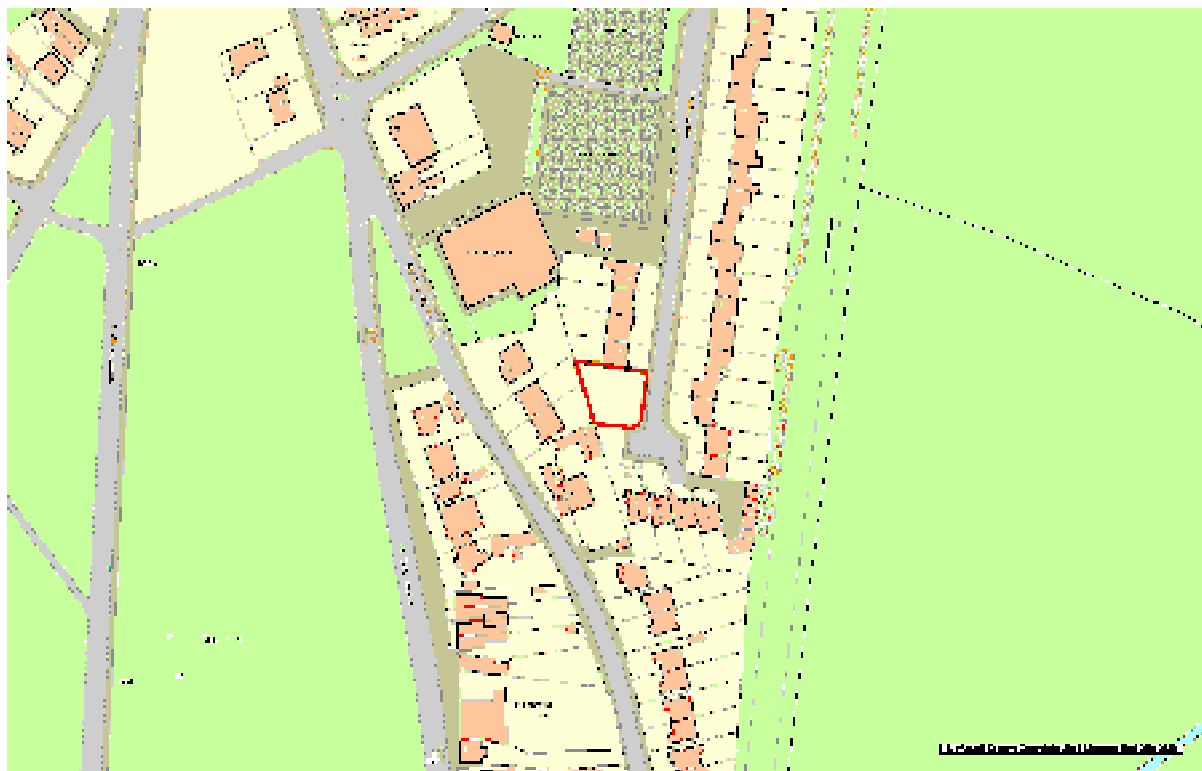
**Case Officer:** Devinder Matharu

**Ward:** Pelsall

**Expired Date:** 28-Jan-2016

**Time Extension Expiry:** 15-Oct-2016

**Recommendation Summary:** Refuse Permission



## **Officers Report**

### **REASON FOR BRINGING TO COMMITTEE:** Significant community interest

#### **Application and Site Details**

The application site is an irregular shaped parcel of land on the western side of Oaklands Way adjacent number 8. The land is hard surfaced and along the rear western boundary there are a row of semi mature Sycamore trees adjacent the rear gardens of numbers 57, 59 and 63 Station Road. A 2m high close board fence has been erected along the front of the site adjacent the highway.

The application proposes the erection of a detached house and garage and three additional parking spaces.

The proposed house would sit adjacent number 8 Oaklands Way with a metre gap between the proposed house and number 8 Oaklands Way. The proposed house would be 'L' shaped with a rear projecting element adjacent number 8. The dimensions would be 15.4m in length by 5.5m in width with the projecting element extending out 3.2m from the main house and being 5m wide. The height of the building would be 7.6m to the ridge and 4.2m to the eaves. The house would have a gable roof with projecting gable features on the main front and rear elevation. Habitable rooms would be located towards the front of the site at first floor with a landing along the rear. The bedroom on the rear projecting element would have windows facing towards the rear garden.

The proposed house would have a rear garden length that averages between 8m at the longest point and 3m at the shortest point. A total amenity area of 92 square metres would be provided. Two off road parking spaces would be provided for the proposed house with the provision of a garage and driveway parking. A new footway crossing would be provided with the existing footway crossing being closed off.

Oaklands Way is a cul de sac located off the south eastern side of Railswood Drive in Pelsall. The houses in the cul de sac are linked semi detached properties with chimneys, porches, a mixture of flat and bow ground floor windows and garages that sit further forward of the main front elevation. The front elevations have a mixture of hanging tiles, rendering and cladding. The houses have off road parking spaces in the form of garages and front driveways. Towards the end of the cul de sac are two storey maisonettes which house 8 flats and are positioned at an angle with flat numbers 7 and 8 having habitable rooms that overlook the application site. These flats have no off road parking facilities, however between numbers 47 and 1 Oaklands Way there is an access that leads to a row of 9 garages for the maisonettes.

Number 8 to the north of the application site is a rendered property that has two side facing non habitable room windows, one at ground floor and the other at first floor. . Numbers 57 and 59 to the west of the application site are set at an angle with the rear elevation of number 63 facing the side elevation of 59.

The boundary of Pelsall Common Conservation Area is towards the rear of the site, the boundaries with numbers 57, 59 and 63 Station Road. The site is located 319m from the edge of Pelsall Local Centre. Five bus services 8, 8a, 25, 33 and 89 provides between a ten minute to half hour service from Walsall to Bloxwich and Walsall to Aldridge with hourly services on Sundays and during the evening throughout the week.



The existing density of the immediate vicinity is 4 dwellings per hectare (dph) and the development would have a density of 2dph.

An accompanying application 15/1833 proposes removal of a condition for parking and landscaping at the site. This is undetermined and appears on this committee agenda for consideration.

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

- Over time the legal and functional relationship of the application site and any surrounding residential development has been severed
- The site is simply a piece of privately owned land upon which no one has any legal rights to use for car parking
- Properties are bought and sold on the basis of having dedicated off street parking and no reliance is placed on any private parking facilities
- No rent is paid by any persons to use the site for parking purposes.
- The condition placed on an application in 1963 is no longer required, reasonable or enforceable
- Applying to remove the original condition placed in 1963 will enable the site to be developed resulting in a new home in a sustainable location
- The land is privately owned with a separate title to any of the surrounding properties
- Researched the freehold and leasehold of surrounding properties there are no access rights to use the application site for car parking nor in the conveyance document is there any reference to it being required for use by any neighbouring residential property.
- Correspondence from solicitors which demonstrates there is no legal, functional or physical link between the application site and neighbouring residential properties.
- Passing of time and severing of titles has removed the rights to parking on the land
- Estate constructed in two phases and car park was probably left over land used as a builder's compound.
- It is not for the planning system to legislate over inconsiderate and inappropriate parking
- The subsequent use of the site is not the subject of the Section 73 application
- There is no legitimate right for any adjoining residents to use the application site for parking
- All properties have allocated parking
- Each property would have dedicated parking to serve the occupants

### **Relevant Planning History**

15/1833- Removal of condition 4A of EA4133 relating to the construction and laying out of a permanent hard wearing surface. Currently being considered.

15/0839/FL - Land adjacent 8 Oaklands Way. Change of use of car park area and erection of single detached house with garage and creation of 3 additional parking space. Refused 18 September 2015 for the following reasons:

1)The proposal fails to:

- provide parking survey data to demonstrate the actual usage of the existing car park
  - demonstrate whether the 3 proposed replacement resident's parking spaces are sufficient to accommodate any displaced parking. and on these grounds there is insufficient parking information to enable a fully informed and considered decision on the potential impact the proposed development may have on the public highway as a result of any displaced parking.
- As such the proposal is contrary to Policies GP2 and

T7 of the Unitary Development Plan and to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, to highway safety and the original planning permission.

2) The proposed development has the potential of displacing vehicles indiscriminately onto the public highway and in particular the turning area of Oaklands Way, to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, to highway safety.

3) The proposal to provide the three resident's car parking spaces off the turning area in Oaklands Way would be orientated resulting in vehicles manoeuvring in and out spaces 1 and 3 having to travel along at least 6 metres of public footway. This would be unacceptable particularly on the southern side where two pedestrian access points to the flats join the public footway at this locality and likely to result in pedestrian /vehicle conflicts to the detriment of highway safety.

4) The proposed fence at the end of the cu de sac at 2m high would have a detrimental visual impact upon the street scene. Furthermore, the proposal would seek to provide 3 parking spaces behind this fence would result in inappropriate reversing manoeuvres and would provide no natural surveillance to the security and safety of the vehicles and their owners.

13/1318/FL- Land adjacent 8 Oaklands Way. Change of use of car park area and erection of single detached house with garage withdrawn 2013.

BC 04967P- erection of bungalow on land adjoining Woodsfield house, Oakland's Way. Refused 2<sup>nd</sup> September 1982 on the grounds of, if permitted, would lead to the loss of an existing car parking area and would give rise to parking of vehicles on the highway causing congestion and hazard to vehicular and pedestrian traffic.

EA4133 – erection of 8 flats and one pair of semi detached dwellings and 9 lock up garages on land on the Southern end of Oakland's Way, Pelsall, Plots 34 to 35. Granted 10<sup>th</sup> July 1963.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

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

NPPF4: Promoting Sustainable Transport

NPPF6: Delivering a Wide Choice of High Quality Homes  
NPPF7: Requiring Good Design  
NPPF11. 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.

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

The key planning policies include

- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing transport impacts of new development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

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

- GP2: Environmental Protection
- 3.113, 3.114, 3.115, ENV32 & 3.116: Design and Development Proposals
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18 and 3.64: Existing Woodlands, Trees and Hedgerows
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- 3.117 & ENV33: Landscape Design
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- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T4: The Highway Network
- T7: Car Parking
- T10: Accessibility Standards
- T13: Parking Provision

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

### **Supplementary Planning Documents (SPD)**

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

### **Designing Walsall (2013)**

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

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

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

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

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **Conserving Walsall's Natural Environment (2013)**

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for European Protected Species survey requirements.

The following are the relevant policies;

NE7: all applications with the potential to damage trees should be supported by an arboricultural impact assessment.

NE8: All planning applications proposing the retention of trees within a development site should demonstrate that the trees to be retained will survive without causing significant nuisance beyond the development phase. Adequate space should be retained for the trees to develop in the future without causing severe shading or requiring damaging containment pruning.

### **Consultations**

**Transportation** – Objection

**Pollution Control**– No objection subject to planning condition restricting working hours and an advisory note relating to ground contamination.

**Severn Trent Water** – No objection subject to drainage condition.

**Coal Authority** – No objection to the proposed development subject to the imposition of a condition to secure intrusive site investigations

**Arboricultural Officer** – No objection subject to details of tree protection fencing and intended pruning works being conditioned as part of any consent.

### **Public Participation Responses**

Fourteen letters have been received from twelve residents objecting to the proposal on the following grounds:

- Same objections apply as previous application 15/0839
- Proposal previously refused
- Previous reasons for refusal not addressed

- Residents think it is a disgrace plans are resubmitted
- Size of building out of scale for the site and general location
- House would be over powering
- House would leave little land at the back
- Close to the properties in Station Road
- Proposed rear amenity space too small
- Proposed fence not high enough to protect privacy as land at the rear is higher
- Impact upon elderly residents
- Unsightly fence removed
- Ground restored back to car park
- Loss of trees
- Covenant restricts fences, gates and walls
- Access and Parking problems including: removal of parking caused access problems, inconvenience to residents, services, emergency service access impeded, car parked on pavements, residents have to walk in the road including those with prams, service vehicles unable to turn around and reverse the full length of the street, parking issue during the evening, more cars on street than 1960's, Condition 4a of EA4133 states the land shall be used as a car park, residents park in turning area, parking blocks fire hydrant, flats at the end of the street unoccupied/rented out when fully occupied cause more parking problems, not enough parking for proposed house,
- Medical emergencies could have occurred due to fenced off land and hindrance of access

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

### **Determining Issues**

Whether the proposal overcomes the previous reasons for refusal in respect of:

- parking survey data to demonstrate actual usage of existing car park
- demonstrate whether the 3 proposed replacement resident's parking spaces are sufficient to accommodate any displaced parking
- potential impact the proposed development may have on the public highway as a result of any displaced parking to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, to highway safety.
- conflicts in pedestrian /vehicle movements to the detriment of highway safety.
- proposed fence resulting in visual impact, inappropriate reversing manoeuvres and no natural surveillance

Other issues

- Principle of Development
- Layout and Design
- Impact upon the Pelsall Common Conservation Area
- Impact upon surrounding residential occupiers
- Loss of trees

### **Observations**

Whether the proposal overcomes the previous reasons for refusal in respect of:

#### **Parking survey data to demonstrate usage of existing car park**

The agent has failed to submit a parking survey to demonstrate the actual usage of the existing car park and therefore the Council is unable to fully assess and the reason for refusal has not been overcome.

**Demonstrate whether the 3 proposed replacement resident's parking spaces are sufficient to accommodate any displaced parking**

The proposed no longer seeks to provide three replacement parking spaces for the residents of Oaklands Way. There are no replacement resident's parking spaces proposed which in the absence of the parking survey is insufficient to demonstrate that this part of the reason for refusal has been addressed.

**Potential impact the proposed development may have on the public highway as a result of any displaced parking to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, to highway safety.**

The full impact the proposal will have on the public highway as a result of displaced parking to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, cannot be assessed as the Council has no parking survey data to demonstrate how many of the residents on Oaklands Way utilise this parking area and as a result how many vehicles will be displaced.

Residents have objected to the proposal on the grounds that the removal of parking has caused access problems especially in the evening when residents return home from work and this causes an inconvenience. They also state cars park on the pavement and in the turning area where residents have to walk in the road and also blocking the fire hydrant. The fencing off of the site has resulted in service/delivery/medical vehicles unable to turn around and reverse the full length of the street and cause a hindrance to access arrangements.

It is clearly evident that the enclosure of the land has resulted in displaced parking causing parking and access problems for local residents, particularly within the turning head of the cul-de-sac.

This part of the reason for refusal has not been addressed.

**Conflicts in pedestrian /vehicle movements to the detriment of highway safety.**

The three replacement parking spaces originally proposed on the site are now excluded so this reason for refusal previously referred to is no longer included in this scheme and as such this part of the reason for refusal is not relevant.

**Proposed fence resulting in visual impact, inappropriate reversing manoeuvres and no natural surveillance**

This part of the reason for refusal referred to the three replacement parking spaces, which have been removed off this scheme and as such this part of the reason for refusal has fallen away. However, the part of the reason referring to the 2m high close board fence at the back of pavement is still relevant as the unauthorised fence is visually detrimental in the street scene. It is a high fence immediately at the back of pavement which is out of keeping with the area.

**Principle of development**

The site is situated within a well established residential area within easy walking distance of Pelsall Local Centre. Within walking distance along Norton Road there are regular bus

services to and from Walsall via Bloxwich and Aldridge. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

The principle of an additional house is considered appropriate in this location reflecting its immediate character subject to detailed design matters being resolved.

Whilst a previous application for a similar scheme was refused, the Council can only process applications received against the relevant Development Plan policies prevailing at that time. There are no restrictions on the amount of times an application can be submitted where there are new material considerations e.g. amendments are made that seek to address earlier reasons for refusal or new policies apply.

Objectors have raised concerns over restrictive covenants; these are civil and private matters to pursue outside of the planning process.

### **Design and layout**

The houses along Oaklands Way are two storeys and the proposed house is also two storeys high and would include render on the front elevation similar to number 8 as well as reflecting the roof and window proportions. The projecting gable features on the front and rear elevation would break up the mass of the proposed house and would add character to the house. The design and scale of the proposed dwelling is reflective to the design of number 8 Oaklands Way and therefore considered acceptable.

The proposed house would sit adjacent 8 Oaklands Way reflecting the pattern of development along Oaklands Way.

The proposed house would be set off the rear boundary with numbers 57 and 59 Station Road by 8m from the nearest point and 3m at the closest point. Both numbers 57 and 59 have rear garden lengths up to 11m, albeit the rear garden of number 59 being smaller due to the amount of vegetation. The proposed rear amenity space would set the house off the boundary with these properties.

The site is irregular in shape being wider adjacent number 8 and narrows as it forms the boundary with the turning head at the end of the cul de sac. The footprint of the house has been designed to accommodate the constraints of the site and the proposed house is 'L' shaped to provide a deeper projection adjacent number 8 Oaklands Way and then narrower section. It is considered that the footprint and layout of the house in relation to the shape of the land is acceptable. Designing Walsall requires housing proposals to either provide a rear garden length of 12m or a total amenity area of 68 square metres; in this case, whilst the rear garden length varies in length from 8m to 3m due to the shape of the land, the total amenity area is 92, exceeds the 68 square metre garden size by 24 square metres.

The density of the site is 2 dwellings per hectare, reflecting the character of Oaklands Way. It is considered that the proposed house would not result in overdevelopment or overcrowding of the site.

Objectors have raised concerns that an illegal 2m high fence has been erected on the site. The fence is at the back of footpath and would require planning permission. It is considered that through the granting of permission this would be removed to construct the proposed house. If the fence is retained once permission has been granted then the issue would be pursued under planning enforcement action.

The design and layout are able to achieve a reasonable format that seeks to respect the character of the surrounding area. If the application were acceptable in all other respects the removal of the 2m high fencing could be secured by condition.

### **Impact upon the Pelsall Common Conservation Area**

The application site is not visible from the Pelsall Common Conservation Area. Whilst the roofline of the proposed house would be seen, it would be seen in line with number 8 Oakland's Way. It is considered that the proposed house would not unduly harm the character or appearance of the Conservation Area.

### **Impact upon amenities of surrounding occupiers**

The windows side elevation of 8 Oaklands Way belong to non habitable rooms, whilst there may be some loss of light to these windows, the proposal would not unduly result in loss of amenity to the occupiers of 8 Oaklands Way.

Towards the rear of the application site are numbers 57 and 59 Station Road, both of these houses are positioned at an angle to the application site. At first floor on the rear elevation of the proposed house there are no habitable room windows that face towards 57 or 59 Station Road only at ground floor. The separation distance between the rear elevation of numbers 57 and 59 Station Road to the rear elevation of the proposed houses would be approximately 19m and 17m. Whilst this separation distance does not meet the Council's 24m separation distance between habitable room windows, the application proposes a 2m high close board fence between the application site and the houses towards the rear.

Objectors have raised concerns that the proposed rear boundary fence at 2m high would not be sufficient to provide adequate screening between the application site and the houses towards the rear of the site due to the ground level difference. It can be conditioned that a suitable boundary treatment at a suitable height is submitted and approved in writing to ensure an appropriate boundary treatment is erected to protect the amenity of the neighbouring occupiers and proposed occupiers.

Number 63 Station Road is the nearest property forming the boundary with the application site. Any windows to numbers 61 and 63 Station Road face the end of the application site towards the turning head and this area of the application site would not be developed but left as open space.

A single house would not unduly result in noise and disturbance over and above ambient noise levels from cars to warrant refusal of the scheme.

It is considered that the proposal would not unduly impact upon the amenities of neighbouring occupiers in terms of overlooking, loss of privacy or loss of light to warrant refusal of the application for these reasons.

### **Loss of trees**

The application site has a row of semi mature Sycamore trees along the western boundary adjacent the rear gardens of properties on Station Road. The application intends to remove one of the trees to accommodate the dwelling and prune the remainder to improve their 'untidy appearance'. The Arboricultural Officer has advised that the extent of the pruning is unclear and should be more specific to avoid any inappropriate works being undertaken. They also state individually the trees on site are not particularly good examples. However, as a group they do offer some amenity value and their retention would be desirable at this time. The trees have the potential to grow significantly larger and are likely to become a nuisance



to nearby residents in the future and consequently the long term retention of these trees is to be unlikely and not worthy of a tree protection order.

The Arboricultural officer advises that if planning permission is granted conditions seeking the provision for the protection of the retained trees during construction and details of the intended pruning works shall be submitted and agreed.

Normally, tree planting in mitigation for the loss of a tree is sought; however, in this case, there is insufficient space on site for replacement planting so in this case replacement planting would not be sought.

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

The agent has been advised that the application would be recommended for refusal. Despite a meeting held between officers and the agent required information has not been submitted to enable support for the proposals.

### **Recommendation**

That planning permission is refused subject to the following reason:

1. The proposal fails to provide parking survey data to demonstrate the actual usage of the existing car park and on these grounds there is insufficient parking information to enable a fully informed and considered decision on the potential impact the proposed development may have on the public highway as a result of any displaced parking. As such the proposal is contrary to Policies GP2 and T7 of the Unitary Development Plan and to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, to highway safety and the original planning permission.
2. The proposed development has the potential of displacing vehicles indiscriminately onto the public highway and in particular the turning area of Oaklands Way, to the detriment of the free flow of traffic, the safe and satisfactory operation of the turning facility, detrimental to highway safety. As such the proposal is contrary to policy GP2 of the Unitary Development Plan.
3. The proposed fence at the end of the cu de sac at 2m high would have a detrimental visual impact upon the street scene. As such the proposal is contrary to the National Planning Policy Framework, ENV3 of the Black Country Core Strategy and saved policies GP2, T7 and T13 of the Unitary Development Plan and Policy DW3 of Designing Walsall SPD.

### **Recommendation Summary: Refuse Permission**





# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 7.**

**Reason for bringing to committee:** Significant community interest.

**Location:** 124 , THORNHILL ROAD, STREETLY, B74 2LJ

**Proposal:** DEMOLITION OF EXISTING SUN LOUNGE AND ERECTION OF TWO STOREY REAR EXTENSION.

**Application Number:** 16/1755

**Applicant:** Prem Doredi

**Agent:** Archi-tekt Partnership LTD

**Application Type:** Full Application

**Case Officer:** Jenny Townsend

**Ward:** Streetly

**Expired Date:** 08-Feb-2017

**Time Extension Expiry:**

**Recommendation Summary:** Grant Subject to Conditions



## **Officers Report**

**Reason for brining to Committee:** Significant community interest.

### **Application Details**

This application is for a two storey extension to the rear of a detached house that would enlarge the existing lounge, dining room and add a new sun lounge at ground floor with enlargements to two of the existing bedrooms and the addition of a new bedroom at first floor level. The first floor layout is to be re-configured to relocate the main bathroom and add an en-suite bathroom in one of the enlarged rooms on the rear. The proposed extension would replace an existing single storey sun room extension alongside the boundary with number 122, the house to the north, and a ground floor bay window in the middle of the rear elevation. The number of bedrooms would increase from 5 to 6.

The application house is a plain design with a gable roof that has been extended to the front. The rear of the site backs onto the end of Parkside Way, a cul-de-sac off Manor Road. There is a 2 metre high brick wall across the rear boundary with a wooden pedestrian gate inserted. There is a line of trees belonging to the application house next to the wall which provide limited screening between the rear of the application house and the houses in Parkside Way. There is an apartment block to the south of the site which faces onto Thornhill Road.

The proposed extension is across the full width of the house at ground floor and would be 3 metres deep. The side of the first floor part of the extension is set in 1.8 metres from the boundary with number 122 with the rest built above the proposed ground floor. Three gable roofs are proposed above the extension, similar to the design of the front of the house. No windows are proposed in either of the side elevations of the extension and on the rear elevation windows and doors would face down the rear garden with a separation of approximately 18 metres to the boundary wall and 21 metres to the rear corner of number 12 Parkside Way, the house closest to the rear boundary of the application site. This property is positioned at right angles to the rear of the application house and has no habitable room windows in the side elevation which is mostly screened by planting adjacent the rear and side boundaries of the apartments to the south of the application site.

The apartment block is positioned closer to Thornhill Road than the application house, lower in level and approximately 4 metres from the boundary. There are windows in the side elevation which appear to be secondary windows to habitable rooms with the main windows on the front and rear. There is a hedge approximately 5 metres high to the side and rear boundaries of this site which screens most of the application house from view apart from the roof.

Number 122 is in line at the rear with the first floor part of the application house and has a 1.0 metre deep single storey section with doors to a lounge at ground floor and a bedroom window at first floor closest to the boundary.

There are at least 3 parking spaces on the frontage of the house and also a garage large enough to accommodate a vehicle for parking which accords with policy for a house with 4 or more bedrooms.

### **Relevant Policies**

## National Planning Policy Framework (NPPF)

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

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

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

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

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

## Local Policy

### Black Country Core Strategy

- ENV1: Nature Conservation
- ENV3: Design Quality

### Unitary Development Plan

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals

## Supplementary Planning Document

### Conserving Walsall's Natural Environment

- Development with the potential to affect trees, woodlands and hedgerows
  - NE7
  - NE8
  - NE9
  - NE10

### Designing Walsall

- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPD's are

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consistent with the NPPF.

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

### **Relevant Planning History**

BC57623P Two storey pitched roof extension to front. GSC 05/02/99.

BC59329P Retrospective: Side window and pitched roof to side/rear extension. GSC 02/11/99.

BC60573P Retrospective: pitched roof to single storey rear extension (Amendment to planning permission BC59329P). Granted 29/03/00.

Works to trees on both of neighbouring sites.

### **Consultation Replies**

**Tree Preservation Officer** – No objections subject to conditions.

### **Representations**

A petition with 9 signatures from residents in Parkside Way has been received objecting to the proposal on the following grounds:

- The extension would be closer to their houses and may reduce ambient light (Right to Light 45 degree ruling);
- Little access to the front of number 124 Thornhill Road could result in delivery of materials, extract of demolition rubble and access for contractors via the rear pedestrian access off the turning circle in Parkside Way which would block access to their drives;
- Turning circle should be kept clear for resident's vehicles to turn around, access for emergency vehicles, Water Authority vehicles, council waste disposal and highway cleaning vehicles etc;
- Parkside Way is a narrow road with restricted parking.

The occupier of number 12 Parkside Way notes that the existing pedestrian access to the rear of the application site is in a Party Wall shared with number 12 and to date no correspondence in relation to the Party Wall Act has been received by them in connection with any future works to this wall.

### **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Protected Trees

### **Observations**

#### **Design of Extension and Character of Area**

The design of the extension is considered compatible with the existing house as it reflects the design of the front of the house.

The extension would be visible from Parkside Way but is considered would not harm the appearance of the house or the area given the separation distance and partial screening from the existing trees.

### **Amenity of Nearby Residents**

The proposed extension would comply with the 45 degree code measured from the quarter-point of the rear windows of number 122. This code is used to assess impact on light and outlook of neighbours.

On the other side of the house, the separation between the application house and the apartment block, the orientation to the north and the existing tall hedge on the boundary is considered would prevent any significant impact on light, outlook or privacy of the occupiers of the apartments from the proposal.

The rear windows of the extension would face towards the turning area of Parkside Way and are considered would have little impact on the outlook or privacy of the occupiers of the houses in Parkside Way.

In respect of the comments in the petition from the residents in Parkside Way, the separation between the rear of the extension and the side of the nearest house and also the existing tall hedge to the rear of the apartments which lies alongside number 12 Parkside Way is considered would prevent any loss of light ambient or otherwise to the houses in Parkside Way (the separation distance of 18m accords with Council guidance). There is no vehicular crossing from Parkside Way to the rear of the application site that would allow vehicles to enter the site from this direction. There is no material planning reason to prevent the use of the existing access into the site for workmen or materials and parking on the highway is covered by separate legislation. The Party Wall Act is separate legislation and is not a material planning issue.

### **Protected Trees**

There is a protected Oak tree to the front of number 122 Thornhill road which overhangs the front entrance to the application site and could be damaged by vehicles delivering materials for the extension. The Council's tree officer has no objections to the proposal but has recommended conditions to protect the Oak tree to the front of number 122.

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

#### **Approve**

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

### **Recommendation**

Grant Subject to Conditions

### **Conditions and Reasons or Reasons for Refusal**

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

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

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

Location plan drawing number 2016-073-001 deposited 15 December 2016;

Site plan drawing number 2016-073-003 deposited 15 December 2016;  
Proposed site plan drawing number 2016-073-004 deposited 15 December 2016;  
Existing floor plans drawing number 2016-073-005 deposited 15 December 2016;  
Proposed ground floor layout plan drawing number 2016-073-006 deposited 15 December 2016;  
Proposed first floor layout plan drawing number 2016-073-007 deposited 15 December 2016;  
Existing front and rear elevations drawing number 2016-073-008 deposited 15 December 2016;  
Existing side elevations drawing number 2016-073-009 deposited 15 December 2016;  
Proposed front and rear elevations drawing number 2016-073-010 deposited 15 December 2016;  
Proposed side elevations drawing number 2016-073-011 deposited 15 December 2016;  
45 degree code drawing number 2016-073-100 deposited 14 March 2017.

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

3: The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

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

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

5: The protected Oak tree to the front of 122 Thornhill Road shall not be cut down, uprooted or destroyed, nor shall it be topped or lopped without the written approval of the local planning authority. Any agreed pruning operations shall be carried out in accordance with British Standard 3998:2010 (Tree Work) or in accordance with any supplied, and approved, arboricultural method statement.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policies ENV18 of the Walsall UDP 2005, and NE9 of the Walsall SPD (Conserving Walsall's Natural Heritage).

6: Following the completion of any approved arboricultural works, but prior to the commencement of works on site, the Council's arboricultural officer shall be notified to allow a full inspection of the tree works.

Reason: To ensure a satisfactory standard of work and to preserve and enhance the visual amenities of the locality in accordance with Policies ENV18 of the Walsall UDP 2005, and NE9 of the Walsall SPD (Conserving Walsall's Natural Heritage).

## Notes for Applicant



The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Further information is also available on The Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

*This Standing Advice is valid from 1<sup>st</sup> January 2015 until 31<sup>st</sup> December 2016*

**Recommendation Summary:** Grant Subject to Conditions

**Notes for Applicant**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Further information is also available on The Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

This Standing Advice is valid from 1st January 2015 until 31st December 2016

**Petition**

ECONOMY AND  
ENVIRONMENT  
27 JAN 2017  
RECEIVED

12 Parkside Way  
Streetly  
Sutton Coldfield  
West Midlands B74 3NJ

23 January 2017

Development Management  
Civic Centre,  
Darwall Street,  
Walsall WS1 1DG

For the attention of: Jenny Townsend

Dear Sirs,

**PLANNING APPLICATION NUMBER: 16/1755  
124 THORNHILL ROAD, STREETLY B74 3LJ**

You wrote to us recently seeking our views on the Planning Application 16/1755 which is for the extension of 124 Thornhill Road, Streetly. After our meeting and discussion on Friday 20<sup>th</sup> January 2017, we would like to make the following comments.

1. As the intention is to extend the rear of the property by 3m from its existing rear wall for the ground and first floor, this would bring it nearest to our property and may reduce the ambient light we receive currently (Right to light 45 degree ruling)
2. There exists a Party Wall between our front garden and our neighbour at 124 Thornhill. This currently has a pedestrian access but is not used on a regular basis. We have not been approached by the applicant to be advised on any change of use or alteration to this gate. We would therefore expect the status quo to exist throughout any building works. (Party Wall Act)
3. We are concerned that there is very little access from the front of 124 Thornhill to the rear where this large extension will take place and therefore there will be a requirement to deliver materials, extract demolition rubble and gain access for all the builders and fitters. If the rear pedestrian access is the chosen route for all this work, which is directly outside the front of our property and off the hammer-head turning circle in Parkside Way end-de-sau, then we do not want our access blocked in any way by delivery lorries or workmen's vehicles. Neither do we want the turning circle obstructed as it

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# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 8.**

**Reason for bringing to committee:** Called in by Councillor Wilson as he considers delicate consideration is required

**Location:** 10, BARR COMMON ROAD, ALDRIDGE, WALSALL, WS9 0SY

**Proposal:** TWO STOREY SIDE EXTENSION

**Application Number:** 16/1873

**Applicant:** Darren Jones

**Agent:** Stephen Capper Design & Planning

**Application Type:** Full Application

**Case Officer:** Jenny Townsend

**Ward:** Aldridge Central And South

**Expired Date:** 07-Feb-2017

**Time Extension Expiry:**

**Recommendation Summary:** Refuse Permission



## **Officers Report**

**Reason for bringing to Committee:** Called in by Councillor Wilson as he considers delicate consideration is required.

### **Application Details**

This application is for a first floor extension to the side of a semi detached house that would add a 4<sup>th</sup> bedroom and new bathroom. The existing bathroom is to be replaced with a landing area accessing the proposed extension.

The application site is in a residential area and the house is a traditional design with a projecting two storey front gable with curved bay windows and a single storey garage to the side which is built to the boundary with number 12 Barr Common Road. Barr Common Road has a mixed character but between Winchester Mews and Beacon Rise there are 4 pairs of semi's that all vary in design, numbers 24 and 26 are detached bungalows with 4 detached properties which are all different designs. The road slopes up in level from west to east so the ground level of the pairs and separate dwellings are stepped up in level from each other. Whilst there is no regular pattern to the gaps between the properties, nowhere on this side of the road has the gap at first floor level between houses been completely closed.

The proposed extension would be built above part of the existing garage and ground floor shower room and would be 2.6 metres wide to be built up to the boundary with number 12. This house has added a first floor extension which is set back from the front of the first floor part of the house, built to the boundary with a hipped roof that is lower at the ridge than the original roof.

The front of the extension would comprise a long sloping roof that would be the same height at the ridge as the original roof with a pitched roofed dormer inserted in the front slope that would be set back from the front of the projecting front gable. The front window would be to the new bathroom.

At the rear the extension would be in line with the existing two storey part of the house and the rear first floor part of number 12 which has a bedroom window closest to the boundary.

The rear garden backs onto the grounds of Winchester Mews but there is a sight line to the rear of numbers 173 and 175 Whetstone Lane. The separation between the rear of the houses is over 60 metres and there are trees and a tall fence on the boundaries between them.

The existing front driveway is part paved with part of the front garden used for parking. There is sufficient space within the frontage to provide 3 parking spaces.

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

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

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

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

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

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

#### **Local Policy**

##### **Black Country Core Strategy**

- ENV3: Design Quality

##### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

##### **Supplementary Planning Document**

###### **Designing Walsall**

- Appendix D

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

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

#### **Relevant Planning History**

08/0575/FL Single storey rear extension. GSC 23/05/08.

#### **Consultation Replies**

None.

#### **Representations**

None.

#### **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

## **Observations**

### **Design of Extension and Character of Area**

The long sloping roof would reflect the roofshape between the application house and number 8, the other half of the pair. The proposal would completely infill the area between the side of the application house and the side of number 12 creating a terracing effect that is out of keeping with the character of the area and would cause a loss of spaciousness between the dwellings.

The applicant's agent has been asked to consider an alternative design similar to the extension that has been added at number 12. This would still close the gap at first floor level but the hipped shaped roof next to the hip at number 12 would retain some limited space between the houses at roof level. This would be preferable to the current design with the gable roof closing the gap entirely. The applicant has advised that they do not wish to amend the drawings and request the submitted design to be considered.

### **Amenity of Nearby Residents**

The proposed extension would not project beyond the front or rear of the application house or number 8 the other half of the pair and is considered would have no impact on the occupiers of this house.

The front of the proposed dormer would be approximately in line with the first floor part of number 12 adjacent to the boundary. The new front window would serve a non habitable room and would overlook the road and the front driveway of number 12 which is considered would have little impact on the privacy or amenity of the neighbours.

The rear part of the extension would not project beyond the rear of number 12 and whilst the new bedroom window would be closer to the boundary than the existing rear bedroom window, this would be similar to the window on the rear of number 12 which appears to serve a bedroom. The ground floor part of number 12 projects approximately 1.0 metre further and is considered this would limit the potential for overlooking to the rear patio area of number 12.

The separation between the new rear bedroom window and the rear of the houses in Whetstone Lane is over double the separation distance required by policy to maintain the privacy and amenity of neighbours.

### **Parking**

There is sufficient space on the frontage of the house for 3 parking spaces to be created, fully consolidated and drained, which would accord with UDP policy for a house with 4 or more bedrooms.

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

### **Refuse**

Officers have requested that the design of the extension is amended to overcome concerns regarding terracing but have been advised that the applicant wishes the proposal to be assessed on the submitted plans, which in this instance officers are unable to support.

## **Recommendation**

Refuse Permission

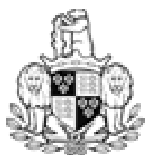
## **Reasons for Refusal**

The proposed first floor side extension would completely close the gap between the application house and number 12 Barr Common Road creating a terracing effect that is out of keeping with the character of the area. As such the proposal would be contrary to the aims and objectives of the National Planning Policy Framework including paragraphs 56, 57, 58, and 64, Walsall's Saved Unitary Development Plan policies, in particular GP2 and ENV32 and the Supplementary Planning Document "Designing Walsall".

**Recommendation Summary:** Refuse Permission







# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 9.**

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

**Location:** 5 , PIMBURY ROAD, WILLENHALL, WV12 5QN

**Proposal:** PROPOSED TWO STOREY SIDE AND SINGLE STOREY FRONT EXTENSION.

**Application Number:** 17/0008

**Applicant:** Neil Gibbons

**Agent:** Affordable Home Designs

**Application Type:** Full Application

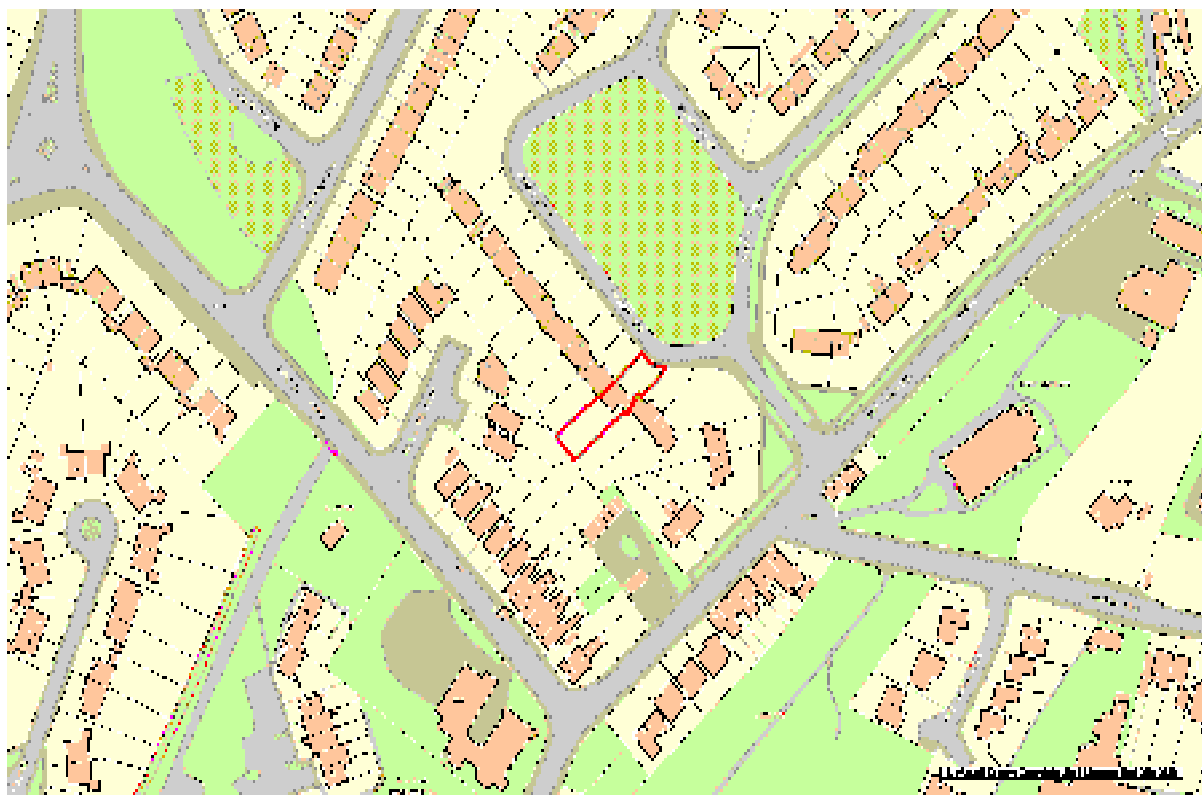
**Case Officer:** Sally Wagstaff

**Ward:** Willenhall North

**Expired Date:** 02-Mar-2017

**Time Extension Expiry:**

**Recommendation Summary:** Grant Subject to conditions and no new material considerations



## **Officers Report**

The application relates to the erection of a two storey side extension to facilitate and additional bedroom at first floor and a coat room, shower room, utility and larger kitchen at ground floor. The ground floor extension is to be 7.7 metres in depth, due to the irregular boundary line the width of the extension differs however the widest part is to be 4.2 metres. The first floor extension is to be 5.5 metres in depth 2.9 metres in width, height to eaves 5 metres and height to the ridge 7.2 metres.

The area is residential in character consisting of two storey linked semi- detached properties similar in age, character and size. Opposite the application site is an area of Greenspace which has a number of mature trees within it. Some of the properties within the vicinity of the application site have made small alterations to the front however there is limited evidence within the street scene of two storey extensions. The majority of properties within the vicinity of the application site have single storey brick structures linking them.

The application site has a brick lean to attached to the side elevation of the property. There is also has a flat roof brick structure attached to the lean to, this structure is split internally between the two properties (3 & 5 Pimbury Road) and has an irregular boundary line. The other half of the structure is attached to no. 3 Pimbury Road. The property has a large driveway for four vehicles to be parked off road and a small front garden. The application site is set back from the front elevation of the neighbouring property no. 3 Pimbury Road by approximately 4.8 metres.

The property has a 1.8 metre high boundary fence between no. 3 and no. 5 Pimbury Road. The fence runs to the structure attached to the two properties. To the rear of the property is Bradgate Close, the properties on Bradgate Close are orientated at an angle to the application site.

The original plans have been amended due to officer concerns regarding the breach of the 45 degree code from the neighbour's ground floor kitchen window. Amended plans have been received to reflect a set back at first floor by 1 metre however the ground floor has not been amended. The drawings have also been amended as the proposals previously encroached over the neighbour's boundary.

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- 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 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

## **Local Policy**

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV3: Design Quality

### **Unitary Development Plan**

- 
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Supplementary Planning Document**

#### **Designing Walsall**

- DW3 Character
- Appendix D

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

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

None

### **Consultation Replies**

**Pollution Control** – Support the application

## **Representations**

None received so far but the amended plans received on 20/03/17 therefore consultation will expire after the publication of this report. Any representations will be reported at committee.

## **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

## **Observations**

### **Design of Extension and Character of Area**

The design of the proposed red brick extension with a pitched roof is considered to reflect the design of the application house and neighbouring properties.

The street consists of pairs of similar semi-detached houses with single storey brick structures linking the detached properties with first floor gaps of similar width. The proposed extension would be built up to the boundary with the neighbouring property 3, Pimbury Road but there would remain a gap of 2.8 metres between the extension and the neighbouring property.

The proposed side extension would be set back from the front elevation by 1.4 metres. It is considered that this position when combined with the lower ridge height would create a subservient extension and would not result in a terracing effect.

Whilst it is acknowledged that within the street scene first floor extensions are not a common feature it is considered the proposal would integrate within the existing streetscene and would not harm the character of the area.

### **Amenity of Nearby Residents**

The proposed extension is to be built on the side of the dwelling farthest away from the boundary with 7 Pimbury Road. It is considered that the proposed extension would not have an impact upon this property as it would not extend beyond the existing rear elevation of the property and would be sited away from the neighbouring property.

The proposed extension is to be built 100 mm from the side boundary fence with no. 3 Pimbury Road. The proposed eaves and guttering will not overhang the boundary. Whilst the extension will be built close to the boundary due to the single storey structure attached to no. 3, the proposed extension would be sited 2.8 metres away from the house itself.

Due to a 4.8 metre set back from the front elevation of the neighbouring property the property currently extends beyond the rear elevation of no. 3 Pimbury Road. Whilst it is acknowledged that the extension would infill the current gap to the boundary, the extension would not extend beyond the existing rear elevation. The officer considers that the proposal would not be unduly oppressive on the amenity of no. 3 Pimbury Road. Also no objections have been received from this neighbour.

The neighbouring property no. 3 Pimbury Road nearest windows are a bathroom window at first floor and kitchen window at ground floor. The proposed two storey side extension would not meet the Council's 45 Degree Guidance as referred to in Appendix D of Designing Walsall SPD, in relation to the neighbours' rear facing habitable room window at ground floor. There is a minor breach of 1metre.

The application has been amended to reduce the first floor extension to comply with 45 degree guidelines. The officer has assessed the amended depth of the extension at first floor in relation to the position of the neighbouring properties window and the 45 degree line clips the corner of the of the proposed first floor extension.

The applicant has declined to make any further reduction in the size of the ground floor extension. The extension is considered to breach by approximately 1 metre. It is considered that due separation distance between the window and the extension, the 1.8 metre high boundary fence and the set back at first floor the proposed extension would be acceptable. It is considered that the loss of light to the kitchen window would be minimal and does not warrant refusal of the application.

The first floor bathroom window and side window in no. 3 Pimbury Road serves non-habitable rooms and planning guidance affords no protection for such windows.

There is approximately 18 metres separation distance between the proposed rear elevation of the extension and properties no. 2 and no. 4 Bradgate Close. These properties are orientated at an angle to the host property therefore the proposed rear first floor window would not directly face any habitable room windows.

On balance, the officer considers that the proposed extension for which planning permission is required will not unduly harm the residential amenity of existing residents within the immediate and surrounding area of the application site to warrant refusal of the application.

## **Parking**

The property has off road parking for up to 4 vehicles, the proposal includes an additional bedroom. There is a policy requirement within UDP Policy T13 for 3 spaces for 4 bedroom houses and above. The proposal therefore provides adequate capacity to accommodate the required car parking.

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

### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised regarding the breach of the 45 degree code, amended plans have been submitted which on balance enable full support to be given to the scheme.

## **Recommendation**

Grant Subject to conditions and no new material considerations

## **Conditions and Reasons or Reasons for Refusal**

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

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

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

Proposed block plan, drawing no. NG/PR/P07B – deposited on 29/03/17

Proposed elevations, drawing no. NG/PR/P06A – deposited on 20/03/17

Proposed Ground floor plan, drawing no. NG/PR/P04A –deposited on 20/03/17

Proposed first floor plan, drawing no. NG/PR/P05A – deposited 20/03/17

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

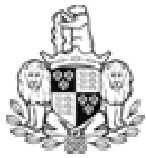
3: The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

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

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

**Recommendation Summary:** Grant Subject to conditions and no new material considerations



# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 10.**

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

**Location:** 263, BROADWAY NORTH, WALSALL, WS1 2PS

**Proposal:** RETENTION OF SINGLE STOREY DETACHED STRUCTURE IN REAR GARDEN (PLAYROOM/GYM).

**Application Number:** 16/1851

**Applicant:** G SINGH

**Agent:** S. Ahmed

**Application Type:** Full Application

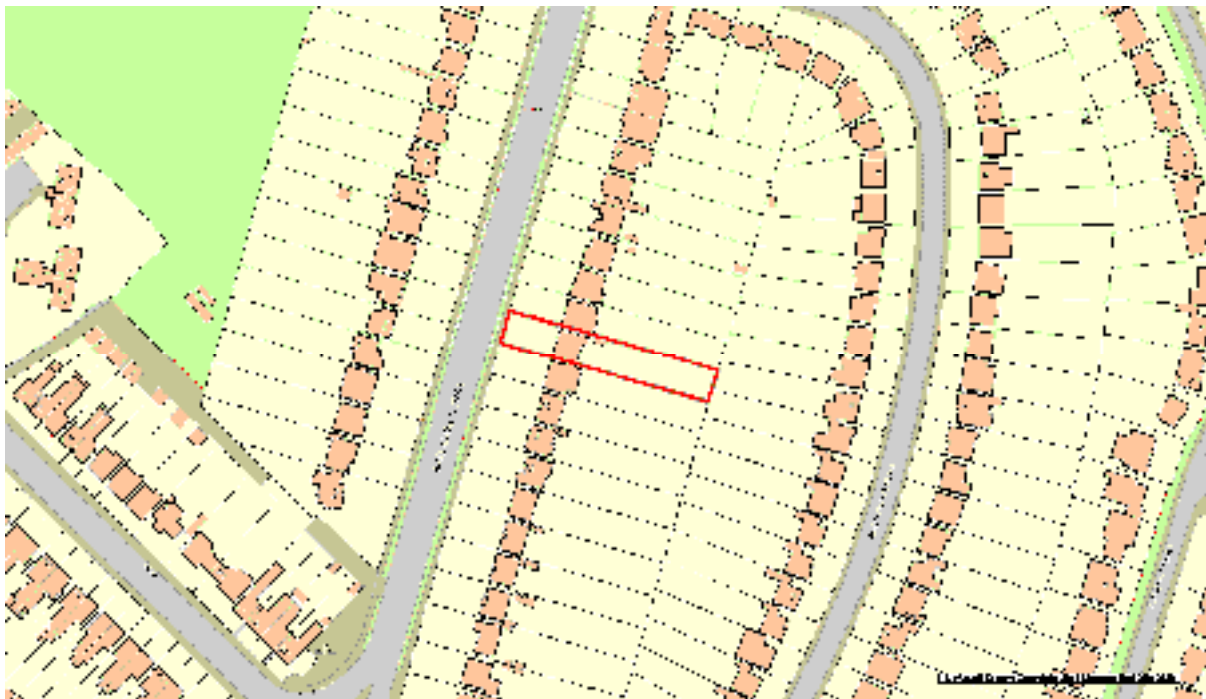
**Case Officer:** Karon Hulse

**Ward:** Paddock

**Expired Date:** 07-Mar-2017

**Time Extension Expiry:**

**Recommendation Summary:** Grant subject to conditions





## **Officers Report**

### **Reason for bringing to Committee: Significant Community Interest**

#### **Application and Site Details**

This proposal is for the retention of a detached garden building located at the end of the rear garden of no 263 Broadway North, Walsall. The planning application forms states that the use of the garden building will be ancillary to the use of the dwelling house as a play room/gym.

It is currently being used as a habitable room for the owner of no 263 Broadway north whilst they implement 15/0579/FL planning approval at their house.

The garden building measures and includes;

- 3.85 metres high to the ridge
- 2.7 metres maximum to the eaves.
- 2.65 mts high flat roof adjacent to the 261 Broadway North boundary.
- The building floor level is 0.3 metres higher than the natural ground level.
- Total floor area is 43.44 square metres
- Building is 1.9 metres from the garden boundary with no. 265, defined by 2 metre high fencing
- Building is 1.4 metres from the rear boundary with 28 and 30 Brookhouse Road, defined by a mature tree screen and to the east of the application site
- Building is along the boundary with no. 261 Broadway North, defined by 2 metre high fencing.
- The garden building is constructed of red brick with red roll bold tiles.
- Patio doors with windows either side facing towards the rear of 263 Broadway North
- Separate door to the side flat roofed part of the building, giving access to a bathroom.
- The remaining rear garden of 263 Broadway North following the approved rear extension on the house and the garden building, is 31 metres,
- There is 68 metres between habitable room windows in the extended house (application site) and those in Brookhouse Road.

This area is predominantly residential and is characterised by long gardens, large detached and semi-detached houses, many of which have been extensively extended.

Broadway North forms part of the ring road around Walsall.

#### **Relevant Policies**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)  
**National Planning Policy Framework (NPPF)** [www.gov.uk](http://www.gov.uk)

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

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

- Find ways to enhance and improve places in which people live their lives

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- 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 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

## **Local Policy**

### **Black Country Core Strategy**

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

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

- GP2: Environmental Protection
- ENV32: Design and Development Proposals.

## **Supplementary Planning Documents (SPD)**

### **Designing Walsall**

- 24m separation between habitable windows in two storeys (and above) developments.
- 13 metre separation between habitable room windows and blank walls exceeding 3 metres in height.

## **Relevant Planning History**

15/0579/FL - Two storey rear, single storey front, side and rear extensions and rear dormer windows, and loft rooms. Granted 9/7/2015

## **Consultation Replies**

None

## **Representations**

Councillor Martin has objected to the planning application on the following grounds;

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Building being utilised as substandard accommodation which has associated health and safety risks such as poor wiring, plumbing, water and sewage waste removal. If this is thought to be a permanent arrangement, then the structure is not permitted as an outbuilding, since this they must not be for residential or for the use as a self-contained dwelling.

In terms of Local Planning Policies and Frameworks I would raise (echo) the following, based on what I have read:

- (1) The development does not represent good design by not being:
  - (a) Innovative
  - (b) Poor Design and Quality with no design consideration to the site, local architecture and does not reflect materials in used in the area
  - (c) Does not function well as a Playroom/Gym – e.g. separation of gym/playroom and bathroom

Consequently based on the above this proposal is contrary to NPPF, BCCS policy CSP4, ENV2 and ENV3, Walsall's UDP policies GP2 and ENV32 and Designing Walsall SPD.

I have not commented on the privacy and amenity issues raised as I am not clear on the distances from primary habitable windows; the minimum I believe is a 13m separation.

Three objections have been received two of which are from the same address on the following grounds:

- The building is an independent dwelling.... it has its own washing and cooking facilities, overnight sleeping accommodation and living space.
- The visual impact, scale and proportion of this new residential building is out of character
- spoil the whole outlook from my property
- not compliant with building regulations (*not a material planning consideration*)
- large windows and doors face forwards towards the original property.
- views into my bedroom and lounge, unacceptable invasion of my privacy.
- Large flat screen TV which is lit up at night internally and externally at night
- light into my bedroom.
- over development of the land by garden grabbing
- entire garden cleared including trees, shrubs, lawn and a laurel hedge
- precedent for further houses to be constructed

### **Determining Issues**

- Principle of the development
- Design of Extension and Character of Area
- Amenity of Nearby Residents

### **Observations**

#### **Principle of development**

The Town and Country General Permitted Development Order 2015 allows outbuildings to be constructed without the need for planning permission from Council's, provided the garden building, does not exceed 50% of the garden area, or exceed 2.5m high within 2m of any boundary. If a garden building is located more than 2m from any boundary, the outbuilding can be up to 4m high. In this case, the garden building requires planning permission because it is within 2 metres of the boundary and exceeds 2.5 mts in height.

Any consideration of the current planning application, the Council must take account of the applicant's fall-back position of permitted development rights, as set out above. Should the consideration of the planning application be recommended for refusal, the applicant could amend the garden building to meet permitted development rights so that it is immune from enforcement action, even if the applicant was to continue to utilise the garden building for living accommodation, as long as it remains ancillary to the main house. Alternatively, the applicant could have sited a temporary caravan on the frontage of the house or within its curtilage of the house to live in whilst the works were being carried out without the need to obtain planning permission.

Garden grabbing is residential garden land being developed for further independent house. The principle of using this land for an independent house, its access would need to be assessed against national and local policy. In this instance, there is no independent access to the outbuilding, as access can only be secured through 263 Broadway North. In conclusion, the garden building, whilst the applicant is living in it during the implementation of their planning approval, it is considered to be ancillary to the main house. The use of the garden building for independent living is unlikely due to the lack of an access. Concerns about the accommodation being substandard, is not a material consideration given this is an ancillary structure to the main house. Issues regarding poor wiring, plumbing and sewage waste removal is not a material planning consideration and a matter for building control who are currently investigating the matter. Concerns about health and safety is a matter for residents to report to the health and safety executive. How the gym/playroom functions is a matter of personal choice and would not be a sustainable reason to refuse the planning application.

#### **Design of Extension and Character of Area**

The area is a mix of detached and semi-detached houses with long rear gardens. The garden building is not visible from public areas and has little or no impact on the existing street scene. The scale of the garden building reflects the scale of other garden buildings in the wider area, that have received planning permission or have been built using permitted development allowances. It is considered that the outbuilding is not out of character with the wider residential area. Whilst some garden buildings can offer innovative design, most don't, because they are mainly ancillary buildings to the main house. Concerns about poor design and quality not reflecting materials and design of the locality cannot be substantiated, as the materials the garden building is constructed from reflect those used in the locality and the pitched roof design reflects the wider housing stock.

Whilst the submitted plans do not show any drainage details, this is outside the scope of the planning legislation and Building Control are currently investigating this matter.

Householders can carry out works to their gardens including clearance works without requiring any planning permission provided none of the trees are protected, in this case none are or were previously.

#### **Amenity of Nearby Residents**

The unauthorised outbuilding has two windows and a patio door facing the rear of 263 Broadway North. The separation distance between garden building and the rear of the Broadway North houses (including the objectors) is 31 metres. This distance between habitable room windows, exceeds Designing Walsall SPD, annex D of 24 metres, required as a minimum to ensure occupiers have a satisfactory level of amenity. It is considered that

the proposed use of the outbuilding as a gym/play room will have limited impact on neighbours' existing light and amenity.

Objectors concerns this is independent living accommodation, officers have been unable to substantiate the claims. Whilst the outbuilding is currently being used as living accommodation by the applicant carrying out works to the main house, the application is for the retention of the garden outbuilding as a playroom and gym which is ancillary to the existing house. If the outbuilding was to be used in the future, independently from the main house, a separate planning permission would be required. A condition can be imposed requiring the use of the outbuilding, as living accommodation, to cease within three months of the date of this decision and that the future use is to be incidental to the existing dwelling house only, as stated in Class E of The Town and Country General Permitted Development Order England Order 2015 and not for business use.

Although the submitted plans do not provide details of how the outbuilding will be accessed as the floor level is higher than the ground at the front, details for this can be secured by condition.

It is considered that the proposed outbuilding does not unduly impact upon the neighbouring residential occupiers in terms of loss of light, privacy, overlooking or visual harm to warrant refusal of the application.

Loss of view/outlook is not a material planning consideration.

The proposal has been assessed in relation to UDP Policies GP2 Environmental Protection and ENV32 Design and Development Proposals and considered accords with the aims and objectives of relevant Council policy and guidance.

### **Conclusion**

Notwithstanding the concerns of the neighbours and the ward member, the retention of the garden building is considered to be acceptable in this instance, as it is located at the end of the rear garden, not visible from the public realm and is located beyond the 24m separation distance specified in the Councils design guide to protect privacy. This building reflects other buildings in the wider area.

Taking all these factors into consideration, including the applicant could implement a larger garden building without the need for planning permission from the Council, it is considered the garden building is acceptable and is recommended for approval subject to conditions.

### **Positive and Proactive working with the Applicant**

Officers have spoken with the applicant's agent regarding discrepancies on the submitted drawings and these concerns have been addressed.

### **Recommendation**

Grant subject to conditions

### **Conditions and Reasons**

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

- Location, Block and Site Plan (SA/1) received 7/12/17

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

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 and ENV32 of Walsall's Unitary Development Plan.

3. The garden building shall only be used incidental to the enjoyment of the main dwelling house, as stated in Class E of the Town and Country General Permitted Development Order England Order 2015 and not for any residential or business use. No kitchen or cooking facilities shall be provided and it shall not be used as an independent living unit at any time.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 and ENV32 of Walsall's Unitary Development Plan.

4. Within three months of the date of this decision any domestic furniture, fittings and cooking facilities shall be removed from the garden outbuilding and it shall be reverted to a playroom / gym for use ancillary to the main dwelling-house at no. 263 Broadway North, Walsall and thereafter retained.

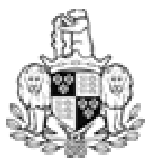
*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 and ENV32 of Walsall's Unitary Development Plan.

### **Note for Applicant**

Notwithstanding the information provided any future raised decking, platform or steps to provide access into the garden building in excess of 300mm high will require planning permission.

**Recommendation Summary:** Grant subject to conditions





# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 11.**

**Reason for bringing to committee:** Called in by Councillor Martin

**Location:** 51, SKIP LANE, WALSALL, WS5 3LW

**Proposal:** NEW SIX BEDROOM DETACHED DWELLING AND ERECTION OF A DETACHED GARDEN BUILDING TO REAR.

**Application Number:** 16/1848

**Applicant:** Gurvinder Sandhu

**Agent:** Lapworth Architects

**Application Type:** Full Application

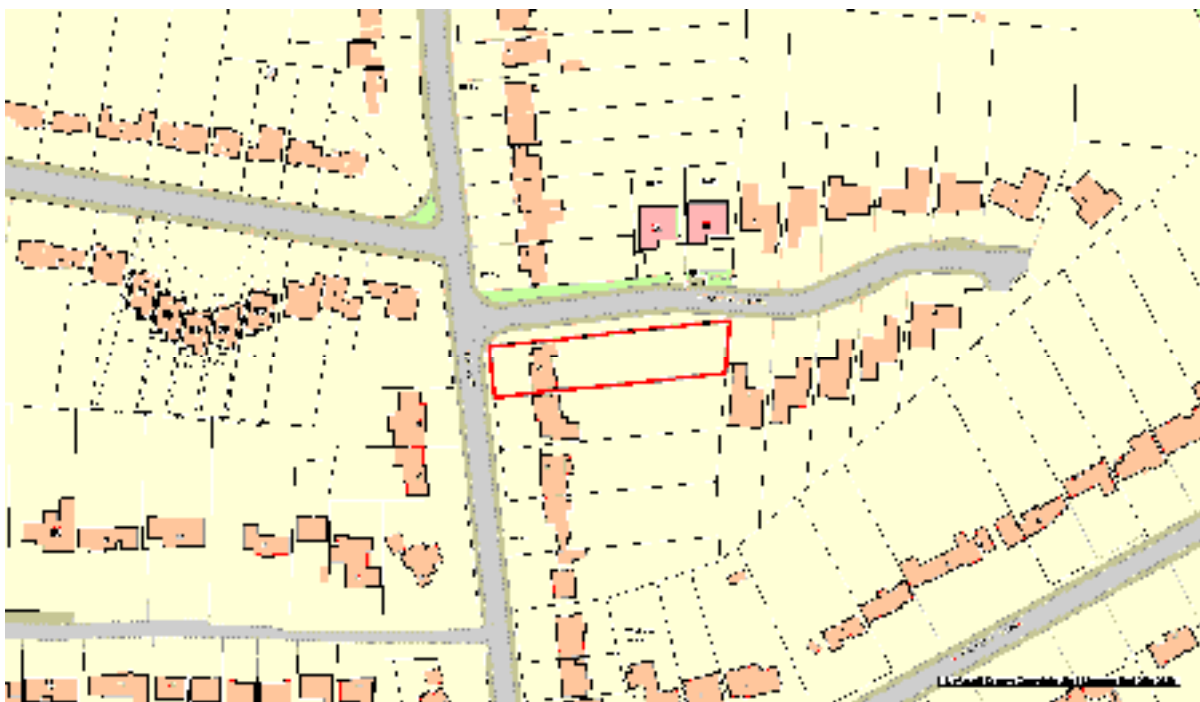
**Case Officer:** Helen Smith

**Ward:** Paddock

**Expired Date:** 31-Jan-2017

**Time Extension Expiry:** 06-Apr-2017

**Recommendation Summary:** Refuse permission





## **Officers Report**

### **Reason for bringing to Committee:** Called in by Councillor Martin

Councillor Martin has called this application before planning committee because she supports the application due to significant community interest and requires delicate judgement.

### **Application and Site Details**

This proposal is for a new six bedroom detached dwelling and the erection of a detached garden building to rear. The original application was submitted as extensions to the existing dwelling. It was considered, as the proposed changes to the dwelling were extensive, the planning application should be considered as a new dwelling house.

The application plot, which is 80 metres in length and 17.3 metres wide, is located in a prominent corner position at the junction with Woodfield Close. There are mature trees within the application plot and along the side boundary, outside the application site, on Woodfield Close. These trees are not presently subject to Tree Preservation Orders.

The existing detached Arts and Crafts style design dwelling with a cat-slide roof next to 49 Skip Lane. The immediate area benefits from a mixed character of individually designed detached houses and bungalows many with individual features, with a spacious character.

The proposed 3 storey dwelling would increase the footprint of the existing house at the rear, to a 16.2 metres deep, with the new dwelling extending its width to 17.3 metres wide (the full width of the plot to the front). The new mansard roof with a large flat element and two rear dormers to accommodate a cinema room with a 6<sup>th</sup> bedroom in the roof space. The new dwelling would be 8.6 metres high which would be 1 metre higher than the existing house. A Skip Lane street scene has been provided to show the relationship with the adjacent bungalow.

Houses on the eastern side of Skip Lane between no. 37 and 51 have a regular front building line and the proposal does not extend any further forwards than this. The proposal would have a two storey front gable feature and three roof lights would be installed in the front roof slope. A front canopy would be added over the entrance door.

There would be a ground and first floor 1.2 metres wide gap between the new dwelling and the shared side garden boundary with 49 Skip Lane to the rear of the proposed new garage which would be built up to the boundary with no. 49.

The main rear roof slope would include two rear dormer windows and a roof light. First floor Juliet safety hand rails are proposed at the rear above the proposed single storey rear section of the new dwelling.

The proposed rear single storey element would be 3.8 metres high in total with a flat roof and includes a 0.3 metres high lantern roof light. Side elevation windows serving a utility room, en suite facilities and a ground floor bedroom facing 49 and 55 Skip Lane would be obscurely glazed whilst side facing roof lights serving a loft bedroom and cinema room in the main roof would be installed at high level.

The new dwelling would provide a kitchen/dining/family room, hall, bedroom with en-suite, conservatory, garage, office and utility at ground floor. At first floor the proposal includes a landing area, 4 bedrooms, three en-suites and a bathroom.

The proposed rear conservatory would be built 1.2 metres from the side boundary with 49 Skip Lane and includes a pitched roof between 2.5 and 3.3 metres high. The conservatory side elevation includes glazing facing no. 49's boundary.

The materials used for the new dwelling would consist of plain clay roof tiles and exterior walls would be painted render with part half-timbering.

The front elevation of the new dwelling would be in line with 49 Skip Lane existing front elevation. Number 49, a detached dormer bungalow, sits to the south of the application house with a blank side elevation facing the application site (no. 51), with front and rear facing habitable room windows near to 51 Skip Lane.

There is an existing 1.2 metre wide gap between the side elevation of no. 49 (to the rear of their garage) and the side boundary with no. 51. The new dwelling would extend a total of 6.8 metres (two storey 2.5 metres and single storey a further 3.8 metres) beyond the nearest rear habitable room bay window of no. 49.

At the rear and east of no. 51 is 2 Woodfield Close a dwelling with a first floor side facing dormer window, side facing ground floor window and a garage extension to the front near to the boundary with no. 51. To date the occupiers of 2 Woodfield Close have not confirmed what rooms the side facing windows serve.

The proposed dwelling at no. 51 would leave a separation distance of 50.4 metres between new rear habitable room windows and the side elevation of 2 Woodfield Close. The new garden building would be positioned 41.2 metres from the proposed new dwelling.

The proposed 86.4 sq. metres footprint garden building would sit at an angle of between 1.8 and 4.2 metres from the garden boundary with 2 Woodfield Close and would be forward of this neighbouring house by 12 metres and closer to this neighbouring house than to the proposed new dwelling.

The garden building has been reduced in height from 5 metres to 3.6 metres, by chopping the top part of the roof off, creating a flat area. The garden building would provide a garden room and a gym, with 2 sets of folding windows installed in the elevation facing the application house across a separation distance of 44 metres. The proposed garden building would be inset 2 metres from the side garden boundaries of no. 51.

The plans indicate that 5 off-street parking spaces would be provided on the existing drive and within the garage with access from Skip Lane.

No. 55 Skip Lane sits to the north of the application site and on the opposite side of Woodfield Close to no. 51 across a separation distance of 19 metres. This neighbouring house has a blank side elevation near to the highway and front and rear facing habitable room windows. No. 55 has a side facing habitable room in a front gable projection which faces the side boundary with no. 51 across a separation distance of 24 metres.

Number 51's proposed front habitable room windows would face across the highway towards 30 Skip Lane across a separation distance of 35.6 metres.

The application is supported by;

- Arboricultural Impact Assessment by Wharton Tree Ecology Consultants Ltd dated January 2017
- Bat Survey Report by Cotswold Wildlife Surveys dated 6 March 2017
- Design and Access Statement received on 3 March 2017.

### **Relevant Policies**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

**National Planning Policy Framework (NPPF)** [www.gov.uk](http://www.gov.uk)

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

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

- Find ways to enhance and improve places in which people live their lives
- 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 7 - Requiring good design***
- ***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**

#### **Black Country Core Strategy**

- CSP4: Place Making
- ENV1: Nature Conservation

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Supplementary Planning Document**

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

- Development with the potential to affect species, habitats or earth heritage features
  - NE1
  - NE2
  - NE3
- Survey standards
  - NE4
- The natural environment and new development
  - NE5
  - NE6
- Development with the potential to affect trees, woodlands and hedgerows
  - NE7
  - NE8
  - NE9
  - NE10

#### **Designing Walsall**

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Conserving Walsall's Natural Environment and Designing Walsall SPDs are consistent with the NPPF.

Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

None

### **Consultation Replies**

**Transportation** – No objections

**Tree Officer** – objects to the proposal

**Police Architectural Liaison Officer** – No objections but recommend that the developer is mindful of Secure by Design specifications for New Homes

## **Representations**

Objections have been received from three neighbours and general comments from a third neighbour summarised below;

- Insufficient parking provision for a 6 bedroom house
- On street parking not possible on Skip Lane because of the proximity of the junction Park Road and Woodside Close and there is already a problem with cars parking too close to these junctions.
- Suggests parking to the rear of the property off Woodside Close (*Woodfield Close*) would be ideal
- Garden building at 74 sq. metres is bigger than some houses and has no use attributed to it and is not included on the application form (*the height has been reduced and the proposed ancillary room uses added on the amended plans and the footprint is 86.4 sq metres*)
- The application form states that no trees are within falling distance and that none will need pruning both of which are clearly contradicted by the Arboreal Impact Plan (*the Full Planning application form states that trees would be affected and an Arboricultural Impact Assessment has been provided in support of this proposal*)
- Occupiers of no. 49 Skip Lane would prefer any windows facing them to be frosted and for roof lights to be high enough to prevent overlooking
- Prefer the extension to be brick built
- Please clarify whether the owner now intends to demolish the property
- Will trees be affected and can a Tree Preservation Order be placed on all trees that may be affected by this application as soon as possible
- Garden building would be visible from 47 Skip Lane and would spoil the view (*There is no right to a private view in current planning legislation*)
- A wooden garden shed would blend into the surroundings however a brick/mortar building is likely to be used as living accommodation (*case officers are required to assess planning applications as presented by the applicant*)

## **Determining Issues**

- Design of Proposal and Impact on Character of Area
- Amenity of Nearby Residents
- Protected Species
- Trees
- Parking

## **Observations**

### **Design of Proposal and Impact on Character of Area**

The 3 storey new dwelling introduces a flat roof at ridge height, at 1 metre higher than the existing house, is considered to be a poor design and out of character. This flat top design results in a new dwelling that is considerably wider and deeper than the existing house and the adjacent houses. It is considered the new dwelling would result in a bulky appearance detrimental to the existing street scene and the amenities of the neighbouring occupiers, which reflects the concerns of a planning inspector in a previous proposal in the locality. Whilst each planning application is assessed on its own merits it is considered that these earlier Inspector comments are pertinent to the current the application site.

The loss of the existing cat-slide roof adjacent to the dormer bungalow at 49 Skip Lane is considered to be a loss of the Arts and Crafts character from the dwelling. The additional bulk, height and depth so close to the boundary would provide an oppressive impact on 49 Skip Lane.

The existing dwelling is rendered, painted white and half-timbered and the new dwelling would use the same materials on the elevations. Whilst the neighbour has commented that they wish the development to be brick it is considered that this proposal would be an unreasonable requirement in these circumstances.

The blank side elevation of the proposed garden building would be set back 5 metres and screened from public areas on Woodfield Close by existing mature trees, should they be retained. The retention of the trees could be required by a planning condition should all other parts of the development be acceptable.

The footprint of the garden building at 86.4 sq. metres would be similar to the footprint of 55 Skip Lane which is 94 sq. metres based on Ordnance Survey mapping.

### **Amenity of Nearby Residents**

The new dwelling would sit north of 49 Skip Lane and whilst this orientation limit the impacts on neighbours existing light it is considered that the additional bulk, height and depth of the new dwelling so close to the boundary would provide an oppressive impact on 49 Skip Lane.

The proposed two storey part of this new dwelling next to no. 49 would meet the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD. However this simple method of assessing impact does not take into account the spacious character of the surrounding area particularly as the current cat slide roof reduces the mass of the existing house (*no. 51*) next to the bungalow at no. 49. It is considered that residents living in this spacious character area with large detached properties within large plots would reasonably expect to retain this spacious character. In this instance it is considered that the scale and mass of this new three storey dwelling close to the shared boundary with 49 Skip Lane would have an unacceptable and detrimental impact on neighbours' amenity.

The proposed conservatory would be added to the two storey rear elevation of the new dwelling near to the boundary with 49 Skip Lane. The conservatory when added to the proposed dwelling is considered would have an unacceptable impact on the existing outlook available to the rear ground floor kitchen window in no. 49 because of its excessive length and position in relation to this neighbouring house.

There is a hedge along the side boundary between the application site and 49 Skip Lane which the applicant has stated is in their ownership. Whilst this does provide some screening of the proposed conservatory for neighbours there is no guarantee that this would survive the construction process or remain in the longer term.

The proposed conservatory would fail to meet the Council's 45 degree guidance in relation to the rear kitchen window in 49 Skip Lane.

Proposed side elevation windows and roof lights, facing the 49 Skip Lane boundary, can be conditioned to be obscurely glazed with any opening parts higher than 1.7 metres of the floor levels of the rooms they serve if planning permission is granted.

55 Skip Lane is positioned 19 metres from the existing dwelling and on the opposite side of Woodfield Close to no. 51. This separation distance would remain the same if the new dwelling received planning permission. It is considered that neighbours' existing amenity would not significantly worsen as a result of this proposal.

The habitable room window to window separation distance of 35.6 metres between the new dwelling and 30 Skip Lane would be unchanged as a result of this development and would exceed the Council's minimum recommended separation distance of 24 metres between facing habitable room windows.

The occupiers of 2 Woodfield Close have not confirmed what rooms the side facing windows serve that face the rear of no. 51, despite the case officer visiting and writing to the occupiers to fully assess the impacts of this proposal on the amenity of the occupiers of 2 Woodfield Close. The separation distance of 50.4 metres between the new dwelling and the side dormer window in no. 2 Woodfield Close exceeds the minimum separation distance of 24 metres between facing habitable room windows, as referred to in Appendix D of Designing Walsall SPD.

The proposed garden building would have no rear facing windows opposite the boundary with no. 2 which is considered would not harm neighbour's existing privacy. The garden building would be at least 1.8 metres from the side boundary of 2 Woodfield Close. Whilst the garden building would be 12 metres forward of the front elevation of no. 2, it is considered that as front habitable room windows in no. 2 are set back from their front garage extension this proposal would have little impact on neighbours existing light and outlook.

A separation distance of 24 metres between 49 Skip Lane's rear habitable room windows and the proposed garden building, is considered limits any impact on neighbours' amenity particularly as there is mature planting in both gardens.

Whilst the footprint of the proposed garden is large at 86.4 sq. metres it is considered that as this would be located within a large rear garden of approximately 900 sq. metres this proposal would be proportionate in this setting. The applicant would have a fall-back position to build a garden structure using existing Permitted Development allowances provided this structure was completed prior to any works being undertaken on the demolition/construction of the new dwelling if planning permission is approved.

The garden building can be conditioned if the planning proposal is granted permission to ensure that the use of this structure remains ancillary to the existing dwelling house at all times and includes no cooking facilities at any time.

### **Protected Species**

The Bat Survey report by Cotswold Wildlife Surveys dated 6/3/17 concludes that following an inspection of the property no signs of bat activity or occupation were found and the signs of suitability for roosting *Pipistrelles sp.* or other bat species was considered to be negligible. At the time of the survey 51 Skip Lane was not identified as a bat roost or a hibernation site and as such no further surveys or mitigations measures are considered necessary. No signs of nesting birds were found on or in the building.

### **Trees**

The Council's Tree Officer considers that the proposed layout of this development would be in close proximity to significant and established trees both on and off the application site. This relationship will likely result in direct and indirect conflict leading to severe and

inappropriate pruning being undertaken to the trees which will reduce their lifespan, reduce the public amenity the trees currently provide and their loss would be detrimental to the landscape character of the area.

There are significant trees both on and off the application site with the majority to be retained. Some category 'C' trees will need to be removed to accommodate the proposals. They are considered to be of low arboricultural value.

The retained trees are in close proximity to the new dwelling and outbuilding and there is encroachment into the root protection areas (RPA) of these trees. Consequently, their successful retention would be dependent on the quality and maintenance of any tree protection put in place and should consent be given to the application an arboricultural method statement would need to be conditioned to detail how it would be implemented.

Notwithstanding the aforementioned it is considered that the close proximity of the trees (and their growth potential) to the proposed enlarged dwelling and garden building it is highly likely that they will quickly come into direct (branches touching building / roof) and indirect conflict (e.g. leaf fall blocking gutters, birds fouling etc.).

In the Tree Officer's experience, it is considered likely that this will result in the inappropriate and severe pruning of the trees situated both on and off site (which could be pruned under common law) which would severely reduce their lifespan and the public amenity they currently provide.

Consequently, the Tree Officer's recommendation is to refuse the application and consideration should be given to making a Tree Preservation Order to protect the significant trees both on and adjacent to the site.

### **Parking**

Vehicle access onto the frontage of the proposed dwelling is as existing and plans indicate that this would not change. Parking for at least 3 cars is provided which accords with UDP Policy T13 parking for a house with 4 or more bedrooms. There is no requirement for the applicant to provide additional parking at the rear of the property as this parking provision exceeds planning policy and an access to the rear may have a detrimental impact upon existing trees.

Neighbours' comments regarding on-street parking near to road junctions is not a material planning consideration in this instance and residents' may consider reporting vehicle obstruction to local police.

### **Conclusion**

It is considered that in this instance, when weighing the planning balance, the scale and mass of the new 3 storey dwelling with its flat top roof at a prominent corner position in this particular street scene, combined with the potential loss or heavily pruned trees, plus the impacts on the neighbours' outlook at 49 Skip Lane is considered unacceptable and disproportionate and is not outweighed by the applicant's personal needs. The Council is unable to support the planning application in its current form as it fails to outweigh the harm of this proposal to the street and neighbours' amenity.

### **Positive and Proactive working with the Applicant**



The concerns about the design of this proposal and its impacts have been raised with the applicant and whilst helpful changes have been made the Council is unable to support this proposal in this instance.

### **Recommendation**

Refuse permission

### **Reasons for Refusal**

1. The proposed 3 storey dwelling and its introduction of a flat roof at ridge height, 1 metre higher than the existing house, is considered to be a poor design. This flat top design would result in a development that is considerably wider and deeper than the existing house and is considered would result in a bulky appearance detrimental to the existing street scene, exacerbated by the potential loss or severe pruning of nearby trees which would make the new dwelling even more visible in the street scene. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 plus Appendix D of Designing Walsall SPD.
2. The loss of the existing cat-slide roof adjacent to the dormer bungalow at 49 Skip Lane is considered to be a loss of the Arts and Crafts character from the dwelling. The additional bulk, height and depth so close to the boundary would provide an oppressive impact on residents at 49 Skip Lane. The current cat slide roof reduces the mass of the existing house (no. 51) next to the bungalow at no. 49 and reflects the existing spacious character of the surrounding area. It is considered that residents living in this spacious character area, with large detached properties in large plots, would reasonably expect to retain this spacious character. In this instance it is considered that the scale and mass of this new three storey dwelling close to the shared boundary with 49 Skip Lane would have an unacceptable and detrimental impact on neighbours' amenity. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 plus Appendix D of Designing Walsall SPD.
3. The proposed conservatory would be added to the two storey rear elevation of the new dwelling near to the boundary with 49 Skip Lane is considered would have an unacceptable impact on the existing outlook available to the rear ground floor kitchen window in no. 49 because of its excessive length and position in relation to this neighbouring house. The proposed conservatory would fail to meet the Council's 45 degree guidance in relation to the rear kitchen window in 49 Skip Lane. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 plus Appendix D of Designing Walsall SPD.
4. The proposed layout of this development would be in close proximity to significant and established trees both on and off the application site. This relationship will likely result in direct and indirect conflict leading to severe and inappropriate pruning being

undertaken to the trees which will reduce their lifespan, reduce the public amenity the trees currently provide and their loss would be detrimental to the landscape character of the area. This proposal would be contrary to Walsall's Unitary Development Plan policy ENV18, Conserving Walsall's Natural Environment policies NE7, NE8: Development with the potential to affect trees, woodlands and hedgerows.

**Recommendation Summary:** Refuse permission



# Walsall Council

## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 30-Mar-2017

**Plans List Item Number: 12.**

**Reason for bringing to committee:** Called in by Councillor C Bott

**Location:** 29, WILEY AVENUE, DARLASTON, WEDNESBURY, WS10 8QD

**Proposal:** TWO STOREY SIDE EXTENSION, SINGLE STOREY FRONT AND REAR EXTENSIONS.

**Application Number:** 16/1768

**Applicant:** Mrs Kaur

**Agent:** Sueshire Services

**Application Type:** Full Application

**Case Officer:** Helen Smith

**Ward:** Darlaston South

**Expired Date:** 29-Jan-2017

**Time Extension Expiry:** 16-Apr-2017

**Recommendation Summary:** Refuse permission



## **Officers Report**

### **Reason for bringing to Committee:** Called in by Councillor C Bott

Councillor Bott has called this application before planning committee as she considers that the proposed development could cause demonstrable harm to the amenities currently enjoyed by the occupiers of neighbouring properties over and above a level they would reasonably expect to enjoy.

### **Application Details**

The application house is a semi-detached, inter-war, house which occupies a prominent corner position in the street at the junction with Wiley Avenue and Berry Avenue.

The two storey side elevation of the application house is in line with the front building line of houses fronting Berry Avenue and there is a single storey garage to the side of no.29.

The area has a residential character with the exception of a small local shop on the opposite corner to the application house at 30 Wiley Avenue. The street consists of pairs of similar semi-detached and terraced houses.

This proposal includes the following additions;

#### **Two Storey Side Extension**

- 3.4 metres wide
- Set back 0.45 metres front the existing two storey front elevation of the host dwelling
- In line with the existing two storey rear elevation of the host dwelling
- Have a hipped roof
- 0.2 metres lower ridge line than the existing house
- Set in 0.9 metres from the side garden boundary fronting Berry Avenue
- Include a false window at first floor on the side elevation
- Ground floor side facing shower room window
- Front and rear facing habitable room windows
- Create a second lounge and shower room at ground floor
- Create a fourth bedroom and bathroom at first floor

#### **Single Storey Rear Extension**

- 2.4 metres deep
- To be built across the original rear elevation of the existing house and proposed side extension
- Have a pitched roof between 2.4 and 3.6 metres high
- Replace an existing small single storey rear extension
- Create an enlarged kitchen/diner and shower room at ground floor

There is currently off-street parking provision for two vehicles split between the frontage and the existing garage of the application house. The existing garage parking space would be removed as part of this proposal.

The area of the remaining rear garden at the application house would be 98 square metres.

The neighbouring properties include;

#### 28 Wiley Avenue

This is the adjoining semi to the application house which sits to the south of no. 29. This neighbouring house is in line with the existing front and rear elevations of the application house and has a ground floor dining room window with obscure glazing next to the shared rear boundary with no. 29. Adjacent to this dining room window in no. 28 is a rear conservatory. No. 28 has front and rear facing habitable room windows.

#### 30 Wiley Avenue

This is a newsagents shop with a flat above located on the opposite corner to no. 29 and has a single storey side extension next to Berry Avenue

#### 1 Berry Avenue

This house sits to the west and has its side elevation facing the rear elevation of the application house across a separation distance of 10.6 metres. This neighbouring house has two obscurely glazed, side facing, non-habitable room windows opposite no. 29.

The side garden boundary of no. 29 is defined by an approx. 1.8 metres high wall whilst the rear boundary is a 1.8 metres high timber fence.

#### Relevant Policies

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)  
**National Planning Policy Framework (NPPF)** [www.gov.uk](http://www.gov.uk)

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- 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 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

## **Local Policy**

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

## **Supplementary Planning Document**

### **Designing Walsall**

- DW3 Character
- Appendix D

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

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

## **Relevant Planning History**

None

## **Consultation Replies**

**Transportation** - Objection on the grounds that the lack of off-street parking will potentially increase on road parking to the detriment of the free flow of traffic and highway safety

## **Representations**

None

## **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents

- Parking

## **Observations**

### **Design of Extension and Character of Area**

The hipped roof design of the proposed two storey side extension is considered reflects the design of the host dwelling and the surrounding character. The proposed extension lower ridge height and set back of 0.45 metres of the first floor front elevation would create an extension that appears subservient to the existing house.

The position of the two storey side extension which would be built projecting forward of the line of buildings on Berry Avenue is considered would create a jarring effect in this prominent position that would appear incongruous, overbearing and detrimental to the existing character of the street scene.

### **Amenity of Nearby Residents**

The proposed side extension would sit on the opposite side of the adjoining semi, no. 28 Wiley Avenue, and as this property is in line with the existing front and rear elevations of no. 29 it is considered that this proposal would have little impact on neighbours' existing light and amenity.

The northerly orientation of the proposed single storey rear extension in relation to no. 28 Wiley Avenue is considered would limit the impacts of this extension on neighbours' existing light.

The proposed rear extension would meet the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD, in relation to neighbours' rear facing habitable dining room window in no. 28 Wiley Avenue. This advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook.

No. 1 Berry Avenue has side facing non-habitable room windows which are afforded no protection by current planning guidance. Whilst the separation distance of 10.8 metres between the proposed extensions and no. 1 Berry Avenue, is less than the Council's Design guidance of 13 metres, it is considered, in this instance the reduced separation distance would have limited any impact on neighbours' light and amenity.

The new rear facing bedroom window is considered would face across the front garden of no. 1 Berry Avenue which is in the public realm limiting any privacy concerns.

No. 30 Wiley Avenue, a local convenience shop with residential above, is located on the opposite side of Berry Avenue from the application house across an 18 metres separation distance. It is considered this proposal would have little additional impact on neighbours' amenity and light.

### **Parking**

This proposal would increase the total number of bedrooms from three to four which requires the provision of 3 off street parking spaces with access from the highway to meet the requirements of UDP Policies T7 and T13 Parking.

This current proposal results in the loss of the existing garage parking spaces leaving only one vehicle space on the existing front drive of this property. The planning agent has not provided a parking layout with this submission and in the circumstances fails to demonstrate

that there is sufficient parking to meet the operational needs of the development. It is considered the lack of off street parking for this enlarged house will potentially lead to on road parking at the junction of Berry Avenue and Wiley Avenue to the detriment of the free flow of traffic and highway safety. The application is contrary to UDP Policies T7 and T13 and highways officers have objected to the proposal.

### **Conclusion**

The design of this proposal is considered to be unacceptable in this prominent location, whilst the development meets the Council's guidance in relation to neighbours' amenity it is considered that the impact of this proposal on the existing street scene would be harmful and detrimental to the character of the area, outweighing any benefit the applicant may gain. This proposal is recommended for refusal.

### **Positive and Proactive Working with the Applicant**

A request to the applicant's agent to reduce the proposed side extension to a single storey to reduce the prominence in the street scene has been declined. The planning agent states *"that it is now usual practice to build extensions to corner dwellings in this way right across the borough"*. This is not the case and the planning agent has been advised that planning applications are determined on their own merits. In this instance the Council is unable to support the proposal despite trying to negotiate what is considered to be a reasonable alternative to the current proposal.

### **Recommendation**

Refuse permission

### **Reasons for Refusal**

**Refuse for the following reasons:**

1. The position of the two storey side extension which would be built projecting forward of the Berry Avenue building line is considered would create a jarring effect in this prominent position that would appear incongruous, overbearing, dominant and detrimental to the existing character of the street scene to the detriment of the communities amenity. The proposal would be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and DW3 of Designing Walsall SPD.
2. This proposal would result in the loss of the existing garage parking spaces reducing off street parking to one parking space to only one vehicle on the existing front drive of this property which is considered would not meet the operational needs of this enlarged family house. There is insufficient space to accommodate three parking spaces that would be required to serve this enlarged family house. The proposal would lead to the potential of increased on road parking at the junction of Berry Avenue and Wiley Avenue, to the detriment of the free flow of traffic and highway safety. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, T7 and T13.



**Recommendation Summary:** Refuse permission