



## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10<sup>th</sup> April 2014

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1	1	13/1734/FL	UNITS 1-2C BESCOT CRESCENT, WALSALL, WS1 4SB	Change of use from retail (use class A1) to retail warehouse/member ship club (use class sui generis)	Grant Permission Subject to Conditions
2	13	12/0036/OL	Goscote Lane Regeneration Corridor incorporating sites in Shakespeare Crescent, Keats Road, Tennyson Road, Chaucer Road, Wordsworth Road, Dryden Road, Harden Road and Well Lane.	Outline permission for residential development on sites A, D and J (access only to be considered) as follows: - Site A – Approximately 243 dwellings (including 56 affordable units) - Site D – Approximately 134 dwellings (including 121 affordable units) - Site J – Approximately 25 dwellings (all affordable) All sites incorporating means of access (not reserved), car parking,	Grant Permission Subject to Conditions and a Planning Obligation

				landscaping, infrastructure and servicing.	
3	43	14/0119/FL	LAND ADJACENT 17, HATHERTON STREET, WALSALL.	Hybrid application - detailed application for 4 storey office building on Littleton Street frontage with associated car parking and landscaping. Outline planning application (considering access, landscaping, layout and scale) for two office buildings (3 and 4 storeys in height) with associated car parking and landscaping fronting Hatherton Street, with vehicle access from Hatherton Street	Grant Permission Subject to Conditions
4	65	14/0191/WA	LAND AT, WINTERLEY LANE, WALSALL,	Infilling and capping of former limestone mine shafts using on site and imported inert fill processed using a crusher and screen to make engineered infill materials with a reduced scheme to protect the area of the former lime kilns and to resort the ground within 12 months to open	Grant permission subject to conditions subject to prior agreement of a strategy to deal with the archaeological remains on site.

				space.	
5	87	13/1500/FL	323 WOLVERHAMPTON ROAD, WALSALL, WS2 8RL	Construction of a place of worship (use class D1) (following outline planning permission under reference 10/1232/OL)	Delegate to the Head of Planning and Building Control in order to apply a suitable condition to address the mitigation if bats are found
6	105	14/0165/FL	SITES AT BEDDOWS ROAD AND RUTLAND STREET, WALSALL	Amendment to permission 13/1201/FL relating to the erection of 98 properties to alter boundary alignments to the rear of plots 26- 34 & 54-59, reposition parking for plots 30, 31, 32 and 34, reposition plots 57-59 and adjustments to car parking for plots 57-59	Grant Permission Subject to Conditions
7	123	14/0118/FL	LAND AT CORNER OF CLOTHIER STREET AND WEDNESFIELD ROAD, WILLENHALL	27 one, two and three bedroom houses and flats with associated car parking, landscaping, access and gardens following demolition of remaining buildings on site.	Grant Permission Subject to Conditions

8	135	13/1490/FL	SITE OF FORMER MARY ELLIOTT SCHOOL AND BREWER STREET CENTRE, BREWER STREET, WALSALL, WS2 8BA	Erection of 62 Dwellings	Grant permission subject to conditions and a S106 Agreement subject to provision of further protected species surveys.
9	155	14/0313/FL	THE ARBORETUM, LICHFIELD STREET, WALSALL	<p>Amendment to Planning Permission 09/1086/FL and 13/1053/TE :</p> <p>1. Currently approved glazed mansard roof above educational facility to be changed to pitched roof finished with plain clay tiles.</p> <p>2. Staff entrance omitted and replaced with glazed windows.</p> <p>3. Reduction in area of butterfly roof and extension of green roof (above public toilets).</p>	Grant Permission Subject to Conditions

10	171	14/0189/FL	FORMER SITE OF WALSALL DEPOT, NORFOLK PLACE, WALSALL	Amendments to planning permission 10/0763/FL relating to the erection of 251 dwellings to substitute 14 x 3 bed houses for 14 x 2 bed houses on plots 235-248 inclusive (scheme previously amended by permissions 11/1364/FL and 13/1572/FL).	Grant Permission Subject to Conditions
11	185	14/0154/FL	MANOR PRIMARY SCHOOL, BRIAR AVENUE, WALSALL, B74 3HX	Erection of a dance studio and extension of external canopy	Grant Permission Subject to Conditions
12	195	13/1698/FL	Vacant land at the corner of Ryders Hayes Lane and Norton Road, Pelsall, Walsall	Change of use of vacant land to parking for dental surgery, dental clinique.	Grant Permission Subject to Conditions
13	207	14/0080/FL	520 CHESTER ROAD, WALSALL, WS9 0PU	New refreshment tea room, amended: scheme to increase the size of the floor area of the tea room	Grant Permission Subject to Conditions

14	217	13/0482/FL	ALDRIDGE COURT FARM, LITTLE ASTON ROAD, WALSALL, WS9 0NN	Demolition of out buildings and erection of new dwelling in place of previously approved barn conversion (adjacent public footpath ALD33).	Refuse
15	231	14/0245/FL	11 GREENSLADE ROAD,WALSALL, WS5 3QH	Replacement 6 Bedroom house and retention of outbuilding.	Refuse subject to no new material issues being raised on expiry of the neighbour consultation period.



## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 1.**

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

**Application Number:** 13/1734/FL  
**Application Type:** Full application

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Blue Sky Planning Ltd

**Applicant:** Canley 5 (In administration) Ltd

**Proposal:** Change of use from retail (use class A1) to retail warehouse/membership club (use class sui generis)

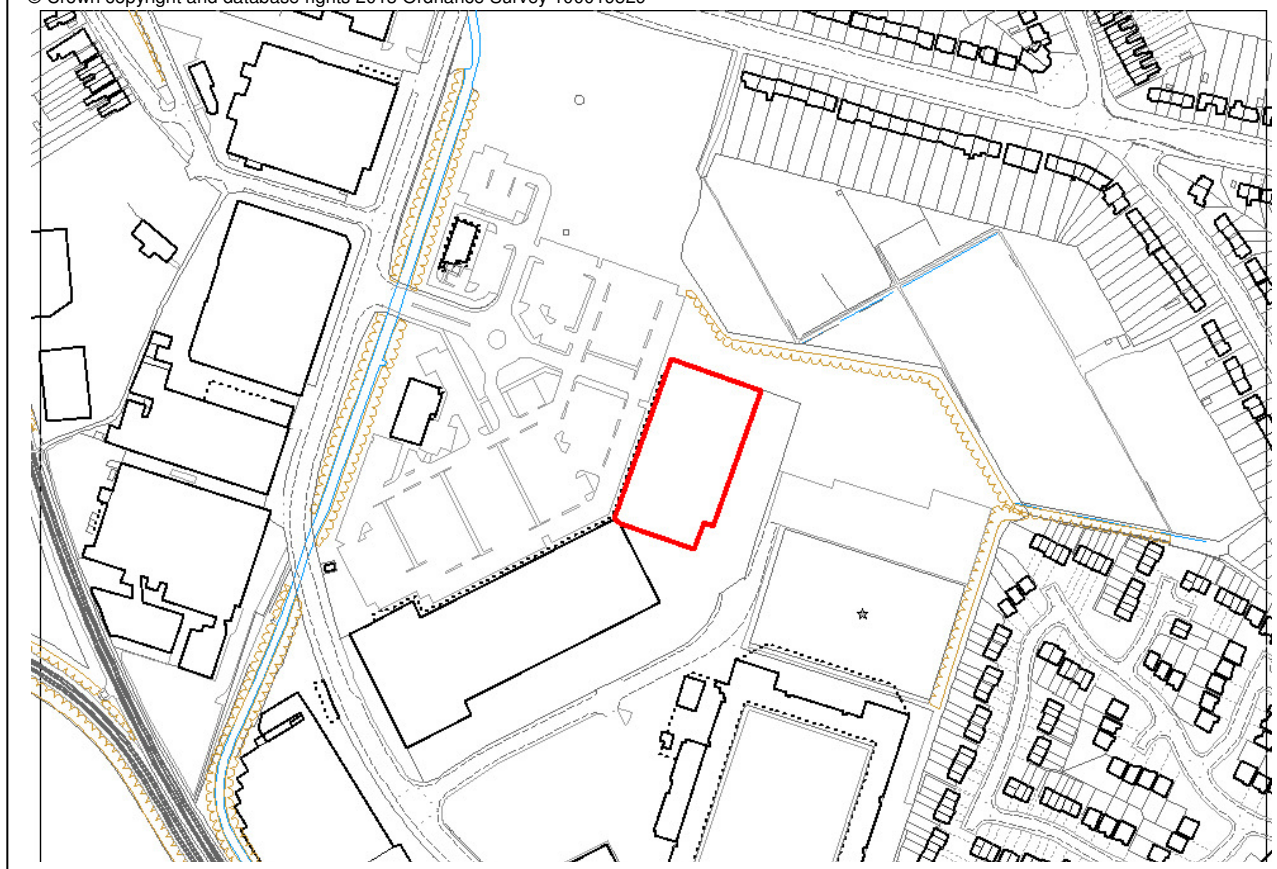
**Location:** UNITS 1-2C BESCOT CRESCENT, WALSALL, WS1 4SB

**Ward:** Palfrey

**Expired Date:** 24/03/2014

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

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### **Current Status**

Officers met the applicant and their agent following the deferral of the application from the previous committee on 13 March 2014. Many of the goods sold were in the already in the condition but an additional element of the food sales has been added having regard to the specific JTF use and the fallback permissions on the site. The wording of the condition also requires a plan to be submitted to give added enforceability.

Additional letters of support have also been received bringing the total to 31.

### **Application and Site Details**

The application relates to the conversion of Units 1-2C of Bescot Retail Park from Use Class A1 (retail) to a retail membership club (Use Class Sui Generis). The application site retail units are currently vacant with Matalan, Carpet Right, Pets at Home and Halfords present on the Retail Park. McDonalds and Farmfoods are currently occupying the two stand alone retail units which front Bescot Crescent.

The application is supported by the following:

Planning and Retail Statement: The applicant confirms that apart from the goods restriction, there are no restrictions on maximum unit size or hours of operation. The overall floor-space of the Retail Park is capped to a total of 13,239sqm.

The Statement highlights two appeal decisions, granted in 2010 allowed for the sale of food from Units 1 and 2A and a catalogue retailer to trade from no more than 1,855sqm, however these permissions have now lapsed.

The applicant has also submitted as evidence the Supreme Court decision known as the Dundee Case and a letter from Jerome Retail Park indicating lack of availability. Marketing particulars for St Matthews (which was granted under 13/1421/FL) are also included.

A GOAD Centre report has also been submitted which is supported by vacant unit maps of Wednesbury, Walsall and West Bromwich.

In addition planning permissions for other local planning authorities for retail warehouses and car showrooms, which include Leeds (2013), Wyre Forest (2013) and Northampton (1994).

JTF Leisure has also written in support of the application, which sets out their operational requirements and criteria. These include:

- Located in 12 existing locations – Mansfield, Hucknall, Sheffield, Lincoln, Leeds, Stoke, Newcastle, Warrington, Peterborough, Preston, Tamworth and Kidderminster - all existing outlets are on well located industrial/trading estates.
- Primarily sell larger items in multi-pack style packaging
- The majority of customers are businesses or employees in close proximity to their outlets
- Consider that there is a need in Walsall
- Location determined by accessibility by car due to bulk purchases.
- Minimum floor space of 45,000sqft (4,160sqm) over one floor.
- Look to convert existing premises – do not look at new build.
- Need approximately 100 car parking spaces
- Garden centre space ideal
- Rental – c.£3 per sqft – approximately industrial value.
- Create approximately 60 jobs.



### **Relevant Planning History**

Planning permission was originally granted for Bescot Retail Park on 13 January 1995 (BC42920P). The permission allowed for “*Retail Park (including diner and food retail units) with associated car parking, access road and works (including landscaping, a lake and demolition of no’s 135-137 Broadway West).*” Condition 5 set out a number of key restrictions as follows:

- (A) The overall floor-space of the Retail Park was limited to 12,132 sqm
- (B) There shall be a maximum of 3,700 sqm of the retail element in units of less than 930 sqm.
- (C) The sale of food was restricted to a maximum gross floor-space of 1,858 sqm in no more than two units in addition to a restaurant, cafe, take away or licensed establishment, and confectionary at point of sale.
- (D) Sale of goods was restricted to the following goods:
  - DIY home and garden improvement products
  - Hardware
  - Furniture
  - Soft furnishings
  - Electrical goods
  - Motor spares, accessories, and fuels
  - Motor vehicles
  - Floor coverings
  - Sports and leisure equipment
  - Sports and leisure clothing
  - Sports and leisure footwear
  - Toys and children’s wear
  - Food and drink from a cafe, restaurant, take-away or licensed establishment
- (E) If any unit is proposed to include an external garden centre, no such facility shall be created until details have been submitted to and approved in writing by the local planning authority

BC46514P A further permission, granted on 24 June 1996 allowed for the insertion of a mezzanine floor comprising 410 sqm in Unit 2B (ref-).

In 2008 planning permission was granted on appeal for a catalogue retailer and budget food operator. These permissions have expired.

### **The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)**

These have been considered and whilst the development meets the threshold the development is not considered significant or in a sensitive area that would call for an Environmental Statement as the proposals would not result in a significant environmental impact in terms of generation of traffic, pollution and use of natural resources. There are no issues in the re-use of the buildings in terms of protected species.

### **Policy Framework**

#### **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*”.

It is based on 12 **core planning principles**; the most relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Re-use land that has been previously developed

- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth and
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

**Key provisions** of the NPPF relevant in this case include the following.

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth.

23. Local Planning Authorities (LPAs) should promote competitive town centres and set out policies for the growth and management of centres. In drawing up Local Plans authorities should address a number of issues, including the following:

- support the vitality and viability of centres;
- allocate a range of suitable sites meet needs for retail, leisure, offices and - other town centre development; and
- encourage economic activity where town centres are in decline.

30. LPAs should support a pattern of development that facilitates the use of sustainable modes of transport.

58 Developments should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

61 Address the connections between people and places and the integration of new development into the natural, built and historic environment.

123 Seeks to ensure that development mitigates against pollution, including noise.

On planning conditions the NPPF (203-206) 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 (186-190) sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that a planning application must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but it recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that

*“... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”* To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the NPPF, so that the Core Strategy policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy.

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The above are supported by the following policies.

**CSP1** – Sets out the targets for sustainable regeneration of the Black Country through the concentration of investment into a Growth Network. This includes the ‘strategic’ centres of Brierley Hill, West Bromwich, Wolverhampton and Walsall. These are to be the areas of greatest concentration of redevelopment and regeneration in the Black Country, act as a focus for and deliver significant growth in comparison retailing and be the principal locations for other town centre uses.

**CSP4** – Sets out the need for high quality place making and design

**CSP5** – Sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

**CEN1, CEN2, CEN3** – Strategic Centres are important for the regeneration of the Black Country, providing the focus for large scale and ‘higher order comparison shopping, office employment, leisure and culture and complementary uses. The plan proposes an additional 200,000sqm (gross) of office floorspace for Walsall Strategic Centre.

**CEN6 and CEN7** seeks to prevent out of centre retailing, except where there is an established local need.

**TRAN1** - Sets the priorities for the development of the transport network and promoting sustainable transport modes. These involve measures to support strategic centres including Walsall,

**TRAN2** - Requires development proposals to manage transport impacts of new development.

**TRAN5** - Sets out the requirement for development to reduce the need to travel and encourage sustainable modes of transport.

**WM5** - Resource and waste management requirements should be reflected in the design and layout of new development schemes.

## **Saved policies of the Unitary Development Plan**

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

GP2 – Environmental Protection – seeks to ensure that pollution impacts from development are designed out.

ENV10 – Seeks to prevent pollution, including noise and drainage and prevent uses that would have an adverse effect on neighbouring land uses and/or restrict the types of development that could be permitted in the locality.

ENV14 – seeks appropriate redevelopment of derelict and previously developed sites.

ENV32 – seeks to ensure high quality design from developments.

ENV33 – seeks to secure high quality landscape design from developments.

ENV35 - The design of frontages to shops and other commercial premises should be appropriate to their setting and sympathetic to the building on which they are situated.

5.8, S1, S2, S3 – Defines town centre uses, the town centre hierarchy and the boundaries of town centre. (in-centre is within Inset Map boundary, except that retailing must be within or directly adjoining the defined PSA)

S6 and S7 - seeks to prevent out of centre retailing, except where there is an established local need.

T1 – Seeks to ensure that development helps anybody, including disabled people, get in and around the development.

T2- seeks to promote bus services and accessibility to their service

T4 – seeks to manage development and the highway

T5 – highway improvements will be encouraged as part of development

T6 – sets out to ensure that pedestrian and cycling movement is improved through traffic calming methods, in particular in centres.

T7 – seeks to ensure high quality car parking design

T8 – seeks to improve promote walking and connections that allow for pedestrian movement.

T9 – Developers will be expected, wherever possible, to provide links to cycle routes, Safe Routes and Greenways which adjoin the site or pass nearby. Existing cycle routes must not be severed or otherwise adversely affected by new development unless an acceptable alternative is substituted.

T11(b) Developments which generate significant numbers of personal trips should have direct, safe and attractive access for pedestrians, cyclists and wheelchair users from the building entrance to surrounding residential areas. Seating should be provided at or near the entrances of all large developments.

T13 – seeks to ensure an appropriate level of car parking is provided.

## **Supplementary Planning Documents**

### *Designing Walsall SPD*

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

## **Consultations**

**Transportation** – No objection

**Highways Agency** – No objection subject to a Travel Plan being submitted to and approved by the LPA.

## **Pollution Control**

*Contaminated Land Team* – No objection subject to the applicant being able to demonstrate that the existing ground gas protection measures will not be compromised. Conditions to address these concerns have been provided.

*Scientific Team*: No objection

**Environmental Health** – No objection

**WM Police:** No objection

**Severn Trent:** No objection subject to a drainage condition.

### **Public Participation Responses**

31 letters of support from local residents, the local neighbourhood watch and Walsall College raising the dilapidation of the retail park, opportunity for jobs as the key reasons for their support.

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

### **Determining Issues**

- Principle of the use and Retail Park and consideration of the supporting evidence submitted.
- Car parking, drainage, servicing and relationship to residential properties

### **Observations**

#### **Principle of the use and Retail Park and consideration of the supporting evidence submitted**

Bescot Retail Park is an established out-of-centre location for bulky goods retailing and has restrictions on the sale of goods (as highlighted above). Development Plan policy (in particular saved Policy S7 of the UDP) highlights as growth and change continue in retailing and other sectors, some large freestanding units may no longer be needed for retailing or other town centre uses. These are likely to be older premises which are less suitable in market, policy or environmental terms, and which are isolated from other shopping facilities. In such cases the Council considers that the conversion or redevelopment for other uses would be appropriate. In this location for example it is considered that conversion to industrial and employment uses would be the most appropriate use given the size, scale and nearby employment uses and the proximity to the football stadium and links to the M6.

The evidence base to the Core Strategy, the 2009 Centres Study, noted that the Black Country contains a dense network of centres, which have changed and in many cases declined. Many of the smaller centres have declined dramatically since their heyday, in parallel with the growth of out-of-centre retailing.

The Centres Study advises that as well as planning for economic growth, and growth in the retail and leisure sectors, there is a need to plan to 'rebalance' the network of centres in the Black Country to curtail and where practicable reverse the growth of out-of-centre retailing in favour of the defined centres, and to plan for renewal and modernisation of outdated provision. This forms the basis for the Black Country Core Strategy and approach to retail growth.

Officers note the Dundee case but as considered by Inspectors and the Secretary of State (in particular on APP/F0114/A/13/2191952) there is nothing in the Framework that suggests a radical shift in the way that the sequential test had previously been applied as a result of Dundee or the NPPF in terms of replacing the previous Planning Policy Statements. Consideration should only be given to out-of-centre sites "*only if suitable sites are not available*" and the decision of the Supreme Court in *Tesco v Dundee City Council* has to be treated with some caution, since it was concerned with the interpretation not of the Framework but with a local plan policy. In any event, neither the wording of the Framework nor the *Dundee* decision suggests that a site, in order to be sequentially preferable, must be available to the specific store operator, if there is one, associated with the proposed development. Rather the question must be whether a site is suitable and available for the proposal the subject of the application.

JTF operate on a membership basis and have offered evidence based operational requirements as to why a use for a Membership Club (as a sui generis use) would be acceptable in this location and why they would not consider retail space within Walsall Strategic Centre. Officers have carefully

considered the submitted evidence, noted the current locations of JTF stores and noted the JTF product range from their website.

It is not accepted that a retail unit of 40,000sqft (4,160sqm) could not be accommodated in Walsall Strategic Centre, in particular, given the availability of St Matthews (in particular Phase 2) and edge of centre sites (e.g. Walsall Waterfront, Crown Wharf and Station Street). The applicant has not submitted any detail in terms of flexibility of format or scope for disaggregation. Further the evidence base and Development Plan position is also clear in the direction of travel for vacant out-of-centre retail units (i.e. that other uses should be sought, preferably in the "B" classes).

It is considered that these are flaws in the submitted evidence with regard to the sequential approach for retailing.

In assessing this application officers note that A1 retail is not sought by the applicant but that the proposed use is sui generis. Nonetheless, the use is akin to retailing and the proposal seeks to use vacant retail premises. As such, this proposal should be assessed subject to the sequential test for retail development. Officers have taken into account the content of the applicant's Planning and Retail Statement and have also considered the existing A1 bulky goods retail use permission for this site. Officers have concluded that the move to a Sui Generis use that would be a membership only club with restrictions on the goods sold is an appropriate use in this instance.

There is no demonstrated evidence that suggests that food or convenience retailing is needed in this location with the Black Country Core Strategy identifying sufficient convenience floor space already built within Walsall Borough. It is noted that Farmfoods currently occupies a retail unit that was approved separately to the main retail units. Considering this aspect it is not accepted that Food and Drink should be sold from this unit. The restriction on goods to be sold and on floorspace would restrict the potential for larger and food-based warehouse clubs (e.g. Costco) avoiding the introduction of a food and drink product range which may compete with local supermarkets, which would be inappropriate in this location.

Therefore the proposed use as a membership club would be considered acceptable and further restrictions are discussed below.

#### **Use Class Sui Generis and restrictions on Goods**

As stated above, given the position and need to rebalance retailing, and the availability of sites in Walsall Strategic Centre in particular, further retail use out of centre is not justifiable. The vacant units, subject to this application, should not therefore be returned to retail use and retail investment should instead be focused on the delivery of comparison goods in Walsall Strategic Centre.

There are current restrictions on goods sold from the retail park. It is proposed to continue with the restrictions on goods sold from Units 1-2C. It is also noted that restrictions on floor-space and membership requirements have been applied to permissions submitted as evidence by the applicant.

#### **Car parking, drainage, servicing and relationship to residential properties**

The site benefits from a large area of surface level car parking and established service areas. The nearest residential properties are on Broadway West (approximately 115m from the service area) and Britannia Road (approximately 140m from the service area) with allotments and training pitches between the residential properties and the application site. It is considered that the re-use of the buildings will not result in significant adverse harm to nearby residents.

The comments of Severn Trent are noted however as there are no external changes, the condition requested is considered unnecessary in this instance.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

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

1. This development must be begun not later than 3years 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 undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Drawings:

Location Plan

2013-081/101

2013-081/102 Rev A

2013-081/201 Rev A

2013-081/205 Rev A

The application was supported by the following documents and these have been considered as part of the determination of the application. The conclusions of which are not necessarily accepted:  
Design and Access Statement prepared by Blue Sky Planning (December 2013)  
Planning and Retail Statement prepared by Blue Sky Planning (December 2013) including correspondence from JTF Wholesale Ltd dated 14/10/13  
Retail goods condition letter prepared by Blue Sky Planning (ref: JPB/Retail letter - dated 26 March 2014)

*Reason:* To define the permission

- 3a) Prior to the commencement of the use details of secure cycle facilities (capable of accommodating a minimum of 15 cycles) together with staff changing facilities and lockers shall be submitted to and agreed in writing by the Local Planning Authority.

- b) Prior to the use of the development, the agreed measures shall be fully implemented and retained thereafter.

*Reason:* In order to promote walking and cycling to and from the application site.

- 4a) Prior to the commencement of the use, an occupier specific travel plan for Units 1-2C including details and processes for monitoring and review shall be submitted to and approved in writing by the Local Planning Authority.

- b) The Travel Plan shall be fully implemented on occupation of the building and subsequently monitored and reviewed in accordance with the approved details.

Reason: In the interests of amenity and to encourage the use of transport other than single occupancy of a car in accordance with the principles of sustainable transport and to ensure compliance with UDP Policy T2, and Draft Supplementary Planning Document - Travel Plans.

5. Prior to occupation the applicant shall demonstrate to the satisfaction of the Local Planning Authority that any ground gas ingress protection measures incorporated into the existing site are not compromised and shall subsequently be maintained and retained.

*Reason:* In order to protect human health.

6a) The sale of goods shall be restricted to the following:

- DIY home and garden improvement products (including indoor and outdoor plants and flowers)
- Hardware (e.g. goods associated with keys, locks, hinges, latches, handles, wire, chains, plumbing, tools, utensils, machine parts, doors, cabinets, windows, mirrors, and bathroom furnishings)
- Furniture
- Soft furnishings (including bedding, curtains, blinds, furniture, rugs and cushions)
- Electrical goods (including lighting)
- Motor spares, accessories, and fuels
- Motor vehicles
- Floor coverings
- Sports and leisure equipment
- Sports, leisure and work clothing
- Sports, leisure and work footwear
- Toys and children's wear
- Petcare products
- Safety products and work wear (including work and safety footwear)
- Party goods (excluding food)
- Seasonal goods including fireworks (excluding food)
- Up to 1,208sqm non-perishable and non-refrigerated convenience goods, and
- Food and drink from a cafe, restaurant, takeaway or licensed establishment

6b) For the purposes of Part a) convenience goods are defined as Food and non-alcoholic beverages, Tobacco, Alcoholic beverages (off-trade), Newspapers and periodicals, Non-durable household goods. The sale of goods excludes fresh, chilled and frozen convenience

6c) Prior to the first use of the development a plan shall be submitted to and agreed in writing showing the retail area of convenience goods of no more than the 1,208sqm agreed in part a) of this condition. Any alterations to the layout of convenience goods shall be submitted to the Local Planning Authority.

*Reason:* The site is out of centre. The submitted evidence in the application highlights that the operational requirements are for a membership only club for bulky goods operations. Whilst this has been considered to be acceptable, other types of retailing would be inappropriate in this location considering the need to promote retail investment in Strategic Centres and that it is not accepted that such retailing cannot be provided in sequentially preferable locations.

7. The premises shall not be used for any purpose other than a retail warehouse club, and shall not be open to the general public. The business will operate by membership only in accordance with the following criteria:

- i) Applications for membership must be accompanied by two forms of Business Identification details or 1 proof of employment and one form of personal identification.
- ii) Members must sign in upon entering the store and show their membership card prior to purchasing goods



*Reason:* The site is out of centre. The submitted evidence in the application highlights that the operational requirements are for a membership only club for bulky goods operations. Whilst this has been considered to be acceptable, other types of retailing would be inappropriate in this location considering the need to promote retail investment in Strategic Centres and that it is not accepted that such retailing cannot be provided in sequentially preferable locations.

8. The use shall operate as one whole unit within the premises with a gross internal floor area of 4,133.7sq m and shall not be subdivided in any way into smaller units.

*Reason:* The supporting evidence to the application identified the location of the unit was determined by the size requirements and format requirements. Smaller units should be located in the Strategic Centres.

**NOTE FOR APPLICANT:**

Advice on basic ground gas ingress protection requirements can be found by reference to the following publication; "Protective measures for housing on gas-contaminated land", BRE Report 414, ISBN 1 86081460 3 (contact CRC Ltd 020 7505 6622 for order information).





## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 2.**

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

**Application Number:** 12/0036/OL

**Application Type:** Outline Application

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Mr Stephen Hollowood

**Applicant:** Ms Carole Wildman

**Proposal:** Outline permission for residential development on sites A, D and J (access only to be considered) as follows:

- Site A – Approximately 243 dwellings (including 56 affordable units)
- Site D – Approximately 134 dwellings (including 121 affordable units)
- Site J – Approximately 25 dwellings (all affordable)

All sites incorporating means of access (not reserved), car parking, landscaping, infrastructure and servicing.

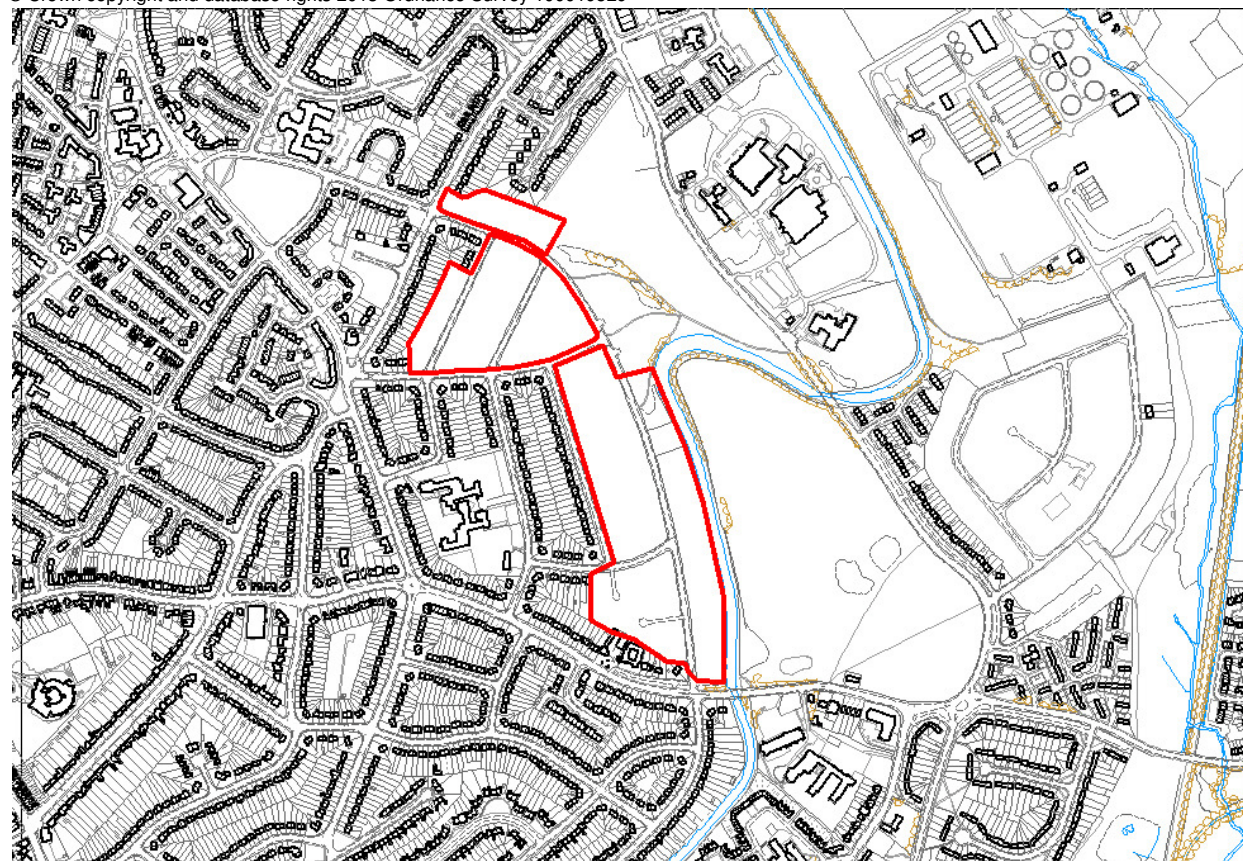
**Location:** Goscote Lane Regeneration Corridor incorporating sites in Shakespeare Crescent, Keats Road, Tennyson Road, Chaucer Road, Wordsworth Road, Dryden Road, Harden Road and Well Lane.

**Ward:** Blakenall

**Expired Date:** 20/01/2014

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

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## **Current Status**

The application was first considered by the Planning Committee on 14<sup>th</sup> March 2012 where it was deferred for the developer to address ecological issues, consider amendments to address concerns regarding the mix of dwellings and potential for incorporating a multi-use games area (MUGA) and to carry out further consultation within the ward. Revised proposals addressing these concerns were considered by the Planning Committee on 13<sup>th</sup> March 2014. The Committee resolved to grant outline planning permission subject to conditions and a S106 Agreement to secure affordable housing, local highway improvements and environmental improvements to open space.

A Habitats Regulations Assessment (HRA) was also considered and agreed by Planning Committee on 13<sup>th</sup> March 2014. A separate full planning application for Site J (13/1604/RM) was also approved on 27<sup>th</sup> February 2014.

The applicant has requested that the affordable housing provision is secured by condition rather than a S106 Agreement as this causes problems in terms of delivery of the affordable housing with the Homes & Communities Agency through the current funding regime. A condition was recommended (condition 24) to secure affordable housing as this has been used and has been successful on previous sites to secure affordable housing.

The original report to Planning Committee on 13<sup>th</sup> March 2014 now follows with an amendment to the recommendation to secure affordable housing by condition rather than S106 Agreement:

## **Application and Site Details**

The proposals seek outline consent for residential development of three previously developed housing sites in the Goscote area with means of access only to be considered at this stage.

The site is within the Goscote Lane Regeneration Area (GLRA) located approximately 1.5 miles north of Walsall Town Centre. It is identified in Walsall's Strategic Regeneration Framework. The surrounding areas to the north, west and south are predominantly suburban residential areas but include Blakenall Village Centre, Blakenall Community Centre, local shops and schools. To the east of the sites lies the former Goscote Hospital site now occupied by Palliative and Dementia Care Units and offices.

Site A has an area of 7.1 hectares and lies between Keats Road and the Wyrley & Essington Canal. The indicative layout shows 243 dwellings (56 affordable) comprising 2 and 3 storey houses and flats offering a mix of 2, 3 and 4 bed units. This equates to a density of 34 dwellings per hectare. The proposals seek to break up the long roads by introducing more permeable streets that also open up views of the canal and new open space.

Site D has an area of 3.3 hectares and lies between Chaucer Road and Shakespeare Crescent. The indicative layout shows 134 dwellings (121 affordable) comprising 2 and 3 bed units. This equates to a density of 40 dwellings per hectare. The existing road network is retained but new mews streets introduced to break up the block.

Site J has an area of 0.7 hectares and is located at the top end of Shakespeare Crescent near the junction with Well Lane and borders gardens of housing in Well Lane and Hardy Road. The eastern boundary overlooks "The Lea". The indicative layout shows 25 dwellings (all affordable) with a mix of 2, 3 and 4 bed two and three storey units. This equates to 36 dwellings per hectare. Note that a separate full planning permission for this development site was granted on 27<sup>th</sup> February 2014.

The combined site area is 11.2 hectares.

The proposal is to introduce new roads to improve connectivity and reduce the size of the previous block structures and create a finer urban grain less dominated by vehicles. A hierarchy of new roads is proposed within the Design & Access Statement. This indicates primary roads and a series of secondary roads and other vehicular and pedestrian routes throughout the site. There are 2 parking spaces provided for each unit including in plot, on-street and parking courts.

Illustrative layouts have been provided that demonstrates how each site could be developed to accommodate the number of proposed residential units. The general principle is that all units create perimeter blocks that face the street and parking is provided in-plot, on-street or in parking courts. A mix of house types and sizes and some flats is shown. Some of the new streets are designed in the form of mews and courtyards with tree planting and raised landscaping to reduce the dominance of vehicles. The applicant acknowledges that the indicative layouts may not achieve the design and separation guidelines in Appendix D of Supplementary Planning Document: Designing Walsall in all cases but highlight the Masterplan has sought to retain 18m distances between frontages and maximise garden sizes except where they are introducing “green lanes”, mews and courtyards where distances are lower.

The phasing identified is to develop Site J affordable units first followed by site D affordable units then site A affordable units and finally sites A and D private units. The applicant advises this follows funding, construction management and market advice.

The Habitats Regulations Assessment – Stage 1 Screening Report – assesses the potential recreational impacts of future residents on the Cannock Chase Special Area of Conservation (SAC). The key potential impacts are considered to be increased recreational pressure, invasion by bracken and scrub, hydrological changes and air pollution. Taking into account the relatively small net increase in dwellings on the site, provision of open space and links to nearby existing open space in Blakenall and Walsall and good links to sustainable transport the development is unlikely to lead to a significant increase in visitors to Cannock Chase SAC and the risk to conservation objectives of Cannock Chase SAC is negligible. There is also unlikely to be a significant change in boat traffic along the Cannock Extension Canal and best practice measures during construction will control potential pollution of the Cannock Extension Canal SAC. There are no anticipated combined effects upon these European sites.

The Design & Access Statement (October 2013) – analyses the site and its surroundings and explains the Masterplan Design for the area, design evolution and current proposals. It explains the character of the streets, open spaces, landscaping and sustainable drainage and suggests a proposed phasing strategy.

The Masterplan Design Guide (October 2013) – Provides a regeneration strategy for Goscote Lane Regeneration Area. It describes the sites and their surrounding context, constraints and opportunities. The Masterplan Framework considers urban form, built form, streetscape design, open space and landscaping, play provision and boundary treatments. It defines a hierarchy of streets and highlights technical requirements such as Lifetime Homes, Code for Sustainable Homes, drainage, parking, street furniture, materials, servicing, management and maintenance etc. The guide identifies possible locations for potential incorporation of 3 Local Areas for Play (LAP) and one Local Equipped Area for Play (LEAP). There is also a summary of the community consultation and feedback.

Statement of Pre-Application Consultations (October 2013) - Gives a summary of public consultation exercises carried out between 2010 and 2013.

Revised Planning Statement (October 2013) – Gives a background to the proposals and describes the amended outline submission, considers development plan policies and other material considerations. It explains how the proposals have changed to accommodate residents concerns

and proposals for site B excluded to allow further consideration of the development concept for this site. Further surveys and an amended illustrative layout have been provided to address concerns of statutory consultees. It is requested that the viability of the scheme will be taken into account when considering planning obligations.

The Transport Statement (December 2011) – The assessment was prepared in December 2011 to consider development of a total of 780 dwellings. It addresses public transport, pedestrian and cycle networks and the highway network. It provides a review of the policy context; details of the current level of sustainable transport provision in the area; description of the proposed parking provision, access, parking layout and design code; transport analysis and trip generation data and assessment of the future operation of six junctions in the vicinity of the site. The Statement concludes the development site will have minimal impact on the local transport networks. It is proposed that of the six junctions assessed mitigation measures are required at the Goscote Lane/Harden Road roundabout to facilitate the development. The authors state that since the statement was prepared it is noted that policy has been superseded by the NPPF, but the broader principles remain the same and as the amended proposals effectively have a reduced transport no further additional considerations are required.

Travel Plan (August 2013) – Aims to reduce the number of single occupancy vehicle trips made by residents in the Goscote Lane Regeneration Corridor. Analysis shows 52% of the population of Blakenall ward travel by car to work and residents live a relatively short distance from local amenities and schools so reduction in vehicle use can be achieved. There is currently a number of walking and cycling routes in the area and car share will be facilitated through an opt-in database designed to match car share drivers with passengers. Bus services in the area serve the site by a single short bus journey. These methods of sustainable travel will be promoted throughout the development sites. The initial target is to reduce the number of residents travelling to and from the site by single occupancy car by 5% over a 5 year period.

The Flood Risk Assessment (December 2011)– Concludes that measures can be implemented to mitigate against any flood risk including elevated finished floor levels, design of ground profiles and maximum permitted discharge rate. The design of the proposed surface water system in any reserved matters application should follow the parameters and principles in the document. The authors explain that the original FRA considered the drainage for each site individually and they were not connected so the strategy for each site is still relevant even though the application is now just for three sites.

The applicant has also provided geotechnical and geo-environmental reports, mining investigation reports, gas monitoring and remediation reports for relevant sites which examine ground conditions.

### **Relevant Planning History**

13/1221/ND – Screening opinion for residential development of sites A, D and part of site J in Goscote Development Area including Shakespeare Crescent, Keats Road, Tennyson Road, Chaucer Road, Wordsworth Road, Dryden Road, Harden Road and Well Lane – Determined that an Environmental Impact Assessment was not required - 11/10/13

11/1570/ND - Screening Opinion for Goscote Development Corridor residential/redevelopment (sites A, B, C, D and J) – Determined that an Environmental Impact Assessment was not required – January 2012

07/2335/OL/E11 – Outline: Proposed construction of 182 1, 2, 3 & 4 bed dwellings with garages and parking on land between Shakespeare Crescent/Chaucer Road/Tennyson Road/Wordsworth Road and corner of Well Lane and Shakespeare Crescent (now Site D) – Refused for 2 reasons broadly relating to (1) Failure to demonstrate that 182 residential units can be satisfactorily

accommodated on the site and provide a satisfactory residential environment with good design and adequate parking and amenity space (2) Unacceptable demand on limited educational capacity, accessible community healthcare facilities, affordable housing and public open space provision in the locality.

BC49453P – New neighbourhood resource centre – granted subject to conditions February 1998.

There are several approved applications for prior notification for demolition of the former housing on the sites throughout 2005/2006.

### **Adjacent sites**

#### **Site G – Well Place**

10/0864/FL – Erection of 32, 2 and 3 bed houses – granted subject to conditions – October 2011. This site is now complete.

#### **Site H – Barracks Lane**

10/1047/FL – Construction of 73 no. affordable dwellings comprising 39 apartments and 34 houses – granted subject to conditions – October 2011.

#### **Site J – Shakespeare Crescent**

13/1604/RM – Erection of 29 dwellings for affordable rent – approved Habitats Regulations Assessment and granted full planning permission subject to conditions 27/2/14.

### **Relevant Planning Policy Summary**

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

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

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

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

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

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

Paragraph 32 states all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.



Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

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

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the*



*weight that may be given).*” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

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

CSP4: A high quality of design of the built and natural environment is required.

CSP5: Emphasises the need to develop and manage movement and ensure sustainable modes of transport are promoted.

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

DEL2: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

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

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV4: Development Proposals will promote the multifunctional nature of the Black Country canal network.

ENV5: Development must demonstrate the level of flood risk associated with development is acceptable.

ENV6: Development that enhances the open space, sport and recreation network will be encouraged.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the energy demand of the development.

ENV8: Residential development should be located, where possible, in areas where air quality meets national objectives.

WM5: Sets out general principles for managing waste associated with new developments.

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

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

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

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

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

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

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

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

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

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

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

H1: The Council will promote and encourage the renewal of existing residential areas.

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

H4 (only clauses (g) to (j) are "saved"): Provides more detail about affordable housing in support of BCCS policy HOU3.

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities

8.9: On housing sites of 1 hectare (or 30 dwellings) or more accessible community healthcare facilities should be provided to serve the development. The Council may require a contribution from developers towards such provision.

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

T1: Seeks to improve access and help people get around

T4: Development proposals where there are significant transport implications must be accompanied by a Transport Assessment which considers accessibility of the development by all modes of transport, including the impact on the highway network. Such developments will be required to fund or contribute towards any necessary off-site infrastructure.

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Residential development should be within easy walking/cycling distance of a range of facilities with direct/safe access to surrounding areas and measures to improve links between the development and its catchment area. It also seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

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

4 bedroom houses and above 3 spaces per unit

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

LC8 & 8.36: Refer to provision of community facilities particularly in neighbourhoods where there is a lack of such facilities.

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

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

### **Designing Walsall SPD**

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

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

DW2: Safe & Welcoming Places - all new development must contribute to creating places that feel safe.

DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

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

DW7: Diversity – contribute to creating living places that offer a mix of activities to the widest range of possible uses

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality.

DW 10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Appendix D identifies privacy and aspect distances between dwellings, garden/amenity dimensions and design considerations. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

### **Supplementary Planning Document for Affordable Housing**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

### **Supplementary Planning Document Urban Open Space**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

### **Consultations on the planning application**

**Transportation** – No objections in principle subject to securing highway improvements throughout the site and the local highway network. Appropriate conditions and a Section 106 Agreement are recommended to secure this. The Transport Assessment, relevant addendum and plans indicate the impact of the development on the surrounding local highway network will not be severe.

**Pollution Control (Scientific Team)** – No objections but it is recommended that construction hours are controlled by condition and measures put in place to ensure dust and debris are controlled during any works.

**Pollution Control (Contaminated Land)** – No objections subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the previous use of the site. Conditions to address these issues are recommended.

**Rights of Way** – No objections. It is recommended that public footpath improvements, including new signs and motorcycle barriers, are installed on the open space. The developer is recommended to liaise with the Rights of Way officer to resolve rights of ways issues across the open space adjacent to site J.

**Ecology** – No objection in principle but the encroachment of development up to the canal edge on site A should be addressed before the application is determined. The Wyrley & Essington Canal is a Site of Local Importance for Nature Conservation (SLINC) and Wildlife Corridor. The proposals show a road along the whole length of the canal frontage. This is likely to cause disturbance to wildlife. A larger buffer is required which could impact on potential numbers of dwellings.

**Conservation** – No objections.

**Housing Strategy** – Supports the overall principle of development. There was previously a concern of reduced affordable housing provision on the original proposals but this has been addressed by an affordable housing offer of approximately 50%. The application proposes a mix of predominantly 2, 3 and 4 bed houses which is supported. There are a good number of 2 bed affordable houses and minimal 2 bed flats which is appropriate. Provision of a few more affordable 4 bed houses and a few less 3 beds should be considered. The developer is encouraged to include a number of homes to be constructed to wheelchair adapted standards if financially viable.

**Natural England** – The site lies within 15km of the Cannock Chase Special Area of Conservation (SAC). In accordance with Regulation 61 of the Habitats Regulations 2010 a Habitats Regulations Assessment is required to assess whether the proposal is likely to have significant effects on a European site. As the site is adjacent to the Wyrley & Essington Canal, near Goscote Wedge local wildlife sites and Green Belt open space there is scope to incorporate a green infrastructure led approach. Reserved matters submissions will need to set out a framework for delivering this integrated approach. Consideration of local sites, landscape character, biodiversity priority habitats and species and protected species should be considered.

**Canal & River Trust** – No objections subject to securing details at reserved matters stage in relation to the relationship of development to the canal including parking and landscaping, lighting and contamination remediation. It is recommended that advice to the developer is included in any decision notice.

**Inland Waterways Association** – No objections subject to provision of detailed design at reserved matters stage.

**Environment Agency** – No objections in principle subject to securing flood risk management measures as identified in the Flood Risk Assessment and remediation of potential contamination. Conditions are recommended.

**Fire Service** – No objections. Suitable water supplies for fire fighting should be provided. This shall be subject to consultation with the Fire Service once a Water Scheme Plan has been produced and approved by the relevant Water Company. A note for applicant to advise of this is recommended.

**Local Access Forum (Walsall Ramblers)** – No objections. The proposals identify improvements to public footpaths and provision of new routes which is encouraging. New provision for cyclists is also welcomed.

#### **Relevant consultations on the earlier planning application proposals**

**Environmental Health** – No objections.

**Landscape** – No objections.

**Structures** – No objections in principle. All located mine entries should be stabilised in accordance with the Coal Authority recommendations. The residential development layout should wherever possible be designed so that mine entries are located beneath car parks or areas of public open space to avoid placing domestic properties over the location of or within the influence zone of known mine entries.

**Severn Trent Water** – No objections based upon implementation of agreed discharge for all foul and surface water from the sites.

**Police Architectural Liaison Officer** – Full Secured by Design accreditation should be sought on all phases of development. The site is currently and historically a high crime area for all types of crime. The area also contains a high proportion of criminal offenders. The key area of concerns is that regarding remote parking locations. The layout should seek to provide convenient, safe parking with good surveillance.

**Greenspace Services** – There is community support for youth facilities including a MUGA and for safe areas for children's play in the area. It is recommended that green space improvements should be delivered in advance of any new housing.

**Centro** – The site is served by a number of bus services but the eastern part of the development is served by infrequent bus services tendered by Centro. The developer should explore the possibility of providing funding for an additional service which provides links to Walsall. Consideration should be given to replacing the existing stop poles on Goscote Lane with bus shelters. Pedestrian links should be direct, convenient, well lit, well signed and of a safe and secure design and include pedestrian crossings where appropriate. The inclusion of a Travel Plan is welcomed but request further details on funding of a Travel Plan co-ordinator.

**Walsall Children's Services** – A development of this scale would yield additional pupils in the primary sector. There is a significant issue in the primary sector across the Borough which is predicted to get progressively worse in the coming years due to the increase in birth rates. In proximity to the proposed developments the Council will be unable to provide sufficient pupil places in accordance with statutory duty. It will therefore be necessary to provide the equivalent of 1 Form of Entry (FE) of accommodation in local Primary Schools. Having reviewed the Primary estate in the locality of the development it is expected to increase 2 local schools by 0.5 FE each. There are no proposals to carry out increase in pupil spaces in the Secondary sector as a result of this development at the present time. It is recommended that a contribution of £1.1 million would be required to cover increasing the 2 local primary schools by 0.5 FE and enhance the approach of a third local school.

**Western Power** – There are distribution substations in the local vicinity and underground apparatus within the regeneration zones. There is a need to undertake extensive reinforcement to the 11000 volt network to facilitate connections. The layout should protect the existing cable easement.

**National Grid** – The proposed works are likely, unless controlled, to adversely impact the safety and integrity of National Grid apparatus directly crossing the area. Before carrying out any excavations, trial holes must be dug to find the exact position of gas pipes using recognised and agreed hand digging techniques. There is low of medium pressure gas apparatus in the vicinity. It is essential that no mechanical excavations take place above or within 0.5m of low and medium pressure systems.

The developer should contact National Grid.

**NHS Walsall** – The proposals will increase housing numbers to offset previous losses. It is highly likely that there will be sufficient capacity in Blakenall and Harden Medical Centres to cater for potential increased patients if this area attracted an inflow from other areas of Walsall.

**District Valuer** – The District Valuer has reviewed the Viability Assessment provided by the applicant and has taken into account the viability of the proposals in the event that full provision is required for affordable housing, education and urban open space. The residual land value based on the 699 unit scheme is -£1,437,801.00 (not including all the land acquisition costs). The proposals would therefore not be viable if full provision were required.

*Note these consultation responses related to the earlier scheme incorporating a greater number of houses, the Green Belt land swap and open space proposals on “The Lea”.*

### **Public Participation Response on the planning application**

**As a result of publicity on the revised proposals** three representations have been received including one in support and two objections. These are summarised below:

#### **Objections**

- Object to new development surrounding Well Lane
- New occupiers/tenants/residents should be stringently interviewed

#### **Support**

- Support the redevelopment of sites A, D & reduced site J
- The Friends Around The Lea (TFATL) residents group supports redevelopment of the Brownfield sites

**As a result of publicity on the original proposals** there were 101 letters of objection, a petition of objections with 722 signatures, objections from former Councillor Robertson and 2 letters of support which were summarised as follows: -

#### **Objections**

- The petition claims that 98.5% of people living around the site are opposed to the land swap and building on Green Belt land
- Disagree with the proposed land swap between Green Belt (“The Lea”) and brownfield site (“Goscote Estate”)
- The (*Green Belt*) area should remain as it is now to preserve the natural beauty of the land
- This (*Green Belt*) area was an attraction to families to move here
- The Green Belt land offers great views and opportunities for walking
- Loss of outlook for existing residents that face the Green Belt land and have views as far as Barr Beacon
- Loss of open views for existing residents in Hardy Road to the benefit of new residents on Site B
- Loss of Green Belt land for housing development
- No very special circumstances have been demonstrated to allow building on Green Belt land contrary to policy 3.3 of the UDP
- Proposals are contrary to the purposes of the Green Belt in PPG2, they allow urban sprawl, merge Poets and Goscote estates, encroach onto the countryside and doesn’t make full use of existing derelict Brownfield land
- The Brownfield site has more Green Belt land around it to benefit future residents instead of building on “The Lea”
- The proposals benefits future residents rather than former residents in the 300 houses that were demolished
- The applicant’s description of the Green Belt land as “underused, poor quality open land” is misleading as the housing that once surrounded it has been demolished – once redeveloped Site J will again be well used by residents

- The land has been allowed to deteriorate through lack of proper maintenance and policing – anti-social behaviour and horse grazing have reduced its attractiveness for residents use
- The site has previously been used for a children's play park, a youth club, social club, football and cricket pitches, anglers using the canal, by Harden School for various activities and still used by dog walkers
- Appreciate the Council's positive action in removing the horses from the land
- Accept new housing is required but this shouldn't be at the expense of existing residents
- Only 16% affordable housing is proposed and no provision for OAP bungalows or disabled accommodation a better mix should be proposed
- Residents resisted development on the Green Belt land previously
- Residents in Hardy Road and Beresford Road have organised a petition against development of the land
- Contamination issues
- Cost of putting services on the land when there are services already on site B
- The former housing sites should be developed for affordable housing
- Building on the existing brownfield land would reduce the expense of putting in services and reduce potential noise and pollution on "The Lea"
- Increased traffic on Goscote Lane
- The Transport Statement makes no mention of pedestrian priority
- The Transport Statement concludes the development will result in queuing traffic in the am peak yet still states minimal impact on transport networks – how can this be?
- Noise and pollution would be considerable on Goscote Lane and may affect peace and tranquillity, particularly as there is a Hospice on the former Goscote Hospital site
- No need for a new bridge to access "Swannies Field" as there is already two accesses and the money could be better spent on other amenities
- The Lea could be enhanced by including a children's play area if there are S106 funds available
- Lack of time or resources for residents to comment and make their case

#### Support

- The proposals offer a great benefit to Goscote and is better than having waste ground as long as the right people move here
- Fantastic development to regenerate the area the sooner the better

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

#### **HABITATS REGULATIONS ASSESSMENT**

The Local Planning Authority has a duty under Regulation 9 (5) of the Conservation of Habitats and Species Regulation 2010 ("2010 Regulations"). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "have regard to the Habitats Directive in the exercise of its functions".

Regulation 61 (1) of the Habitats Regulations states the following:

*"A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:*

*a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*

*b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives".*

The first stage (screening) of Habitats Regulations Assessment is to identify the likely impacts (if any) upon a European site of a project or plan, either alone or in combination with other projects or plans, and consider whether these impacts are likely to be significant.



The applicant has provided a Habitats Regulations Assessment screening report. This is currently under consultation with Natural England and their comments will be updated at committee.

In assessing the proposal recognition is given to Regulation 61(6) which acknowledges that consideration can be given to any conditions or restrictions subject to which the consent is proposed.

The Habitats Regulations Assessment considers the potential impact of the proposals on two sites; Cannock Chase Special Area of Conservation (SAC) and Cannock Extension Canal SAC. The key potential impacts are increased recreational pressure, invasion by bracken and scrub, hydrological changes and air pollution.

It is considered that the development would not result in a significant effect on the Cannock Chase SAC or Cannock Extension Canal SAC for the following reasons:

- There is a limited net increase in the number of dwellings on these previously developed sites and accessibility of the sites to existing open space in the local area and Walsall the development is unlikely to lead to a significant increase in visitors to Cannock Chase SAC.
- The risk to conservation objectives of Cannock Chase SAC is negligible.
- There is unlikely to be a significant change in boat traffic along the Cannock Extension Canal and best practice measures during construction will control potential pollution of the Cannock Extension Canal SAC.
- There are no anticipated combined effects upon these European sites.

Taking into account these factors, it is considered that the new residential development proposed will have no likely significant effects on Cannock Chase SAC or Cannock Extension Canal SAC, either alone or in combination. It can therefore be screened out for the purposes of the HRA, and does not need to proceed to Stage 2: Appropriate Assessment.

Given this conclusion, it is considered the requirement to complete an appropriate assessment has not been triggered. As a consequence, officers consider the development is in compliance with the provisions of Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

The formal views of Natural England on the HRA and its conclusions will be updated at Committee.

#### **Determining Issues on the planning application**

- Whether the proposals address Committee concerns in relation to:
  - a. Conduct full ecology reports in response to issues raised by Natural England
  - b. Carry out wider consultation within the Ward
  - c. Consider a more varied mix of dwellings
  - d. Incorporate a multi-use games area (MUGA) into the plans
- Principle of residential development
- Relationship to surrounding properties
- Housing Mix/Phasing
- Provision of affordable housing
- Provision for supporting infrastructure (including education, healthcare and open space)
- Layout and Design
- Means of Access and Parking
- Impact on canal and natural environment
- Landscaping/Ecology
- Ground conditions
- Local Finance Considerations

## **Observations on the planning application**

### **Whether the proposals address Committee concerns in relation to:**

#### **a. Conduct full ecology reports in response to issues raised by Natural England**

A revised Extended Phase 1 Habitat survey has been supplied based on field work carried out in May 2012. There is some concern that this survey work was almost 18 months old at the original time of submission. The applicant's ecologist makes a number of recommendations that can be secured by condition but may impact on the indicative layouts. As the application is outline and layout is reserved for subsequent approval this matter can be adequately addressed through a Reserved Matters application. Natural England highlight that the Council must be satisfied the proposals will not have an adverse impact on Cannock Chase Special Area of Conservation (SAC) but as the proposals are 15km away this is unlikely. A Habitat Regulations Assessment Screening Report has been carried out (see above) and it is concluded that the proposals will not have a significant impact on the Cannock Chase SAC or Cannock Extension Canal SAC. A green infrastructure approach is recommended. This can be secured through conditions and details at the Reserved Matters submission.

#### **b. Carry out wider consultation within the Ward**

In response to the public consultation feedback on the earlier proposals the applicants have removed the proposals to develop on "The Lea" and the proposed Green Belt land swap on the site at Goscote Lodge Crescent (site B). The applicants have carried out further community consultation on these revised proposals within the ward at a public exhibition held on 8 October 2013.

#### **c. Consider a more varied mix of dwellings**

The proposed dwelling mix includes 50% affordable and 50% private dwellings comprising 2, 3 and 4 bed houses and 2 bed flats. The details identify these will be 2/3 storey houses and 3 storey flats. The percentage of affordable housing has increased from 16% to 50% which provides a more equal distribution of house types. The mix of housing and flats is considered appropriate in this area and although the revised submission does not specifically include bungalows this does not rule out their inclusion at reserved matters stage. The Housing Strategy officer has requested a greater provision of 4 bed affordable units and consideration of wheelchair adapted properties if the viability of the scheme allows.

#### **d. Incorporate a multi-use games area (MUGA) into the plans**

The original proposals included provision for a MUGA on Swannies Field which formed part of the larger site J. This area is not included within the current proposals but the Masterplan does identify how Local Areas for Play (LAP) can be accommodated within the street pattern.

On the basis of the above comments the applicant has given due consideration to Committee concerns and addressed them where possible given the constraints of the site and viability of the proposals.

## **Principle of Residential Development**

Housing renewal and the provision of good quality housing in the Goscote area is supported by the BCCS. The sites were formerly occupied by housing and provision of new housing is acceptable in principle as it brings forward vacant land in accordance with UDP policy ENV14. UDP policy H3 also encourages provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved. The housing key diagram in the BCCS identifies the Goscote area as a housing renewal hub that will be a focus for housing renewal activity.

Site J has been reduced in size so that it no longer proposes residential development on "The Lea" which is Green Belt land. The proposals only include the part of the site that was previously developed for housing. In principle this addresses concerns on the original proposals raised by residents.

The principle of residential development is acceptable.

### **Relationship to surrounding properties**

Given that the surrounding area is predominantly residential and the proposals are to redevelop former housing sites for residential purposes the uses are considered compatible and would not have any significant impact upon residential amenities. The detailed design and layout of the new residential development would be subject to approval of reserved matters that would address specific issues in relation to the distance between existing and proposed dwellings.

Residents are concerned about increased traffic which may cause considerable noise and pollution on Goscote Lane and may also affect the amenities and tranquil setting of the former hospital site which includes a palliative care building. The levels of traffic have been considered in the Transport Assessment and will not significantly affect the local highway network. The Transportation officer recommends measures are secured to maintain highway safety. As for disturbance from noise and pollution, bearing in mind that the sites were previously developed there would not be significantly greater noise and disturbance sufficient to warrant refusal of permission. The palliative care buildings are set back within the landscape setting of the hospital site so increased traffic should not significantly disturb patients.

With regard to the claim that residents have not had sufficient time and do not have the resources to make their case against the proposals the statutory consultation processes for the planning application have been adhered to. There have been no similar claims on the revised submission.

One of the key concerns on earlier proposals was development of housing on "The Lea". This has been excluded on the amended proposals to address residents' objections regarding the relationship between existing and proposed housing and loss of open space. There is a significant reduction in the number of objections on the latest proposals which suggests their concerns have been addressed.

The relationship between the proposed development and existing dwellings is considered acceptable in principle at this outline stage.

### **Housing Mix/Phasing**

The application indicates there will be a mix of house types across the three sites providing a variety of house types and sizes. This is considered acceptable to cater for a variety of accommodation needs for future residents and although the eventual mix will be agreed at reserved matters stage it does indicate how an appropriate mix can be achieved.

The applicants have identified phasing to develop Site J affordable units first (planning permission 13/1604/RM was granted on 27/2/14) followed by site D affordable units then site A affordable units and finally sites A and D private units. Although this leaves the private dwellings to be developed last the applicant advises that the phasing is based on funding mechanisms, construction management and market advice.

The housing mix and phasing is considered appropriate.

### **Provision of affordable housing**

The amended proposals alter the mix of dwellings by increasing the amount of affordable dwellings from 16% to 50%. Residents originally considered that the former housing sites should be

developed for affordable housing rather than market housing as they are replacing former affordable housing units. The revised proposals give a greater proportion of affordable housing which is supported by Housing Strategy. It also gives a better balance of housing tenure as there are 50% affordable and 50% private sale units proposed.

Housing Strategy support the proposals subject to provision of a greater number of 4 bed affordable units. There are 18 x 4 bed affordable units proposed under the current proposals but whether this provision can be increased will depend on the viability of the scheme. There is scope to consider incorporation of some smaller 1 bed units at reserved matters stage to provide a greater mix if required.

The earlier scheme proposing 16% affordable units was challenged in terms of viability and the District Valuer at that time agreed with this conclusion. The current proposals include fewer units and a greater proportion (50%) of affordable units which presents a greater financial challenge.

The affordable housing provision is considered acceptable given the viability of the development.

### **Provision for supporting infrastructure (including education, healthcare and open space)**

In accordance with BCCS policy DEL1 and UDP policies GP3, 8.8 and 8.9 provision for education and healthcare are required where a need can be demonstrated for particular developments.

Walsall Children's Services stated on the earlier proposals that the development would create the need for an additional 1 form of entry (1FE) of accommodation in local primary schools. It is considered that this would be best achieved by increasing two Local Primary Schools by 0.5FE each. An additional contribution would also be required for upgrading the appearance of the approach to a third local school to the benefit of the desirability of the proposed new housing. A contribution of £1.1million would be required towards this provision. The current proposals are for fewer dwellings and on the basis of the calculations it is anticipated that a contribution would still be required but would need to be re-assessed to take account of this.

NHS Walsall previously indicated that it is highly likely that there will be sufficient capacity in Blakenall and Harden Medical Centres to cater for potential increased patients if this area attracted an inflow from other areas of Walsall. They also noted the proposals increase housing numbers to offset previous losses. In the circumstances no contribution is required towards provision of healthcare facilities. The current proposals are for fewer dwellings so there would be fewer potential increased patients.

Under the terms of policies DEL1 of the BCCS, policy LC1 (d) of the UDP and SPD: Urban Open Space the developer is required to contribute towards provision for urban open space. Based on the proposed number of units this would require a contribution of £771,310.00.

The District Valuer reviewed the earlier Viability Assessment and agreed that the development would not be viable if the full provision was required as there is a negative residual land value of over - £1.4 million. The current proposals are for a fewer number of dwellings and a greater proportion of affordable housing which presents further financial challenge to the viability of the scheme and it is unlikely that a positive land value will be achieved. The applicant has confirmed that the principles of this assessment by the District Valuer still hold today and they are looking to progress the application on this basis.

The applicant has also indicated their willingness to enter into a Section 106 Agreement to secure contributions towards local highway improvements and to deliver some environmental improvements to open spaces that would form part of an integrated approach to stewardship for the whole development area.

In light of the above comments it is recommended that the developer be required to enter into a Section 106 Agreement to secure a contribution towards local highway improvements and to deliver environmental improvements to open space. In terms of education provision it is recommended that committee waive this contribution given the viability case demonstrated above and the fact that the developer is providing a greater proportion of affordable housing throughout the site and is replacing formerly developed housing sites in the area.

Residents commented on the earlier proposals that there is no need for a new bridge over the canal at the southern end of Site J and that money would be better spent on improvements to the existing Green Belt or other amenities for the area such as a children's play area. This is not now included within the proposals.

### **Layout and Design**

The proposal seeks outline consent only so although indicative layouts have been provided the eventual design of the individual sites will be subject to reserved matters approval. The layout does seek to create smaller blocks with housing facing the street and secure private gardens and a hierarchy of streets to improve connectivity to surrounding open space and make it easier for pedestrians. The design and access statement gives a broad indication of the scale and massing of the proposed residential units but this will be subject to reserved matters.

Whilst the illustrative layout shows not all plots achieve the recommended space and separation distances in SPD: Designing Walsall this will be considered at reserved matters stage to achieve the best possible layout without harming residential amenities in terms of privacy, security or aspect.

Although there are ecological concerns regarding the proximity of the new development to the canal corridor this outline submission provides indicative layouts only and the detailed design will be the subject of a Reserved Matters application. Amended details can be considered at Reserved Matters stage.

### **Means of Access and Parking**

The proposed Masterplan indicates a hierarchy of streets from primary routes to courtyard and mews where the aim is to create a safer pedestrian environment and better connectivity throughout the Goscote Local Regeneration Area. The principle of this hierarchy is acceptable. An addendum to the original Transport Assessment has been provided which satisfactorily demonstrates the impact of the amended proposals on the highway network. Officers recommend that additional off-site mitigation measures to address the road safety implications are secured by a S106 Agreement and appropriate conditions.

A contribution for the introduction of mitigation measures to address the detrimental impact on road safety along the Harden Road corridor as a result of the development as identified within the accident analysis report is required and can be secured by a S106 Agreement. A sum of £139k is required.

Residents are concerned about the level of increased traffic and congestion; particularly on Goscote Lane and the risks this will pose to residents trying to cross. However, it is proposed to secure highway improvement measures where these are required. Improved pathways throughout the sites will aim to improve pedestrian permeability. Although the residents consider pedestrian priority has not been given consideration the Masterplan and Design and Access Statement clearly explain how it is intended to improve pedestrian access and movement throughout the area. Any amendments to existing public rights of way will be subject to a statutory procedure so a note to applicant is recommended regarding this.

The level of parking is considered acceptable given the mix of houses proposed but will be subject to change depending on the eventual mix approved under reserved matters.

Subject to securing highway improvement measures the proposals are acceptable in principle. These can be secured through a Section 106 Agreement and appropriate recommended conditions.

### **Impact on canal and natural environment**

The indicative layouts show development close to the Wyrley and Essington Canal on site A. The Canal & River Trust and Council Ecologist are concerned that this could potentially impact on the integrity of the waterway, ecological habitats or visual amenity from the canal. Nevertheless there are no objections in principle to the outline proposals subject to detailed design of the individual sites to address these matters and conditions to require details and appropriate mitigation where necessary.

As the proposed layout is outline there is scope to secure any necessary mitigation works as part of the reserved matters submission.

### **Landscaping/Ecology**

The council's ecologist has no fundamental objections to the principle of housing development, although has concerns about the relationship between new development on site A and the canal frontage. The Wyrley and Essington Canal is a Site of Local Importance for Nature Conservation (SLINC) and Wildlife Corridor. The concern is that the development encroaches close to the edge of the canal where it could disturb wildlife. A wider buffer along the corridor is recommended and careful landscape planting to protect the wildlife corridor. The supporting surveys give no evidence that any protected species are present on the sites but there is a concern that survey work is 18 months old. If subsequent survey work along the canal frontages unearths a protected species, the Local Planning Authority will have to determine the reserved matter applications in accordance with legislation and guidance, which may include the three tests set out in the Habitat Regulations.

Appropriate landscaping must be submitted for approval at reserved matters stage which must protect, create and enhance existing habitats. Notwithstanding the above, planning conditions are recommended to ensure appropriate landscaping and lighting and protection and mitigation for any potential protected species. The quality of the design and layout will contribute to conserving the natural environment in the vicinity of these sites.

The reserved matters application should be able to accommodate the concerns in relation to landscaping and ecology and suitable conditions are recommended to secure this.

### **Ground conditions**

There is a history of coal mining in the area and evidence of contamination and made ground on all sites. Supporting information has been provided but further work is recommended to fully investigate the implications prior to commencement of any development. Pollution control officers recommend conditions to ensure implementation of works to investigate and remediate any localised ground contamination and ground gas issues associated with the development. Subject to these works all contamination and/or ground conditions can be satisfactorily addressed and would not preclude development of the site. Resident's objections regarding how contamination issues will be dealt with has therefore been addressed.

### **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 up to 402 new homes.

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

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

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

#### **Recommendation on the Habitats Regulations Assessment**

It is recommended that the Habitats Regulation Assessment Report and associated provision dated February 2014 be endorsed by the Planning Committee, as the competent authority and confirm that, the Council considers that the proposed development would not have a significant effect on a European site, subject to a satisfactory response from Natural England.

#### **Recommendation on the planning application**

Grant outline permission subject to conditions and a S106 Agreement to secure the following:

- Local Highway Improvements
- Environmental Improvements to Open Space

#### **Recommendation: Grant Permission Subject to Conditions and a Planning Obligation**

1. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

3. This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) Appearance
- b) Landscaping
- c) Layout
- d) Scale

*Reason:* Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995

4. In order to address potential impact from land contamination the following matters shall be addressed:

(For the purposes of this condition each site shall be considered as a separate entity. The parts of this condition state which sites need to comply.)

- i. Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority for Sites A,D & J. (see Note for Applicant CL2)
- ii. The remedial measures as set out in the "Remediation Statement" required by part i) of this condition shall be implemented in accordance with the agreed timetable for Sites A, D & J.
- iii. 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 i) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority for Sites A, D & J.
- iv. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use for Sites A, D & J. (see Note for Applicant CL3)

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

5a. No development shall take place until a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority. This should include details of:

- i. Surface water attenuation to the 1:100 year event 30% climate change standard.
- ii. Limitation of surface water discharge from the site to the greenfield rate as outlined in the FRA.
- iii. The inclusion of SuDS where possible as outlined in the Flood Risk Assessment, paragraph 7.23.

5b. The scheme shall be fully implemented and subsequently maintained, in accordance with the agreed scheme.

*Reason:* To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

6a. Prior to the commencement of the development details of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

6b. The development shall be completed with the approved details and retained thereafter.

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

7a. No development shall take place until such time as a flood risk management scheme has been submitted to, and approved in writing by, the local planning authority. This should include details of:

- i. Finished floor levels and ground profiles to mitigate against the risk of flooding from surface water, overland flows, and canal overtop & breach scenarios as outlined in the Flood Risk Assessment section 7.20.



7b. The scheme shall be fully implemented and subsequently maintained, in accordance with the agreed scheme.

*Reason:* To reduce the risk of flooding to the proposed development and future users.

8a. Prior to the commencement of development samples of all facing, roofing and hard surfacing materials plus details of all boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority.

8b. The development shall be completed with the approved details and retained thereafter.

*Reason:* To ensure the satisfactory appearance of the development.

9a. Prior to commencement of any development the applicant shall commence proceedings to secure the amendment to the existing permanent prohibition of driving traffic regulation order on the existing highway network and all associated costs to be met by the applicant.

9b. The approved dwellings shall not be occupied until the amendment has been secured.

*Reason:* To allow the approved development to be undertaken.

10a. Prior to the commencement of any development, the following details shall be submitted and approved in writing by the Local Planning Authority in conjunction with the Highway Authority;

- (i) An overarching Masterplan and proposed phasing of intended highway improvement works on the following roads and other transport links to the wider area, in line with the submitted design and access statement:-

- Shakespeare Crescent
- Tennyson Road
- Wordsworth Road
- Chaucer Road
- Keats Road
- Dryden Road

- (ii) Full engineering details and location of the proposed highway improvement proposals as agreed in the phasing point (i).

- (iii) Full engineering details of the proposed highway improvements to the Harden Road/Goscote Lane roundabout, as identified in the Transport Assessment, and its phasing of implementation.

10b. Prior to the occupation of the first dwelling on the approved plan, all highway infrastructure works detailed and agreed, shall be fully implemented in accordance with the agreed phasing plan, completed and brought into use to the satisfaction of the local planning authority and all associated costs to be met by the applicant.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with BCCS policy TRAN1, TRAN2, TRAN4 and UDP Policies T4, T6, T7, T8, T9 and T1.

11a. Prior to the commencement of development details shall be submitted to the Local Planning Authority in conjunction with the Highway Authority, setting out where the location of parking for site operatives and visitors has been provided within the application site.

11b. The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

12. Prior to the occupation of the development hereby approved the access, turning areas and parking facilities shown on the approved plan(s) shall have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority in conjunction with the Highway Authority and these areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* In the interest of highway safety, and ensure the free flow of traffic using the adjoining Highway.

13. Prior to the occupation of the first dwelling any redundant existing vehicular accesses onto the adjoining highway shall be permanently closed in accordance with full engineering details submitted to and approved in writing by the local planning authority in conjunction with the Highway Authority.

*Reason:* To ensure the safe and free flow of traffic using the adjoining highway.

14. All new driveway access points shall have 2.4m x 3.4m pedestrian visibility splays within which no planting or structures exceeding 600mm in height above ground level shall be permitted and thereafter retained.

*Reason:* In the interests of highway safety.

15. Prior to the commencement of the development a plan detailing the proposed extent of the highway adoption shall be submitted and approved in writing by the local planning authority in conjunction with the Highway Authority.

*Reason:* To define the adopted highway and to allow satisfactory operation of the development.

16a. Prior to the commencement of the development an assessment is to be carried out by the developer, to ascertain the current condition of any existing highway infrastructure (inclusive of carriageways, footways, street lighting and highway drainage) that is to form part of the highway network, any recommended remedial measures and proposed phasing of said works, and shall be submitted and agreed in writing by the local planning authority in conjunction with the Highway Authority.

16b. The agreed recommended remedial measures shall be fully implemented and brought into use in accordance with the approved phasing plan to the satisfaction of the local planning authority and all associated costs to be met by the applicant.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

17a. Prior to any demolition and/or construction operations commencing, a method statement shall be submitted to and agreed in writing with the Local Planning Authority for the purposes of controlling noise and dust from such operations.

17b. The agreed method statement shall be fully implemented and thereafter maintained until construction and demolition works are complete.

*Reason:* To protect the amenities of surrounding properties.

18a. Prior to the commencement of any development on Site A tree survey work to BS5837: 2005 standards shall be submitted for approval in writing by the Local Planning Authority.

18b. The findings shall inform the design and layout of the development at Reserved Matters stage.

*Reason:* To ensure adequate protection for retained trees on site.

19a. Prior to the commencement of the development details of landscaping shall be submitted for approval. The landscaping shall incorporate the following;

- A high proportion of native species tree and shrub planting especially in proximity to the canal.
- Habitat features unavoidably lost shall be replaced.
- Existing habitats shall be enhanced where appropriate.
- New habitats shall be created, particularly native meadow grasslands.
- Ornamental planting to encourage insects and other wildlife.

19b. The approved landscaping scheme shall be implemented within 12 months of the development completed.

19c. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants 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 of the area.

20a. Prior to the commencement of the development a scheme to provide bat boxes, bat tubes and bat bricks incorporated into new buildings shall be submitted for approval in writing of the Local Planning Authority.

20b. The approved scheme shall be fully implemented and retained thereafter.

*Reason:* To ensure proper regard is taken to the impact of development on protected species.

21a. Prior to the commencement of the development full details of all external lighting, particularly to the open space areas shall be submitted to and agreed in writing by the Local Planning Authority. The lighting shall be designed to retain dark corridors particularly along the canal corridor.

21b. The agreed scheme shall be fully implemented and thereafter retained in accordance with the agreed details.

*Reason:* To protect the visual amenities of the area and ensure proper regard is taken to the impact on protected species.

22a. No development shall commence on each site unless details of proposed levels across that site has been submitted to and agreed in writing by the local planning authority.

22b. The development shall be carried out in accordance with the agreed details.

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

23a. No more than 402 dwellings shall be built on the site unless an updated Transport Assessment to demonstrate that there will be no detrimental impact on the local highway network has been submitted to and agreed in writing by the Local Planning Authority.

23b. Prior to the first occupation of any dwelling, any mitigation measures necessary to address detrimental impact on road safety as a result of the development identified in any updated Transport Assessment, shall be fully implemented and brought into use in accordance with the agreed details.

*Reason:* To ensure that there is no detrimental impact on the highway network and in accordance with Policy T4 and GP2.

24. No more than 15 dwellings shall be built on the application site unless the developer has made appropriate provision towards affordable housing on the site, or any alternative provision as may be agreed in writing by the local planning authority.

*Reason:* To ensure adequate provision for affordable housing in accordance with policies HOU3 of the BCCS and policy GP3 of the UDP and Supplementary Planning Document: Affordable Housing.

25. The proposed development shall be carried out in accordance with the agreed Phasing Plan (4070-00-106 Rev C).

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

26. All site clearance shall take place outside the bird breeding season unless carried out under the supervision of a qualified and experienced ecologist.

*Reason:* To ensure proper regard is taken to the impact of development on protected species.

27. During construction all open trenches or hazardous areas should be securely fenced off to prevent animals becoming trapped.

*Reason:* To ensure proper regard is taken to the impact of development on protected species.

28. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 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; Good Friday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.*

*Reason:* To protect the amenities of surrounding properties.

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

- Location Plan (4070-00-101 Rev A) received 21/10/13
- Overall Masterplan Layout All Sites (4070-00-102 Rev C) received 21/10/13
- Masterplan Layout Site A (4070-20-201 Rev A) received 21/10/13
- Masterplan Layout Site D (4070-20-204 Rev A) received 21/10/13
- Site J Proposed Layout (4070-20-205 Rev A) received 21/10/13
- Overall Masterplan Layout Phasing (4070-00-106 Rev C) received 21/10/13
- Land Ownership Plan – Walsall Housing Group/Walsall Council (4070-00-104 Rev A) received 21/10/13
- Land Ownership Plan – Canal & River Trust (4070-00-105 Rev A) received 21/10/13
- Land Ownership Plan – Canal & River Trust Overlay (4070-00-107 Rev A) received 21/10/13
- Overall Masterplan Layout – Movement & Access (4070-00-111 Rev A) received 21/10/13
- Overall Masterplan Layout – Building Heights (4070-00-112 Rev A) received 21/10/13
- Overall Masterplan Layout – Density (4070-00-113 Rev A) received 21/10/13
- Overall Masterplan Layout – Land Use (4070-00-114 Rev A) received 21/10/13
- Overall Masterplan Layout – Tenure (4070-00-115) received 21/10/13
- Overall Masterplan Layout – Illustrative Sketch (4070-00-116) received 21/10/13
- Site A Constraints (4070-20-211 Rev A) received 21/10/13
- Site D Constraints (4070-20-214 Rev A) received 21/10/13
- Site J Constraints (4070-20-215 Rev A) received 21/10/13
- Land Survey (7344-Dcheck) received 21/10/13
- Coal Mining Desk Study – Sites A, D & D2 (250057-01) received 21/10/13
- Geotechnical & Geoenvironmental Report – Site A (36822-001) received 21/0/13
- Mining Investigation Report Site A & D (251083) received 21/10/13
- Supplementary Human Health and Controlled Waters Risk Assessment Site A (252048-02-00) received 21/10/13
- Extended Phase 1 Habitat Surveys (P434/2 Version One) received 21/10/13
- Geophysical Report (291011-001) received 21/10/13
- Supplemental Gas Monitoring Report Site A (252048-fk03) received 21/10/13
- Geotechnical & Geoenvironmental Report Site D & D2 (36823-001) received 21/10/13
- Supplementary Geotechnical Report Site D & D2 (250056-01) received 21/10/13
- Land Survey (7344-AA) received 21/10/13
- Supplementary Gas Monitoring Report Sites D & D2 (252048-fk02) received 21/10/13
- Geotechnical and Geoenvironmental Report Site J (251135-01-00) received 21/10/13
- Supplementary Monitoring Report Site J (251135-dw01) received 21/10/13
- Supplementary Human Health Risk Assessment Site J (251230-md01) received 21/10/13
- Supplementary Human Health Risk Assessment Site J (252048-ah01) received 21/10/13
- Phase 1 Habitat Survey Site J (P434/1 Version Two) received 21/10/13
- Walkover Survey & Desk Study Site D received 21/10/13
- Habitat Regulations Assessment : Stage 1 Screening Report prepared by Middlesmarch Environmental Ltd (RT-MME-116168) received 17/2/14
- Goscote Mineshafts Geophysical Report 291325-01-00) received 21/10/13
- Design & Access Statement prepared by Sheppard Robson (October 2013) received 21/10/13
- Masterplan Design Guide prepared by Sheppard Robson (October 2013) received 21/10/13
- Statement of Pre-Application Consultations prepared by Sheppard Robson (October 2013) received 21/10/13
- Revised Planning Statement prepared by GVA (October 2013) received 21/10/13
- Transport Assessment prepared by JMP (December 2011) received 21/10/13 (*to be updated*)

- Travel Plan prepared by JMP (August 2013) received 21/10/13
- Flood Risk Assessment prepared by JMP (December 2011) received 21/10/13

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

### **Notes for Applicant – Contaminated Land**

**CL1:** Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2011 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

**CL2:** When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

**CL3:** Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

### **Note for applicant – Environment Agency**

The Environment Agency would not accept at the reserved matters stage that above ground SuDS are not appropriate for the development simply due to the fact that sufficient space has not been allowed for their inclusion. The layout design should make space for water. A sizeable development such as this should not default to storage below ground in tanks/pipes due to the drainage design not being considered in the detailed development layout. The SuDS options listed in paragraph 7.23 of the Flood Risk Assessment should therefore be fully considered and included where possible at the layout design stage.

### **Note for applicant regarding S38/S278 Works**

If it is the developers intention to request Walsall Council, as the Highways Authority, to adopt any proposed roadwork’s as maintainable at the public expense, then details of the layout and alignment, widths and levels of the proposed road works, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all the necessary drainage arrangements and run off calculations shall be submitted to Walsall Council. No works on the site of the development shall be commenced until these details have been approved and an agreement under Section 38/278 of the Highways Act, 1980 entered into. All

costs are to be met by the applicant and it should be noted that any non standard materials, landscaping, highway drainage or structures etc will require a commuted sum for future maintenance.

**Note for applicant regarding Design of Street Lighting**

The applicant's attention is drawn to the requirement that, in all cases where an agreement under Section 38/278 of the Highways Act 1980 is entered into, the street lighting will be designed by the developer of the site in accordance with the design brief issued by the highway Authority and their design shall include any necessary amendments to the existing system.

**Note for applicant regarding Mud on Highway**

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.

**Note for applicant regarding Drainage over the public highway**

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning areas do not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway or vice versa.

**Note for applicant – Fire Service**

The water supplies to the development should meet the guidance given in "National Guidance Document on the Provision for Fire Fighting" published by the Local Government Association and Water UK. For further information please contact the Water Officer at West Midlands Fire Service, Headquarters Fire Safety, Vauxhall Road, Birmingham, B7 4HW or telephone 0121 380 6403.

**Note for applicant – Canal & River Trust**

The applicant/developer is advised to contact the Works Engineering Team in order to ensure that any necessary consents are obtained and that the works comply with the Trust's "Code of Practice for Works affecting Canal & River Trust". The Canal & River Trust offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location. The applicant/developer is advised that the inclusion of land owned by the Canal & River Trust within the site shall require a formal agreement.







# Walsall Council

## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 3.**

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

**Application Number:** 14/0119/FL  
**Application Type:** Full application

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** S.P. Faizey

**Applicant:** Jessup

**Proposal:** Hybrid application - detailed application for 4 storey office building on Littleton Street frontage with associated car parking and landscaping. Outline planning application (considering access, landscaping, layout and scale) for two office buildings (3 and 4 storeys in height) with associated car parking and landscaping fronting Hatherton Street, with vehicle access from Hatherton Street.

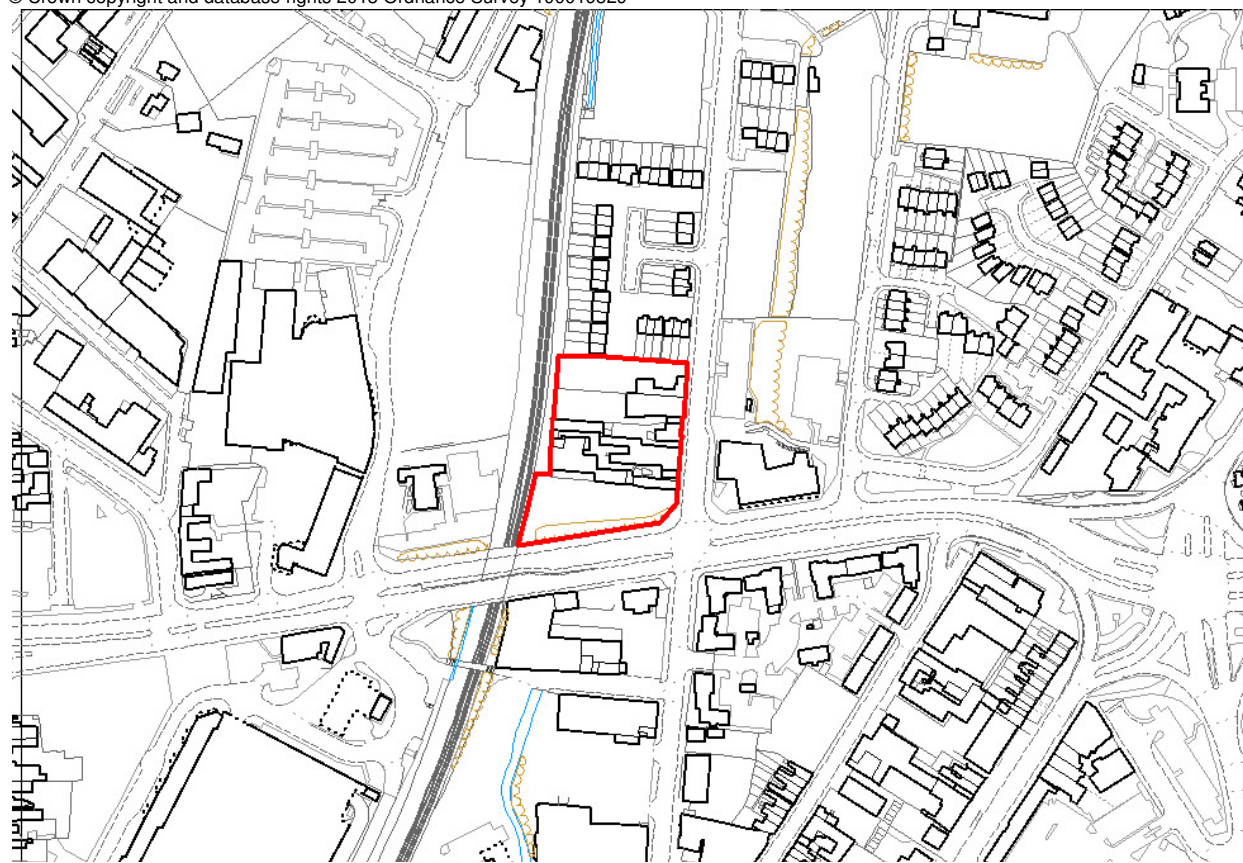
**Location:** LAND ADJACENT 17, HATHERTON STREET, WALSALL

**Ward:** St. Matthews

**Expired Date:** 29/04/2014

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

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## **Application and Site Details**

This application is in respect of the Noirit site, situated on the north-west corner of the junction of Hatherton Street and Littleton Street West, Walsall. The site is identified within the Walsall 'Gigaport' masterplan, with outline planning consent granted for office development.

This proposal is to provide 4,664 sq m of office space in three office blocks served by 87 car parking spaces. Currently there is only an end user for Block A confirmed and a hybrid planning application is submitted - detailed for Block A and outline for the other two blocks.

Block A on the Littleton Street West frontage is a 4 storey building with 1866 sq m of gross floor space and has been identified as the new corporate headquarters for Jhoots Pharmacy, to relocate from their current premises in Darlaston.

Block B is also a 4 storey building, slightly smaller at 1,700 sq m. Responding to the important junction at this location, a small public realm occupies the corner providing an entry point to both buildings A and B and defines the route into the development for pedestrians. Behind block B is a third building, block C, providing a further 1,098 sq m of gross floor space. This is a 3 storey building with pedestrian access off Hatherton Street and acts as a transition between block B and the 2 storey housing to the north.

The application is supported by the following:

*Design and Access Statement* highlighting: Positioned on a key corner of the inner ring road, the site offers scope for a strong building presence and the proposal for the Jhoots building incorporates prominent facades to all sides of the building, with the building being highly visible both on the east and west approaches to the site.

The building is approx 35m long and 16m wide, creating generous and flexible floor space and allows for good daylight penetration. The 1866 sq m building is split over four floors, with a step in the ground floor to take advantage of the site levels and provide accommodation within the building for a logistics hub. This will allow Jhoots to retain a limited stock of products to be able to offer a quick response to meet demands from their pharmacies.

The building is accessed through a double height entrance space directly off the public realm to the east. This atrium extends to the top floor of the building in smaller sections, with full height glazed curtain walling on the east facade and wrapping around the corner to the north facade incorporating a range of blue tints responding to Jhoots Pharmacy's corporate colours to bring both light and colour into the building through a variety of trapezoidal shapes.

The proposed materials link the building with the surrounding developments through the use of traditional masonry blockwork at ground floor, with off-white and copper/bronze coloured cladding panels at first, second and third floors. Windows on each facade are deeply recessed to provide shading, with Brise Soleil's used on the south elevation. The palette of materials provides an appropriate civic character to the important highway and surrounding developments.

The building will be constructed using a steel frame, with foundations designed to take into account appropriate bearing pressures identified in the ground investigation reports commissioned by Walsall Council. A piling solution is being considered. Floors will be concrete, with upper floors being poured in-situ utilising permanent steel formwork. External walls will be insulated masonry cavity walls at ground floor with an insulated LSF/cement board system to upper floors with external cladding panels. The panels currently under consideration are Reynobond panels which are a 4mm metal sandwich construction with a discrete fixing system.

*Transport Statement* – Notes that the Site is located in close proximity to Walsall Town Centre. There is good pedestrian and cycle infrastructure in the vicinity of the Site. It is proposed to provide cycle parking as part of the development. There is a substantial residential area within walk and cycle distance of the Site. The location of the Site provides opportunity for employees to live within practical walk and cycle distances. This is in accordance with local and national policies.

The proposed development is highly accessible by public transport, with opportunities for employees and visitors of the Site to undertake journeys by bus and train. It is demonstrated that the proposed development is in a highly accessible location, with excellent opportunities for non-car travel. This is in accordance with local and national policies.

The traffic generated by the Site in the AM and PM peak hours is estimated. The proposed development is estimated to generate 77 (two-way) movements in the AM peak hour and 72 (two-way) movements in the PM peak hour. The Site land forms part of the Walsall Gigaport redevelopment and benefits from outline planning permission for B1 office. Thus, the traffic impact of the proposed development has been already quantitatively assessed as part of the Gigaport planning application and hence, it is considered that further quantitative analysis as part of this detailed application is not required.

### **Relevant Planning History**

#### **Cabinet Resolution 18<sup>th</sup> April 2007**

Discussed further below but made recommendation to agree the boundary of the office corridor, to support a statement of intent that will seek to deliver office developments over other uses on land that is identified within the office corridor. The Cabinet also agreed to a programme of strategic acquisition of land within the office corridor.

#### **Application site:**

13/1553/DOC Request for Discharge of Conditions I1, I2 and I3a of 11/1541/TE (relating to the remediation strategy) – Discharged in relation to the application site subject to implementation of the agreed details.

11/1442/PD - Demolition of existing properties (17-23 Hatherton Street) to facilitate wider regeneration proposals under Walsall Gigaport. Application includes details of the position of hoardings. Granted 13/12/11

#### **Walsall Gigaport applications**

13/1690/RM – Business and Sports Hub – Granted 24 February 2014.

13/1625/ND – Environmental Impact Assessment Screening Opinion relating to the construction of a business and sports hub, landscaping, car parking and associated infrastructure. No Environmental Statement required. Response issued 30/12/13

11/1541/TE – Time extension application to outline planning permission for Walsall Gigaport (08/0951/OL) – Granted 03/02/12

11/0696/PD - Prior Notification of Demolition of Lime House. Granted -06/07/11

10/1041/OL – Ward Street - Outline application (All Matters Reserved) for retail development (Use Class A1) – Refused 17/03/11

09/0756/FL – WHG Town Centre Office – Granted - 05/03/10

08/0951/OL – Walsall Gigaport – Approved – December 2008.

127,000 sqm Offices (use class B1 (A)) including a Business Incubation Centre; 4,206 sqm Data Centre (sui generis – the centre would include the storage of data and computer servers which can be used by the business community); 4,300 sqm Hotel with Conference Facilities (use class C1); 23,195 sqm of Live/Work Space (use class sui generis); a 5,890 sqm Health and Sports Facility (use class D2); 621 sqm Retail and/or Restaurant (use class A1/A3)

07/2659/OL/W7 - An earlier version of the present scheme, the application was withdrawn in favour of current application following discussion with landowners, technical officers and other interested parties.

A Screening Opinion was submitted to the Council, under reference 07/1069/ND/W7, and the need for an Environmental Statement was considered further under the current application under the Environment Impact Assessment Regulations 1999 as amended. It was considered that the proposed development would not likely to have a significant additional affect on the environment taking into account previous uses on the site. It was therefore considered that with the submission of appropriate supporting documentation, an Environmental Statement was not required with the application. Officers have revisited the need for an Environmental Statement in light of the updates to legislation and High Court decisions. It is considered that the proposals still do not require an Environmental Statement.

### **The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)**

These have been considered by Officers through an informal screening opinion and whilst the development meets the threshold the development is not considered significant or in a sensitive area that would call for an Environmental Statement.

### **Policy Framework**

#### **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*".

It is based on 12 **core planning principles**; the most relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Re-use land that has been previously developed
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth and
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

**Key provisions** of the NPPF relevant in this case include the following.

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth.

23. Local Planning Authorities (LPAs) should promote competitive town centres and set out policies for the growth and management of centres. In drawing up Local Plans authorities should address a number of issues, including the following:

- support the vitality and viability of centres;

- allocate a range of suitable sites meet needs for retail, leisure, offices and - other town centre development; and
- encourage economic activity where town centres are in decline.

30. LPAs should support a pattern of development that facilitates the use of sustainable modes of transport.

58 Developments should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

61 Address the connections between people and places and the integration of new development into the natural, built and historic environment.

123 Seeks to ensure that development mitigates against pollution, including noise.

On planning conditions the NPPF (203-206) 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 (186-190) sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that a planning application must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but it recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

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

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the NPPF, so that the Core Strategy policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy.

1. *Sustainable Communities* - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. *Environmental Transformation* - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. *Economic Prosperity* Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The above are supported by the following policies.

CSP1 – Sets out the targets for sustainable regeneration of the Black Country through the concentration of investment into a Growth Network. This includes the 'strategic' centres of Brierley Hill, West Bromwich, Wolverhampton and Walsall. These are to be the areas of greatest concentration of redevelopment and regeneration in the Black Country, act as a focus for and deliver significant growth in comparison retailing and be the principal locations for other town centre uses.

CSP4 – Sets out the need for high quality place making and design

CSP5 – Sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

CEN1, CEN2, CEN3 – Strategic Centres are important for the regeneration of the Black Country, providing the focus for large scale and 'higher order comparison shopping, office employment, leisure and culture and complementary uses. The plan proposes an additional 200,000sqm (gross) of office floorspace for Walsall Strategic Centre.

TRAN1 - Sets the priorities for the development of the transport network and promoting sustainable transport modes. These involve measures to support strategic centres including Walsall,

TRAN2 - Requires development proposals to manage transport impacts of new development.

TRAN5 - Sets out the requirement for development to reduce the need to travel and encourage sustainable modes of transport.

ENV1 and ENV3 - Set out the criteria for nature conservation and design quality.

ENV5 – Seeks to ensure appropriate drainage and account for climate change

ENV7 – Seeks to deliver renewable energy and sustainable construction for new major developments.

WM5 - Resource and waste management requirements should be reflected in the design and layout of new development schemes.

Appendix 2 to the Core Strategy sets out detailed proposals (albeit on an illustrative basis) for the growth network, including Walsall Strategic Centre. An illustrative diagram (which shows among other things, the Walsall Gigaport/Office Corridor area) is accompanied by text with relevant paragraphs.

SC3.1 By 2026 Walsall strategic centre will have been regenerated as a sub-regional focus for the local economy and the community. It will provide its catchment area with an attractive choice of comparison shopping and leisure, entertainment and cultural facilities, as well as supporting a thriving office market. The centre will bring all of these activities together in a vibrant, safe, attractive and accessible environment that combines local heritage with modern design.

SC3.3 Identifies Opportunities for leisure, residential and office development at the Gigaport and Walsall Waterfront sites and large-scale, high quality development opportunities within and on the edge of the ring road available to attract additional investment.

SC3.5 In terms of office development, the 220,000 square metres of B1(a) floorspace between 2006 and 2026 referred to in CEN3 will be directed to the Waterfront north and Gigaport schemes.



SC3.6 Pedestrian links between the centre and its surroundings need to be improved, to link in the Manor Hospital and major employment areas, such as the office corridor, but also to make the most of the proximity to nearby residential areas.

SC3.7 Encourage design of new development which complements and improves the built environment, historic environment and townscape of this area rich in cultural heritage assets and enhances local distinctiveness and a sense of place.

### **Saved policies of the Unitary Development Plan**

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

GP2 – Environmental Protection – seeks to ensure that pollution impacts from development are designed out.

ENV10 – Seeks to prevent pollution, including noise and drainage and prevent uses that would have an adverse effect on neighbouring land uses and/or restrict the types of development that could be permitted in the locality.

ENV14 – seeks appropriate redevelopment of derelict and previously developed sites.

ENV23 – seeks to ensure protected species are safeguarded in the development process

ENV24 – seeks to ensure that wildlife corridors are enhanced

ENV32 – seeks to ensure high quality design from developments.

ENV33 – seeks to secure high quality landscape design from developments.

ENV35 - The design of frontages to shops and other commercial premises should be appropriate to their setting and sympathetic to the building on which they are situated.

5.8, S1, S2, S3 – Defines town centre uses, the town centre hierarchy and the boundaries of town centre. (in-centre is within Inset Map boundary, except that retailing must be within or directly adjoining the defined PSA)

S4 – Sets the general principles for town centre development including:

(a) The Council will seek to sustain and enhance the range and quality of shopping, leisure and other town centre uses which these centres provide, consistent with the role and function of a centre within the hierarchy defined in Policy S2, in order to meet the needs and aspirations of all who use the centres.

(f) The Council will seek to further improve the environment of these centres, with particular stress on maintaining and enhancing their individual character.

Improvements will be sought both through new investments and developments and through the Council's own actions.

I. Development proposals will be required to have a high standard of design (in accordance with Policies ENV32 and ENV35 in Chapter 3) with special regard to Conservation Areas and commercial frontages and fascias.

T1 – Seeks to ensure that development helps anybody, including disabled people, get in and around the development.

T2- seeks to promote bus services and accessibility to their service

T4 – seeks to manage development and the highway

T5 – highway improvements will be encouraged as part of development

T6 – sets out to ensure that pedestrian and cycling movement is improved through traffic calming methods, in particular in centres.

T7 – seeks to ensure high quality car parking design

T8 – seeks to improve promote walking and connections that allow for pedestrian movement.

T9 – Developers will be expected, wherever possible, to provide links to cycle routes, Safe Routes and Greenways which adjoin the site or pass nearby. Existing cycle routes must not be severed or otherwise adversely affected by new development unless an acceptable alternative is substituted.

T11(b) Developments which generate significant numbers of personal trips should have direct, safe and attractive access for pedestrians, cyclists and wheelchair users from the building entrance to surrounding residential areas. Seating should be provided at or near the entrances of all large developments.

(c) Where pedestrian and cycle links are considered to be sub-standard, measures must be taken to improve them. Greenways and canal towpaths can count towards this provision if they help to provide an acceptable functional link between the development and its catchment area.

T13 – seeks to ensure an appropriate level of car parking is provided.

LC5 – sets out to enhance and improve identified greenways. Developers of sites which include or adjoin parts of the Greenway network will be expected to fund the construction or improvement of these, together with any necessary links from the Greenway network into the development.

Management and maintenance agreements, which specify responsibilities and revenue sources, must be concluded before development commences.

WA3 – sets out guidance with regard to town centre uses.

WA7 – Identifies the application site as part of a Development Opportunity (further detailed in WA13) and that a comprehensive approach to development is encouraged and whilst individual proposals will be considered, the Council will need to be satisfied that a more comprehensive scheme cannot be achieved, and that future more comprehensive development options are not prejudiced. It should be noted that the inclusion of property within one of these areas does not necessarily mean that redevelopment proposals will be made which will affect it.

WA13(a) Acceptable uses may include B1(a) offices; hotel and/or leisure uses, or a suitable mix of these. In addition, leisure uses should complement and not conflict with the uses being pursued for 'Walsall Waterfront' under WA12.

(c) The developer must provide a Greenway between Littleton Street West and Portland Street.

(d) The appearance of the site from the ring road and railway is particularly important. Significant amounts of hard and soft landscaping will be required along the ring road frontage and high quality built development should be brought forward as close as possible to the ring road. The large number of mature trees on the site should be incorporated within any development, although a proportion of these will need to be removed to facilitate access to the site.

## **Supplementary Planning Documents**

### *Designing Walsall SPD*

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

### *Natural Environment SPD*

Policies NE1, NE2, NE3, NE4, NE5, NE8, NE9 & NE10 deal with the need to fully assess protected species, assess, protect and secure compensatory planting for trees. Protection is proposed for protected animals, plants etc.

## **Consultations**

**Transportation** – No objection - considers that the impacts of the Development, as shown on drawing number 12022/3A are not severe and has no objections to the current proposal subject to the following requested conditions

## **Pollution Control**

*Contaminated Land Team* – No objection subject to reclamation works being implemented to address the legacy of previous industrial land use. Conditions have been recommended

*Scientific Team* – No objection subject to dust, noise and vibration mitigation measures are undertaken during the engineering and construction phases to protect nearby residents. Further noise conditions are recommended on the boundary between the application site and the residential premises and any external machinery is located within acoustic enclosures.

**Environment Agency** – No objection subject to an informative note relating to the Ford Brook.

**Coal Authority** – No objection - considers that the content and conclusions of the Desk Study Report, August 2012, the Site Investigation Report, January 2013 and the Remediation Strategy,



February 2014 are sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development

**Natural England** – No objection advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

**Environmental Health** – No objection

#### **Natural Environment Team**

*Ecology* - The layout and landscape treatment require further attention before this application is determined. This scheme should be revised to provide a scheme with more of an ecological dimension. More evidence should be provided to indicate that the ecological elements proposed are practical. Consideration should be given to changing the planting along the railway frontage and to the rear of the housing to provide native hedges with a native ground flora beneath.

*Landscaping* - This application has sufficient information for a landscaping scheme, however a revised scheme should be provided that improves the landscaping of what is quite a prominent site.

**Fire Service** – No objection

**Network Rail** – No objection - As the proposal works are to be within 10m of the railway boundary, we would request that the developer sends a risk assessment and method statement to the Network Rail Asset Protection Engineer for review and approval.

**Centro** – No objection subject to the implementation of a TravelWise Travel Plan and secure cycle parking

**Severn Trent** – No objection subject to drainage conditions.

#### **Public Participation Responses**

WHG have commented on the scheme on the following points:

- Support in principle
- Concerns about lack of information on SI and FRA and Travel Plan Framework and how it all fitted in to Gigaport..
- Need to ensure that landscape and materials spec echoes the quality of WHG. WHG building was important in setting the standard for other developments to follow.
- Noted parking in line with Gigaport but concerned about impact and indiscriminate parking elsewhere.
- Concerns about access point – directly opposite WHG access point
- Concern about car parking and visual impact on Littleton Street frontage.
- Concerned about lack of public engagement at pre-application stage.
- Concerned about the quality of the submission.

#### **Determining Issues**

- Principle of the proposed development and relationship to the Gigaport Outline Planning Permission
- Scale, layout and design of the proposed block A
- The Outline Application – Block B and C
- Relationship to Saw Mill Close
- Relationship to the railway
- Flooding and Drainage
- Contamination and Coal Mining Risk Assessment

- Landscaping, trees and protected species
- Links to the primary shopping area, public transport, car parking, servicing, and access

### **Observations**

#### **Principle of the proposed development and relationship to the Gigaport Outline Planning Permission**

Walsall Gigaport is one of the principal regeneration aims for the Council (alongside Waterfront, St Matthews Quarter and Darlaston Enterprise Zone) and lies on the northern edge of the town centre.

The principal aim is to support job creation and a transformational environment that would support modern working practices and use Walsall College as a catalyst to enterprise and economic activity. Associated sports and leisure development, data centre, hotel development and live-work development as ancillary to the principle office based accommodation of 127,000sqm. This principle aim to create office floor-space would be aligned to the Core Strategy

The proposals also included strategic development sites with initial phases being either side of the railway and on land in the ownership of WHG. The proposed scheme is located in the initial phase of development and is compliant in this aspect.

The Gigaport design and access statement indicated that the site was capable of delivering a total floor-space of 10,084sqm in total over 5storeys with a footprint of 2864sqm. The proposals would total 4,664 sq m.

The total Gigaport floor-space (application proposals combined with WHG and Business and Sports Hub buildings) would total 9,645sqm. Given the under supply of planned office floor-space it will be necessary going forward to consider ancillary uses and the appropriateness, in particular of live-work development and development density (i.e. reducing the level of car parking), and concentrate on the delivery of office-led development in order to meet Core Strategy targets.

Considering the above, the need to deliver new office floorsapce is in accordance with the aims and objectives of the town centre. Whilst higher levels of offices would be particularly welcomed on Blocks B and C (as part of the Reserved Matters, it is noted that Block A is designed for an end user and has capability to extend on the Littleton Street frontage.

Overall the proposals are considered acceptable.

#### **Scale, layout and design of the proposed block A**

WHG comments are noted with regard to ensuring that the quality of the buildings is of sufficient quality. The proposed Block A would be a four storey building to the Littleton Street frontage with the building at the lower end of the existing embankment. The buildings would include design methodology akin to that of the proposed Sports and Business Hub (under 13/1690/RM) and the WHG offices (built under 09/0756/FL).

The proposals include a parking area to the side of the building which detract from the quality of the building and will require sensitive and detailed attention (further landscape comments are below). In addition it is noted that there is a secure "Logistics Hub" area on the ground floor area with a roller shutter to this area for reps and salespeople to take samples. Strong, tall and quantitative landscaping detail is required to mask this feature and end-user requirement.

It is agreed with the comments of WHG that the materials will be essential to the quality of the area. The applicant's Design and Access Statement indicates that the proposed materials link the building with the surrounding developments through the use of traditional masonry blockwork at ground floor, with off-white and copper/bronze coloured cladding panels at first, second and third

floors. Windows on each facade are deeply recessed to provide shading, with Brise Soleil's used on the south elevation.

Whilst further precise details are required to ensure that the proposals can meet the aims of high quality design in particular the blockwork at the ground floor, the palette of materials submitted, in principle provides a reasonable basis for approval but in particular the final detail of the blockwork needs to be submitted as the details submitted indicate a product range which has a number of sizes and finish details.

Overall Block A would be acceptable subject to appropriate conditions.

### **The Outline Application – Blocks B and C**

The proposals show two buildings with Building B being 4 storeys and Building C being 3storeys in height, all matters are considered with the exception of the external appearance.

The proposed buildings would present a front to Hatherton Street and entrances would have the potential to provide a strong and well considered perimeter to the site.

It may be possible for larger buildings to be built in this location with a larger and deeper footprint in this location. This could add to the development potential if a larger footprint and amounts of floor-space is required.

Overall the indicative layout and scale would be appropriate pattern of development with access and landscaping considered below.

### **Relationship to Saw Mill Close**

Block A would be approximately 67m from the rear boundary with Saw Mills Close whilst Block C (the closest of the proposed Blocks) would be 11m at the narrowest point increasing to 17m at the Hatherton Street frontage. Block C is proposed at 3storey. In addition there is a high brick wall (approximately 2.4m high) on the boundary with the application site.

The external appearance is not part of this consideration however the detail, to be submitted at the Reserved Matters stage will need to ensure that overlooking and windows are minimised in this elevation, whilst design features are included to ensure that the bulk and mass of the proposed buildings are broken up.

The proposed separation would allow for amenity to be protected and designed into the reserved matters submission and the relationship is considered appropriate.

### **Relationship to the railway**

Network Rail has indicated that there are easements and land interests in the area which is particularly salient given the electrification work ongoing in this area. The building is set off the boundary with the railway and is not located on the easements but parking and drainage elements are located on these easement areas.

It is anticipated that this matter relating to access and land ownership issues can be resolved without changing the scheme.

Having regard to Network Rail's interest there is a need to ensure that a risk assessment and method statement is conditioned.

## **Flooding and Drainage**

The Environment Agency have reviewed the Gigaport outline planning permission and the supporting documents associated with that permission. Having reviewed this FRA the Agency are satisfied the flood risk to this site has been addressed.

The Ford Brook running in culvert through the site is designated an Ordinary End 2 Watercourse in this location. The remit for ordinary watercourses now lies with the Lead Local Flood Authority (LLFA).

Any works to this culvert will require Flood Defence Consent from the LLFA and they should therefore be consulted for their requirements which may include deculverting and a suitable easement distance from the edge of the culvert.

The proposals are therefore satisfactory.

## **Contamination and Coal Mining Risk Assessment**

The Coal Authority's GIS records and have a recorded area of historic shallow coal workings which lies under Hatherton Street and affects the road frontage of properties 18 to 23. This affects proposed buildings B and C on your layout. As you will be aware recorded mine workings at shallow depth have potential to pose a risk to the stability of new development if not adequately treated.

The Phase 1 Report that accompanied the Gigaport application discussed mining in section 4.8 and concluded that there was a risk of mining instability within the overall site. In section 8.2 it concluded that each site within the Gigaport site should be considered individually to determine the risks and intrusive site investigations should be undertaken.

Consequently in the absence of a report which satisfactorily addresses the issue of land stability with regard to application 14/0119/FL, the provisions of paragraphs 109, 120 and 121 of the NPPF are not met.

Whilst demolition of the buildings on the site has been carried out and some remediation work has been submitted to discharge the conditions of Gigaport (relating to contamination) further work and investigation will be required to overcome the Coal Authority objection.

## **Landscaping and protected species**

At present there is a dense stand of self-set ash trees between the railway line and the application site. These trees are at risk from both the electrification of the railway and their future vulnerability to ash die-back disease. It is important that the planting strip within the proposed development, on its own, provides an effective ecological corridor.

The proposed planting along this corridor shows a variety of ornamental shrubs with fastigiated hornbeam and an ornamental variety of white-beam. This will have limited value for wildlife. A native hedge comprising hawthorn, holly, hazel to create a substantial low maintenance screen providing cover for wildlife would be a better option. Under-planting with either ivy or a woodland ground flora mix would provide a botanically diverse addition. The tree planting could remain as proposed.

It is proposed to plant species-rich grassland along the boundary with Saw Mill Close and in an area of land on the Littleton Street frontage. The species lists of the seed to be used are appropriate for the area. However, for this sort of planting to be effective a low nutrient soil is required and technical ecological input will be required during the establishment period.

Future management is also critical. More information is required to demonstrate that this proposal is practical. It is proposed to plant an area of species-rich grassland along the frontage with the ring road.

To Saw Mill Close, a better solution would be the same type of native hedge as proposed along the railway frontage. For the two landscape strips which can have an ecological function it would be better to re-jig the layout of the development to create wider beds which will better contain larger shrubs without encroachment into car parking areas.

The ornamental shrubs provided are typical species selected by landscape architects throughout the UK which have little ecological value in that they provide few flowers or fruit for birds, mammals and invertebrates.

The hard-surface environment is designed to be hardwearing and to encourage movement to the town centre, whilst this area would not provide an ecological area; it is designed to be of high pedestrian and cycle use. In this regard, the scheme is considered to be acceptable.

Overall, whilst the areas are identified and improvement, the proposals could, with amendment and further management detail provide a satisfactory landscaped environment. The use of planning conditions seeking amendments and further detail is considered to be appropriate in this instance.

#### **Links to the primary shopping area, public transport, car parking, servicing, and access**

The proposals include an area of public open space at the corner of Littleton Street East and Hatherton Street which will direct people to pedestrian crossings which in turn would link users of the development to the Primary Shopping Area and public transport interchanges, reducing the need to travel by car and enhancing the opportunity for linked trips. The comments of Transportation Officers with regard to the adequacy of the submitted information are noted and a revised Transport Statement has been submitted.

It is noted that Block A provides 35 parking spaces for 1,866sqm; 29 parking spaces shown for Block B (c.1,700sqm) and 20 parking spaces shown for Block C (1,098sqm). This would therefore generate 87 car parking spaces in total and would include 8 spaces for disabled parking provision with 3spaces each for Blocks A and B and 2 spaces for Block C.

Excluding disabled provision spaces is shown at:

Block A – 1space per 58sqm

Block B – 1 space per 65sqm

Block C – 1 space per 61sqm

The total provision would be therefore 1 space per 61sqm. Walsall Gigaport proposed a maximum provision of 1space per 60sqm taking account the location of the Gigaport area to residential catchments, public transport and the aim to promote and deliver a high quality environment. Higher levels of parking would have implications on the highway network capacity and junctions.

This layout and parking provision would be wholly compliant with the Gigaport aims and alongside cycling provision and travel plan conditions.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this

instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

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

Schedule A – Relating to All the Development

Schedule B – Relating to Block A

Schedule C – Relating to Blocks B and C

Schedule D – Relating to car parking and landscaping areas

Schedule E – Relating to Contaminated Land and remediation

#### **Schedule A – Relating to All the Development**

A0 - the term "Phase" means:-

Individual sites within the overall application site that can be progressed in individual reserved matters submissions and still meet the overall aspirations and objectives of the outline planning permission.

*Reason:* To define the permission, and create the framework for the conditions, and their application to parcels of land.

A1. For the avoidance of doubt the Phases (as shown on 12022/3) shall comprise as follows:

Phase 1 – Block A and associated car parking, access points and landscaping

Phase 2 – Block B and C and associated car parking and landscaping

*Reason:* In order to define the permission and phasing of the development.

A2. Notwithstanding the Town and Country Planning (General Permitted Development) Order (as amended) the development shall be used for office floor-space in accordance with the submitted plans and be retained thereafter in Use Class B1(a) (offices).

*Reason:* In order to meet the strategic aims of the Black Country Core strategy for delivery of office accommodation and the proposed development, due to the noise and air quality of Littleton Street East, the proposed development is not designed for alternative uses (especially residential use).

A3a) No development shall take place, including any works of remediation, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) A plan showing the parking of vehicles of site operatives and visitors
- ii) Loading and unloading of plant and materials
- iii) Storage of plant and materials used in constructing the development
- iv) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v) Wheel washing facilities
- vi) Measures to control the emission of dust and dirt during construction
- vii) A scheme for recycling/disposing of waste resulting from remediation and construction works

A3b) The development shall be fully carried out in accordance with the agreed Construction Phase Method Statement and agreed details shall be retained throughout the construction period.

*Reason:* In the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway and to ensure that arrangements do not affect neighbouring residents.

A4a) No development shall commence until drainage plans for the disposal of surface water and foul sewage, including sustainable drainage systems and rainwater harvesting detail, shall have been submitted to and approved in writing by the Local Planning Authority.

A4b) The scheme shall be fully implemented in accordance with the approved details before the development is first occupied and thereafter retained and maintained.

*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.

A5a) Prior to commencement of development a strategy for recruitment and training including draft construction training and employment methods statement setting out measures to maximise local job and training opportunities during construction shall be submitted to and approved in writing by the local planning authority.

A5b) The agreed details shall be fully implemented throughout construction

*Reason:* In order to promote employment and skill enhancement within the Black Country and in accordance with Black Country Core Strategy policy EMP5.

A6a) Prior to the commencement of development the applicant shall agree measures for controlling dust, flying debris, and drag-out from the site in writing with the Local Planning Authority.

A6b) All agreed measures shall be implemented and maintained throughout the duration of remediation, engineering and construction activities.

*Reason:* To safeguard the amenities of neighbouring residents, in particular to Saw Mill Close.

A7a) Prior to first occupation of the development hereby approved development, details of security orientated measures to meet Secured By Design or an equivalent standard as agreed with the Police Architectural Liaison Officer details shall be submitted to and agreed in writing by the Local Planning Authority.

A7b) The development shall not be brought into use until the approved scheme has been fully implemented and completed. The approved scheme shall thereafter be retained.

*Reason:* To create a secure and safe environment for future users of the site.

A8a) Prior to installation details of the proposed boundary treatment of the development , have been submitted for the approval of the Local Planning Authority.

A8b) The development shall not be brought into use until the approved scheme has been fully implemented and completed. The approved scheme shall thereafter be retained.

*Reason:* The submitted boundary treatment detail is of inadequate design quality and fails to preserve or enhance the setting of listed buildings or the quality of the Conservation Area.

A9. Levels of structure-borne vibration transmitted to occupied buildings from ground stabilisation works (such as piling and vibro-compacting) shall not exceed specified criteria for '*low probability of adverse comment*' as stated in British Standard BS 6472-1:2008 Guide to evaluation of human exposure to vibration in buildings.

*Reason:* To safeguard the amenities of neighbouring residents, in particular to Saw Mill Close.

A10. Any external machinery, including at roof levels, shall be placed within acoustic enclosures, such that the noise does not exceed background levels at nearby residential premises.

*Reason:* To safeguard the amenities of neighbouring residents, in particular to Saw Mill Close.

A11. The building shall be served by a mechanical ventilation system, with incoming air brought in from the rear façades to the road(s).

*Reason:* Having regard to the air quality of the area.

A12. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00; and 08.00 to 14.00 on Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

*Reason:* To safeguard the amenities of neighbouring residents, in particular to Saw Mill Close.

A13) No vehicles, equipment or materials may enter the site, and no construction work may commence on site until protective fencing has been erected around the trees to be retained on site. All existing trees shown on the plans hereby approved as being retained on site shall be protected by fencing in accordance with BS5837:1991 'Trees In Relation To Construction', in accordance with a scheme and specification which shall have been submitted to and approved in writing by the local planning authority. Within the protected area(s) there shall not be carried out or permitted, during the construction period, any building or other operations, parking or passage of vehicles, or storage of building or other materials or any other object.

*Reason:* To ensure that the trees on the site are protected during construction works in the interests of local amenity.

A14) The car spaces provided shall be kept available for the parking of motor vehicles at all times. The car parking spaces shall be used solely for the benefit of the occupants of the development and their visitors and for no other purpose and permanently retained as such thereafter.

*Reason:* In order to provide satisfactory access and parking provision.

A15. Unless otherwise specified within planning conditions, the development shall be carried out in accordance with the submitted details shown on the following plans and documents:

Plans

12022/1A

12022/2D

12022/3A

12022/4B

12022/5

12022/6

12022/7

12022/8

ADL071 Rev C



Documents:

Design and Access Statement prepared by SP Faizey (ref 12022)

Transport Statement prepared by Ashley Helme Associates (ref: 1373/1A)

**Schedule B – Relating to Block A**

B1. This development must be begun not later than 3years after the date of this decision.

*Reason:* Pursuant to the requirements of Section 91(1)(b) of the Town and Country Planning Act, 1990 and to ensure that any delay in the delivery of the development takes account of the Walsall Town Centre Area Action Plan which will seek to develop a preferred option for a town centre cinema.

B2a) Within 6months of the commencement of built development, the following details shall be submitted for approval in writing by the Local Planning Authority and in conjunction with the Highway Authority and Walsall Council's Street Lighting partner Amey;

- Full engineering details of the proposed access off Hatherton Street as specified on the approved plans.
- Full engineering details of the highway infrastructure works to facilitate the closure of the all existing redundant accesses and vehicular crossovers onto Hatherton Street.

B2b) Prior to occupation of the development all the detailed highway infrastructure works shall be fully implemented, completed and brought into use to the satisfaction of the Highway Authority in accordance with the agreed construction method statement and timetable.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

B3a) Notwithstanding the materials shown on drawing 12022/8, the final materials specification, including maker, colour, specification (e.g. size) and finish, shall be submitted to and agreed in writing by the Local Planning Authority

B3b) The development shall be carried out in accordance with the submitted details.

*Reason:* In order to ensure that the development meets the aims of the wider area for a transformational development and appropriate setting to the Littleton Street frontage.

B4a) Prior to the commencement of development details of proposed measures to achieve a high quality sustainable design have been submitted to and agreed in writing by the Local Planning Authority. Examples include the following: -

- i) Measures to reduce energy consumption and carbon dioxide emissions (e.g. building insulation, energy display devices, energy labelled white goods, low and zero carbon technologies, cycle storage)
- ii) Measures to reduce water consumption (e.g. recycling surface water or grey water)
- iii) Responsible sourcing of materials
- iv) Reduction of surface water run-off (e.g. surface water management and management of flood risk)
- v) Household recycling, construction waste management and composting facilities
- vi) Means of reducing pollution and emissions

- vii) Health and wellbeing measures (e.g. daylighting, sound insulation)
- viii) Management opportunities (e.g. considerate constructors scheme)
- ix) Installation of new/additional ecological measures
- x) Electric vehicle charging points

B4b) 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 secure the sustainable means of construction to at least BREEAM Very Good or equivalent standard in accordance with policy ENV3 of the Black Country Core Strategy.

B5a) Prior to the first occupation of development, a Travel Plan shall be submitted to the Local planning Authority, developed in conjunction with Centro Sustainable Travel Team. The Travel Plan submission will identify a package of measures consistent with the aim of reducing reliance on the car, and should include (but not be limited to) providing information on / promoting the use of alternative modes of transport, by:-

- i) The appointment of a travel plan co-ordinator,
- ii) The establishment of targets for modal shift,
- iii) The details of measures to be employed to achieve the identified targets,
- iv) Mechanisms for ongoing monitoring and review of targets and travel plan measures,
- v) Details of penalties and/or additional measures to be investigated / implemented in the event that the identified targets are not met.
- vi) Public transport information and ticket details;
- vii) Cycle provision, showers and lockers and associated infrastructure; and
- viii) Walking initiatives.
- ix) Car park allocation strategy.

B5b) The approved Travel Plan shall be implemented during the six months following the first occupation of the premises. Following the expiry of this period of time or such other period of time as may be agreed under part (d) of this condition, a review of the Plan shall be carried out, and submitted to the Local Planning Authority for approval. The review will identify any refinements and clarifications deemed necessary to the Plan.

B5c) The occupation and use of the development shall comply with the requirements of the revised plan approved under part (e) of this condition, at all times, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory functioning of the development, to promote the use of a range of modes of transport, and minimise the use of the car.

### **Schedule C – Relating to Blocks B and C**

C1. Application for approval of the Reserved Matters shall be made within 3 years of the date of this decision.

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

C2. The development must be begun not later than 2 years from the approval of the Reserved Matters

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

C3. This development (excluding remediation) shall not be commenced until details of the appearance (including floor to eaves height) as a Reserved Matter has been submitted to and approved by the Local Planning Authority.

*Reason:* Pursuant to the requirements of the Development Management Procedure Order 2010.

C4. The Reserved Matters will contain:

- a) a development amount comprising a minimum floor-space for development of 1,700sqm for the Block B.
- b) a development amount comprising a minimum floor-space for development of 1,066sqm over 3 storeys for Block C.

*Reason:* In order to meet the strategic aims of the Black Country Core strategy for delivery of office accommodation.

C5. As part of the Reserved Matters submission a full materials and landscape specification and management strategy shall be submitted to and agreed in writing by the Local Planning Authority.

*Reason:* In order to ensure that the development meets the aims of the wider area for a transformational development.

C6a). As part of the Reserved Matters a Travel Plan Framework shall be submitted to the Local Planning Authority and approved as part of the Reserved Matters submission.

C6b) Prior to the first occupation of development, a Travel Plan shall be submitted to the Local planning Authority, developed in conjunction with Centro Sustainable Travel Team. The Travel Plan submission will identify a package of measures consistent with the aim of reducing reliance on the car, and should include (but not be limited to) providing information on / promoting the use of alternative modes of transport, by:-

- i) The appointment of a travel plan co-ordinator,
- ii) The establishment of targets for modal shift,
- iii) The details of measures to be employed to achieve the identified targets,
- iv) Mechanisms for ongoing monitoring and review of targets and travel plan measures,
- v) Details of penalties and/or additional measures to be investigated / implemented in the event that the identified targets are not met.
- vi) Public transport information and ticket details;
- vii) Cycle provision, showers and lockers and associated infrastructure; and
- viii) Walking initiatives.
- ix) Car park allocation strategy.

C6b) The approved Travel Plan shall be implemented during the six months following the first occupation of the premises. Following the expiry of this period of time or such other period of time as may be agreed under part (d) of this condition, a review of the Plan shall be carried out, and submitted to the Local Planning Authority for approval. The review will identify any refinements and clarifications deemed necessary to the Plan.

C6c) The occupation and use of the development shall comply with the requirements of the revised plan approved under part (e) of this condition, at all times, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory functioning of the development, to promote the use of a range of modes of transport, and minimise the use of the car.

## **Schedule D – Relating to car parking and landscaping areas**

D1a) Notwithstanding the landscape information submitted in support of this planning application no built development shall commence until full details of landscaping is submitted to the Local Planning Authority and approved in writing. Information is required for the entire application site and shall provide full details of:

- Proportions (%) of plant species within each proposed plant mix.
- How the plants will be introduced, for example as: seeds, plugs, whips, standards, through natural colonisation and how the land will be prepared.
- Topsoil/growing media specification
- Specification of trees and shrubs and associated tree pit specification.
- Plant numbers, weights of seed, density of sowing/ planting.
- Locations of all planting.
- Details of hard landscaping/ lighting and drainage.
- Details of access and circulation.
- Soft landscaping to areas shown as car parking spaces A13, A14, A15.
- Management strategy and regime for a period of 5years

D1b) The development shall be carried out in accordance with the approved landscaping scheme and management regime prior to first occupation of the development and retained thereafter.

*Reason:* To ensure satisfactory development of the application site and to enhance the appearance of the area and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and ecological value of the railway corridor.

D2a) Within 6months of commencement of development details of cycle storage (including lighting and elevations) shall be submitted to and approved in writing

D2b) The agreed details shall be fully implemented prior to the occupation of Block A

D3a) Prior to the first occupation of the development, details of a scheme of decorative and functional external lighting for the development, shall have been submitted to and approved in writing by the Local Planning Authority. Any External lighting shall be directed away from residential properties and shall comply with the recommendations by the Institute of Lighting Engineers/Professionals for the reduction of light pollution.

D3b) The development shall be fully implemented and completed in accordance with the approved details and retained and maintained thereafter

*Reason:* To ensure satisfactory functioning and appearance of the development and to preserve and enhance the character of the Conservation Area and to safeguard the amenities of neighbouring and nearby residents.

## **Schedule E – Relating to Contaminated Land and remediation**

E1i) Construction of building A identified on Drawing WM10677-010 (30/01/2014) shall not commence until the *Remediation Strategy Noirit Foundry Hatherton Street Walsall Job No WM10677 Report No 007 3rd February 2014* has been implemented and a validation report confirming completion Phase 1 as detailed on Drawing WM10677-010 (30/01/2014) has been submitted to and agreed in writing by the Local Planning Authority.

E1ii) Building A shall not be brought into use until the *Remediation Strategy Noirit Foundry Hatherton Street Walsall Job No WM10677 Report No 007 3rd February 2014* has been implemented and a validation report confirming completion Phase 1 and Phase 2 as detailed on

Drawing WM10677-010 (30/01/2014) has been submitted to and agreed in writing by the Local Planning Authority.

E1iii) Construction shall not commence in the area identified as Phase 2 on Drawing WM10677-010 (30/01/2014) shall not commence until the *Remediation Strategy Noirit Foundry Hatherton Street Walsall Job No WM10677 Report No 007 3rd February 2014* has been implemented and a validation report confirming completion Phase 1 and Phase 2 as detailed on Drawing WM10677-010 (30/01/2014) has been submitted to and agreed in writing by the Local Planning Authority.

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

#### NOTES FOR APPLICANT:

##### **S278 Works**

No work on the public highway should commence until any engineering detail of improvements to the public highway have been approved by the Highway Authority, and an agreement under S278 of the Highways Act 1980 entered into. Any agreement for street lighting should be agreed in writing with Walsall Metropolitan Borough Council's Street lighting partner Amey.

##### **Mud on Highway**

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.

##### **Drainage**

No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

##### **Ford Brook**

The proposals should be in line with the Black Country Core Strategy, Policy ENV5, which requires surface water limitation to the greenfield run off rate using sustainable drainage. In line with the Black Country Core Strategy, Policy ENV5, and our own culverting policy, we would prefer to see this watercourse deculverted through the site. The Ford Brook running in culvert through the site is designated an Ordinary End 2 Watercourse in this location. The remit for ordinary watercourses now lies with the Lead Local Flood Authority (LLFA). Any works to this culvert will require Flood Defence Consent from the LLFA and they should therefore be consulted for their requirements which may include deculverting and a suitable easement distance from the edge of the culvert.





## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 4.**

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

**Application Number:** 14/0191/WA  
**Application Type:** Waste Application

**Case Officer:** Alison Ives  
**Telephone Number:** 01922 652604  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Enviroarm Ltd

**Applicant:** M & A Doocey

**Proposal:** Infilling and capping of former limestone mine shafts using on site and imported inert fill processed using a crusher and screen to make engineered infill materials with a reduced scheme to protect the area of the former lime kilns and to resort the ground within 12 months to open space.

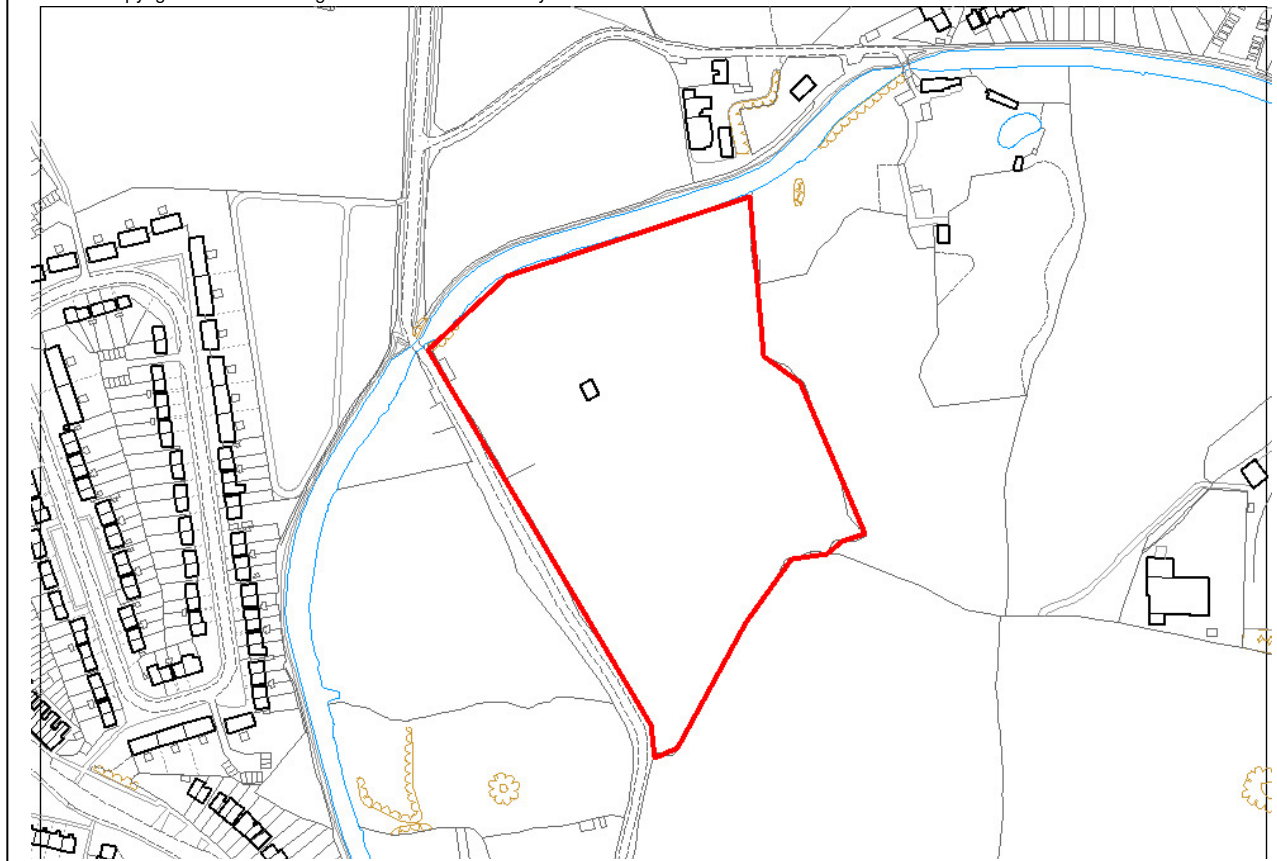
**Location:** LAND AT, WINTERLEY LANE, WALSALL,

**Ward:** Rushall-Shelfield

**Expired Date:** 12/05/2014

**Recommendation Summary:** Grant permission subject to conditions subject to prior agreement of a strategy to deal with the archaeological remains on site.

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## **Application and Site Details**

This is a revised application to fill and cap mine shafts on a former Limestone Works site. The site has also historically been used for inert landfill. The site comprises a stable block and large field previously used for grazing located to the south of Daw End Branch Canal just beyond Winterley Bridge on the east side of Winterley Lane. The proposal is to fill and cap the mineshafts and lime works. The proposal includes ancillary aggregate/waste recycling to produce materials suitable for the reclamation of the site and treatment of the shafts and voids. It is proposed that any existing buildings or foundations uncovered will be removed and remediated. The mine shafts will be capped with a concrete mineshaft cap.

A 3m high bund is proposed around the perimeter of the site with a 15m stand off from the canal. The land will be restored to original land levels to return the site for open space.

As previously approved under application 09/0695/FL construction of a new access and provision of temporary passing bays on Winterley Lane is also proposed. The access is 88m away from the existing access; the passing bays are 20m X 3.5m which increases the road width from 6.5m to 8m to allow two HGV's to pass. All vehicles will be required to turn left out of the site towards Daw End/Bosty Lane junction.

An area of 50m x 40m near the Winterley Lane frontage will be used to operate works on the site where there will be 1 temporary building/welfare unit and 2 concrete slabs for temporary storage bays and to store machinery. A screener/crusher will be located on this area. A road sweeper will be housed on site to control potential for drag out material.

The works are proposed in 8 phases to be carried out within 12 months of the granting of an Environmental Permit by the Environment Agency. Each phase will involve a 24m strip with 3 month schedule to allow or uncovering 3 shafts per strip which will run from north to south across the site. The surface area of the works has been reduced from 37,427m<sup>2</sup> to 34,601m<sup>2</sup> since the earlier application.

The requested hours of operation are 07.00–18.00 hours Mondays to Fridays, 07.00-13.00 hours on Saturdays and no Sunday or Bank Holiday working. The inert recycling operations are proposed to take place between 08.00-16.00 hours Mondays to Fridays and 08.00-12.00 midday on Saturdays only with no Sundays or bank holiday working.

There is 2m of fill across the site and the proposals involve excavating and processing of 1.5m of fill except where shafts are present where a 5m x 5m grid will be opened to allow for infilling and capping with a concrete cap. At least 50% of the required material is available on site so 25,000m<sup>3</sup> of imported fill will be required as inert waste to bring ground levels back to original and some imported fines and sand to treat shafts and voids. It explains that materials will be treated on site through screening and crushing of excavated fill to produce suitable backfill and to remove unsuitable materials and secondary aggregates.

It explains the site has an upper limit of 25,000m<sup>3</sup> or 37,500 tonnes. The phasing allows 12 months from the granting of an Environmental Permit (18 months from granting of any planning permission) which equates to 3,125 tonnes importation per month and removing 2000 tonnes per month which is 125 lorry movements per month, 25 per week as an average.

There would be 6 full-time employees at the site.

The works are partly retrospective as some operations began on site in January 2013. The applicant states that they originally began works to implement the permission to fill and cap one mine shaft but whilst constructing the access further voids appeared and investigations carried out



have identified further structures, shafts and tunnels below ground. There are stockpiles of imported building materials around the site.

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

The site area is 3.74 hectares.

The Design & Access Statement – Describes the proposed use and proposed layout and the impact this has on the landscaping and appearance of the area and access.

The Noise & Vibration Management Plan – Identifies that no fixed plant will be on site and that any plant and equipment will be operated in accordance with manufacturers guidelines and fitted with appropriate silencers and acoustic panels/insulation. Staff and site management procedures are proposed to monitor operations and noise. It is recommended that hours of operation for the screener and crusher are 08.00 – 16.00 weekdays and 08.00 – 12.00 midday on Saturdays. A temporary screen bund is also proposed around the crusher and screener to provide noise attenuation.

The Supporting Statement Volume 2 – Describes the current use of the site, the proposed development, screening process, prediction and evaluation of the impacts, phasing, operational procedures and restoration, ecology, dust, highways, hydrogeology, archaeology, flood risk, and socio economic considerations. It concludes that the likely impacts are acceptable and evidence based mitigation is proposed where required. The following Appendices form part of this document:

1: Method Statement & Working Plan – This covers infrastructure and operations, reception and control facilities, operational considerations, traffic movements, waste types and landscape and screening bunds.

2: Ecology & Nature Conservation Assessment – Identifies habitats on site and their potential to support protected species. It evaluates these records and potential habitats for reptiles, birds, bats, water vole, otter and badger are considered. The evaluation considers there will be a negligible impact on reptiles, birds or badgers. The stables and existing hedges may have value for bats and further survey work is recommended, the canal water's edge is valuable habitat for water vole but the remainder of the site is of negligible value for water vole or otter. As the stables and hedge boundaries are being maintained no mitigation/compensation is proposed for protected species. The stand off from the canal will protect water vole and otters. Restoration of the site to species rich grassland will be proposed as compensatory measures for their loss on site.

3: Dust and Odour Assessment – Identifies key sources of particulate and odour risk to be from bund construction and restoration works, land reclamation operations, stockpile and screening bunds and movement of haulage vehicles. Local receptors are identified as local settlements, wildlife, fluvial environment, highways and public rights of way. A particulate management plan is proposed.

4: Transport Assessment – Highlights existing conditions, and traffic movements, proposed vehicular access and road cleaning amongst other topics. It states the operation will result in 20 deliveries per weekday and 10 during Saturday the vast majority of deliveries by eight wheel 20 tonne tipper trucks but some smaller 10 tonne trucks and pick-up trucks will be used. In conclusion it states the proposal will result in minimal increase in vehicle trips on the local highway network

5: Hydrogeology – States the site is underlain by 10-15 metres of bedrock of lower coal measure clays beneath which there is 10m of lower Ludlow Shales before groundwater is intercepted in the Upper Wenlock Limestone. All shafts have potential to act as a preferential pathway to any source

of pollution. As the groundwater flow is slow so wash out from infilling will be slow and the concrete slab over shafts prevents further risk from shaft entries. Exposing and infilling shafts with suitable inert material and capping shafts will remove the pathway for pollutants.

6: Flood Risk Assessment – Considers the policy context, sources of flooding, assessment of actual flood risk and fluvial flood risk, control of flood risk and residual flood risk and application of flood risk policy. It concludes the site is in Flood Zone 1 with no actual risk of flooding and surface run-off does not impact third party land. The site is less vulnerable and appropriate as it is above the groundwater table.

7: Archaeology Review – Reviews the archaeological assets of the site.

8: Noise Management – See Noise & Vibration Plan referred to above.

### **Relevant Planning History**

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

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

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

### **Relevant 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:

- Support sustainable development
- Promoting sustainable transport

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

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

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 79 states the essential characteristic of Green Belts is their openness and permanence.

Paragraph 80 identifies the five purposes of Green Belts which are:

- *to check the unrestricted sprawl of large built-up areas*
- *to prevent neighbouring towns merging into one another*

- *to assist in safeguarding the countryside from encroachment*
- *to preserve the setting and special character of historic towns*
- *to assist in urban regeneration by encouraging recycling of derelict and other urban land*

Paragraph 81 states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity. It also encourages improving damaged or derelict land in the Green Belt.

Paragraph 87 states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 88 states very special circumstances will not exist unless the potential harm is clearly outweighed by other considerations.

Paragraph 89 states the construction of new buildings is inappropriate in Green Belt except for specific purposes including:

- *buildings for agriculture or forestry*
- *provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it*
- *replacement of a building provided the new building is the same use and not materially larger than the one it replaces*

Paragraph 90 certain types of development are not inappropriate provided they do not conflict with the openness of the Green Belt including engineering operations.

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

Paragraph 109 encourages protection and enhancement of valued landscapes and geological conservation and remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land where appropriate.

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

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 121 Development sites should be suitable for new uses taking account of ground conditions and land instability, including from natural hazards or former activities such as mining and pollution.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Paragraph 126 - Local planning authorities should have a positive strategy for the conservation and enjoyment of the historic environment. LPA's should recognise Heritage Assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

Paragraph 129 - Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal and take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 133 - Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, LPA's should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

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

Paragraph 136 - Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

Paragraph 139 - Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was

published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies:

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

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

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

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings. Buildings, structures and archaeological remains of traditional manufacturing and extractive industries such as coal mining and limestone quarrying should be conserved.

ENV4: All development proposals likely to affect the canal network should seek to protect and enhance its special historic, architectural, archaeological and cultural interest, nature conservation, visual amenity and water quality.

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

WM1: Encourages sustainable waste management and enabling existing waste management infrastructure to expand or relocate where appropriate.

WM4: Considers new waste management proposals stating they should seek to minimise impacts on the highway, visual impacts, potential detrimental effects on the environment and human health and localised impacts on neighbouring uses from noise, emissions, odours, vermin and litter.

Proposals should demonstrate compatibility with surrounding areas. Disposal of inert wastes to land as part of land remediation/engineering will require an open outdoor site and should include mitigation for visual and other harmful effects by appropriate landscaping and screening.

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

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

ENV1: Identifies the Green Belt boundaries.

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

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

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

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

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

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

ENV25: Proposals for development which affect archaeological sites will normally be accompanied by an evaluation of the archaeological resource.

ENV26: Seeks to protect the Borough's industrial archaeology including canal heritage.

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

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

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

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

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

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

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7 – All development should satisfy the car parking standards set out in Policy T13.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

LC5: Seeks to protect a network of Greenways throughout the Borough.

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

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

#### **Designing Walsall SPD**

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

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

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

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

### **Consultations**

**Transportation** – No objections. The impacts of the temporary works on the surrounding highway network are not severe. Conditions are recommended to secure full engineering details of the access, parking for site operatives and provision and maintenance of visibility splays at the access. Notes for the applicant regarding S38/S278 works, mud on the highway, drainage over the public highway and provision of a dilapidation survey are recommended.

**Pollution Control (Scientific Team)** – No objections in principle. Conditions are recommended to control noise and dust. A method of cleaning vehicle wheels before they exit onto the highway should be agreed prior to any approval.

**Pollution Control (Contaminated Land)** – No objections but recommend conditions to secure measures of controlling noise and dust. A method of cleaning vehicle wheels before they exit the site onto the highway should also be agreed. The site is some distance from residential premises and no noise complaints have been received but it is recommended that measures to control noise are secured by condition and mitigation measures proposed are fully implemented.

**Archaeologist** – Objects on the basis that the proposals would cause damage to a Heritage Asset of National Importance and of locally distinctive character. The former limeworks cover a large area (2.5 hectares) in the northern part of the site.

The applicant should present an assessment of the archaeological remains and a strategy for dealing with those remains affected by the proposals. The submitted plan does not show the location of these remains accurately. It should be emphasised that the lime kilns are only a small portion of the total area of archaeological interest (around 10%) and the applicant should present a strategy for dealing with the archaeological remains over the entire site. The preferred option would be preservation but for areas where this is not possible for safety considerations there should be a strategy for excavation and recording of archaeological remains prior to and/or during removal of materials. Whilst the supporting statement refers to a detailed watching brief prepared by archaeological specialists this has not been provided and no details establishing the depth of the archaeological remains has been provided to demonstrate that the former structures will not be disturbed. It is recommended that the applicant be asked to submit a strategy for dealing with the archaeological remains prepared by a recognised archaeological contractor/consultancy.

**Canal & River Trust** – No objections subject to conditions to secure details of the bund along the canal and details of surface water drainage in order to maintain the integrity of the canal structure.

**The Coal Authority** – No specific comments or observations. Whilst there are no shallow recorded mine workings within the specific area proposed for development there is the potential for historic unrecorded coal mining features within coalfield areas. An informative note to applicant is recommended to contact the Coal Authority in the event that a mining legacy is encountered.

**CPRE Staffordshire** – No objections. CPRE welcomes restoration of the area to a more natural condition and the improvement in the appearance of the site when work is completed. The infilling of the shafts is also welcomed as it makes the shafts safe and disposes of inert waste safely.

**Ecology** – Further information is required to identify what the open space will be used for on completion of the restoration works. Subject to these details conditions are recommended to secure the recommendations in the ecological report. Any diverse habitats on this site have largely been destroyed by the works already carried out. The proposals should ensure the Daw End Branch Canal Site of Local Importance for Nature Conservation is not damaged.

**Environment Agency** – No objections. The material proposed to fill the shafts should be suitable clean inert material to ensure no contamination of groundwater. The proposed activities would be controlled under a Waste Permit and it is recommended that a bespoke permit would be required for this site to include specific conditions and risk assessments on how potential impacts on the Daw End Railway Cuttings SSSI will be mitigated. A bund will be required along the boundary with the canal to prevent contaminated run-off entering the canal. Permission is required from the Environment Agency and Canal & River Trust to extract water from the canal for dust suppression purposes.

**Environmental Health** – No comments as the environmental health team has no enforcement responsibility for the proposed works.

**Fire Service** – No objections.

**Inland Waterways** – No objection subject to appropriate protection of the structure and amenity of the Daw End Branch Canal including the temporary bund as described.

**Local Access Forum (Walsall Ramblers)** – No objections. There are no impacts on public rights of way.

**Public Rights Of Way** – No objections.



**Structures & Geotechnical** – No objections in principle. The former limestone mineshaft infilling should be carried out in accordance with specific details recommended to be secured by condition. Further details of the stabilisation of the former limestone mineshafts are required and should be secured by condition.

### **Public Participation Response**

17 letters of objection have been received which are summarised as follows:

- Unsafe access due to the narrow road and poor visibility
- Unsuitable access for the volume of heavy vehicles
- Volume and type of vehicles using the site are a danger to pedestrians and other road users
- Vehicles have ruined the verges on Winterley Lane
- Change to the historic character of Winterley Lane
- Soil has dragged out onto Winterley Lane
- There is a weight limit on the bridge which is unsuitable for HGV's
- Heavy vehicles manoeuvring to avoid the bridge
- There is already excessive numbers of vehicles operating from the site
- Adverse impact on the environment due to fly tipping and attraction of pests
- Potential contamination from imported materials
- The site has become untidy since works commenced
- The site is operating as a tip
- The operator is already abusing existing hours of operation
- Increased dust causes health and amenity problems
- Noise from operation of machinery on site is audible from neighbouring properties including weekends
- Increased noise and environmental pollution
- The Council should consider residents not developer profits
- Materials are being sold off site and not used for filling
- Bunds have been erected to excessive heights to screen operations
- Works continue on site despite not having full permission
- A new access has already been implemented
- Sceptical about it being a 12 month operation
- Concerned about the potential use of the land once restoration is complete
- Lack of faith in the operator on the basis that current conditions have been ignored
- Loss of wildlife
- Loss of archaeology
- Lack of consultation with neighbouring properties
- Concern about a repeated application
- Buildings and trees have been removed already that contained protected species (bats)
- Inaccurate ecological surveys – a survey has been provided by the objector
- The operators are in breach of the Wildlife & Countryside Act

A letter enclosing a copy of a petition with 46 signatures submitted in objection to application 13/0652/FL has also been submitted. Officers cannot confirm that the signatories still object other than the covering letter advising that this is the case.

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

### **Determining Issues**

- Principle of development
- Impact on the character and openness of the Green Belt
- Archaeological Impact
- Relationship to surrounding properties
- Land Stability

- Means of access and impact on the highway network
- Landscaping/Ecology
- Environmental Impact Screening Opinion

## **Observations**

### **Principle of Development**

Key considerations as to whether the principle of the development is acceptable are:

- Whether the level of restoration is appropriate to support the after use of this Green Belt site for open space/grazing use.
- Whether the proposed materials are appropriate to achieve the restoration for this after use
- Whether the right volume and type of materials to support the shortest timescale for restoration of the site
- Impact on the amenity of those living nearby

The principle of remediation and mitigation of derelict and unstable land is supported, where appropriate, by paragraph 109 of the NPPF and policy ENV14 of the UDP. The site is a former limeworks site where mine shafts have been identified that are affecting the stability of the land. In this case a key consideration is whether the level of restoration proposed is appropriate for this Green Belt site where the after use is to return the land for open space/grazing purposes.

The applicant is proposing to excavate and process the 2m depth of fill that presently covers the site and former shafts and workings. They anticipate that at worst case 50% of the recovered material will be unsuitable for backfill and will be exported off site. They anticipate that 25,000m<sup>3</sup> of imported fill will be required as inert waste to bring the ground levels back to original and some imported fines and sand to treat the shafts and voids. This is a reduction from 37,417m<sup>3</sup> originally anticipated under application 13/0652/FL. The proposals include on site processing of materials by crushing and screening to manufacture suitable materials for the reclamation of the site with additional imported inert waste and sale of secondary recycled aggregate from the site.

The level of restoration required should be appropriate to the end use for open space or grazing by removing the voids and restoring the land to a level sufficient to withstand livestock and machinery for this end use. The current proposal is for a reduced amount of imported inert waste material (reduced from 37,417m<sup>3</sup> to 25,000m<sup>3</sup>) which will be processed and sorted on site and a reduced timescale for restoration from 30 months to 18 months. Although importation of materials that could be deposited straight into the ground without the need for sorting, screening and crushing would be preferred it is considered that the developer has made efforts to reduce the timescale of the programmed works to reduce potential adverse impacts on amenity.

The main implications of sorting materials on site is from screening/crushing processes, generation of traffic and stockpiling materials that would have an adverse impact on the amenities of the area. Nevertheless the applicant has identified mitigation measures such as restricting the operation times for the crusher, provision of a screen bund around the site, and an improved access and passing bays on Winterley Lane. The extent of the works and anticipated amount of imported materials has also been reduced which coupled with the reduced timescale should help to reduce any significant effects. The level of restoration is considered appropriate given the size of the site and extent of the unstable land and would not permanently harm the openness or character of the Green Belt.

The proposed method of reclamation which involves importation of inert waste material to be stored, screened and processed on site is controlled by the Environment Agency through the granting of an Environmental Permit. This will address residents concerns about potential contamination of the land from imported materials and alleged operation of waste recycling.

Residents have objected as works commenced before planning permission was sought and have little confidence in the company complying with any conditions as hours of operation are already being abused, materials are being sold off site and not used for infilling. They also doubt the programme of works would last only 12 months. They consider residents concerns should take priority over developer profits. The current application seeks to rectify the issues regarding non-compliance with the earlier permission and appropriate monitoring of conditions should preclude any breach. The proposal does allow for non-useable materials to be sold off site. Residents are also concerned about the potential use of the land once restoration is complete. The application states that the intention is to return the land to open space (grazing) as this was the previous use of the land. Any alternative use would require planning permission and be subject to public consultations. Residents concerns are further addressed in the following report.

Whilst residents are concerned about this repeated application the developer has sought to address the objections raised in regard to the earlier proposals 13/0652/FL.

It is considered that the restoration of the land to return it to open space/grazing is appropriate within the Green Belt and despite the concerns about the method of reclamation the operations will be for a limited period only and not a permanent use. Recommended conditions will secure appropriate mitigation and the Environment Agency monitoring of the Environmental Permit will help protect neighbour's amenity and the environment.

Appropriate conditions are recommended to mitigate the impact on neighbours' amenity for the duration of the temporary works.

### **Impact on the character and openness of the Green Belt**

The proposal is partly retrospective as some works had already commenced including a bund alongside Winterley Lane behind the existing hedge. There are also stockpiles of materials throughout the site. These stockpiles inevitably have an adverse impact on the openness and character of the Green Belt. Upon restoration of the land these stockpiles will be removed and the land restored to its original level and returned to open space. There will not be a permanent impact on the Green Belt character or openness and the restoration of the land is considered a very special circumstance sufficient to outweigh any temporary harm.

To enable restoration of the site the developer proposes screening and crushing materials and inert waste recycling plus sale of recyclable materials. This is not an appropriate use in the Green Belt. Nevertheless the developer has reduced the timescale for the process of restoration from 30 months to 18 months from the grant of any planning permission. Although it cannot be guaranteed that there will be an adequate supply of suitable materials available to complete the works in this timescale any extension to the timing would require a further planning permission. It is clear that the establishment of a permanent waste recycling operation on this site would not be acceptable and a temporary use is only acceptable for a temporary period whilst it enables early restoration of the land.

Once all machinery, equipment and materials have been removed from the site and the land returned to its original form for use for grazing, the proposals would not have a significant impact on the character or openness of the Green Belt.

### **Archaeological Impact**

The NPPF encourages protection and enhancement of valued landscapes and geological conservation and preservation of heritage assets where appropriate. Policy ENV26 of the UDP seeks to protect the Borough's industrial archaeology including canal heritage. The site was last used for grazing purposes but was formerly occupied by Winterley Lane Limeworks. This amended scheme proposes to retain an area of land in the north of the site that is not to be disturbed as it is where the most significant archaeological remains are located.

The Archaeologist objects as no accurate details of the archaeological remains have been provided and there is no information identifying the depth of the remains throughout the site to confirm whether they will be disturbed or not. It is recommended that prior agreement of a strategy to deal with the archaeological remains should be secured before any permission is granted.

Objectors are concerned about the loss of archaeology on the site. The proposal is to excavate the top 2m off the land and to remove building foundations and materials below the surface would effectively be removal of the archaeology throughout the site.

The NPPF requires consideration of the scale of any harm or loss and significance of the heritage asset. In this case the proposals have been amended to reduce the potential archaeological impact by identifying an area not to be disturbed adjacent to the canal where the archaeology will remain. This area is where the most significant remains have been identified. Although the remainder of the site is to be excavated which would disturb or remove the archaeological remains the site is not listed as a Scheduled Monument so is not a significant heritage asset worthy of permanent retention. Nevertheless it is recommended that a strategy for dealing with the archaeological remains is agreed prior to any permission being granted. It is acknowledged that not all archaeology throughout the site will remain.

### **Relationship to surrounding properties**

The nearest residential property to the site is Rosedene Kennels, Radley Road 66m away on the opposite side of the canal. Other properties in Radley Road, Countess Drive, Winterley Lane, The Longcroft and Friary Crescent are all over 100m away from the site.

The site is in a semi-rural location but is accessed via residential areas. Works began in January 2013 and residents have experienced disruption from noise and dust, particularly from the crusher on the site and increased commercial vehicles utilising Winterley Lane. Residents are concerned about air quality and pollution and potential health issues that could affect quality of life. The amended proposals reduce the timescale to complete the works in 12 months instead of 30 months in order to reduce continued disturbance to neighbours. Although the site is in an exposed semi-rural area and increased commercial traffic and operations on site are more obvious, this will only be for a limited timescale and operations are proposed to be controlled by conditions on any permission. Pollution Control officers recommend conditions to control noise and vibration, dust and odour and to agree a method working plan which will help provide adequate mitigation to address residents concerns.

Residents consider the bunds installed around the site are to screen unauthorised activities but they are to provide protection from noise and pollution effects particularly along the canal boundary. They do act as a partial screen to the activities being carried out which have an untidy appearance. Whilst these activities are not usually acceptable in the Green Belt for the reasons stated above there are very special circumstances to justify this exceptional case for restoration of the land. The bunds are considered an appropriate measure to screen this temporary use. As for potential fly tipping and attraction of pests as the infilling uses inert material there will not be a significant risk of this.

With regards to the concern that there has been a lack of consultation with residents the application has been publicised in Walsall Chronicle, a site notice posted and direct notifications sent to the nearest neighbours. This is in accordance with the planning legislative requirements.

### **Land Stability**

The developer has indicated that the former Lime Works shafts and mine workings will be capped with a concrete cap. The Structures & Geotechnical officers recommend the infilling is carried out to specific standards to include pressure grouting, reinforced concrete cap, testing regime for all

infilling and restoration of the land to original levels. A condition to secure these measures is proposed as well as measures to ensure the mine shafts are treated and capped adequately.

The area has a history of land collapses and there is a concern that stockpiling of materials around the site may destabilise the land. However, the recommended conditions will ensure the satisfactory stabilisation of the land. The Canal & River Trust do not have any adverse comments regarding the stockpiles along the canal edge.

On the basis of the above it is considered that adequate measures to stabilise and treat the former lime workings to stabilise the land will be secured.

### **Means of access and Impact on the Highway Network**

The proposal is to implement a new access to the site as previously approved for permission 09/0695/FL. This replaces the existing access which is close to Winterley Bridge which is a narrow humped back bridge with a 3 tonne weight limit, poor visibility and no footway. The new access is further away from the bridge. Some works to clear vegetation in preparation for implementing this new access have already been undertaken. Residents remain concerned that Winterley Lane is unsuitable for this type of use and volume of heavy goods vehicles as it is narrow with poor visibility and the proposals increase dangers to pedestrians and other road users and vehicles have already mounted the verges in Winterley Lane and mud has been dragged out of the site onto the highway.

The new access will give better visibility and the introduction of passing bays on Winterley Lane will allow HGV's to pass safely without the need to mount the verges. It is recommended that the design of the new access is secured by conditions. The potential issues regarding mud and debris being dragged out of the site onto the highway could be addressed by an appropriate condition requiring wheel washing facilities. Provision of a new access and new signage to direct traffic from the site towards Bosty Lane will reduce potential for large vehicles needing to manoeuvre in Winterley Lane causing a potential hazard.

All parking will occur within the site so there are no perceived issues regarding this.

The proposed means of access is considered satisfactory subject to securing details and will not have any significant adverse impact on the local highway network or highway safety. The Transportation officer supports the proposals subject to implementation of the safeguarding measures. The incorporation of passing places will not alter Winterley Lane to such an extent that it would significantly alter its character as a lane.

### **Landscaping/Ecology**

The proposed development has limited impact on the existing landscaping on the site as the original levels will be restored and the outer tree belt and hedgerows are to remain.

The Council Ecology officer is concerned about the potential after use of the site but the proposal is to return the site to its former use i.e. agricultural/grazing land. This will be secured by condition. It is recommended that implementation of the mitigation measures proposed in the ecological report are secured by condition. The mitigation includes planting, provision of a management plan, planting of species rich grassland, a stand off from the canal and prevention of levels changes around trees and hedgerows. These measures address landscape and ecology concerns.

Natural England does not raise any objections to the proposals and also recommend conditions to secure mitigation measures.

One objector states that the ecological surveys are inaccurate and that buildings and trees have already been removed that contained protected species (bats) and the operator is in breach of the Wildlife & Countryside Act. Natural England and the ecology officer are satisfied that appropriate mitigation can be secured for any loss.

On the basis of the above the landscaping and ecology throughout the site could be adequately addressed.

### **Environmental Impact Assessment (EIA) Screening Opinion**

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

The development falls within Schedule 2 part 11(b)(ii) as it is an installation for the disposal of waste where the area of development that exceeds 0.5 hectares and part 11(b)(iii) as the installation is sited within 100 metres of controlled waters (Daw End Branch Canal). The scale, nature and characteristics of the proposed restoration are considered not to have a significant permanent impact on the Green Belt and surrounding area or upon amenities of nearby residents.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

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

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted. In light of the submitted details officers are able to support the scheme.

### **Recommendation: Grant permission subject to conditions subject to prior agreement of a strategy to deal with the archaeological remains on site.**

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

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

2. The Limestone mineshaft infilling shall be carried out in accordance with the following details:
- Mineshaft/s shall be stabilized by pressure grouting or provision made in the shaft cap/s to top up the infill as it settles
  - Timescale for the works to commence
  - The reinforced concrete cap to the limestone shaft should be designed to the Coal Authority's recommendations for capping mineshafts
  - The applicant should ensure that an adequate testing regime is in place to ensure only clean well graded materials are used to infill the limestone mineshafts and backfilled excavations
  - To ensure the stability of the underground limestone mines the site is to be restored to the existing levels with no increase in loading from the overburden

*Reason:* To ensure the satisfactory completion of the development and protect land stability.

3a. Prior to works commencing on site and within two months of the date of this permission detailed proposals and measures for addressing the underlying stability of the limestone mines and minimising/preventing further crown hole collapses shall be submitted to the local planning authority for approval in writing.

3b. The development shall be implemented in accordance with the approved details.

*Reason:* To ensure the satisfactory completion of the development and protect land stability.

4. No works, (including, land reclamation, stabilisation, preparation, and deliveries etc.), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and Site operating hours shall be 0700 to 1800 Monday to Friday and 0700 to 1300 Saturdays, with the material processing activities taking place between 0800 to 1600 Monday to Friday and 0800 to 1200 Saturdays only.

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

*Reason:* To protect the residential amenities of surrounding occupiers.

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

*Reason:* To protect the residential amenities of surrounding occupiers.

6. The site operator shall ensure that the mitigation measures stated in the following approved documents are implemented prior to activities commencing and thereafter maintained throughout the duration of the works:

- Noise and Vibration Management Plan
- Dust and Odour Assessment, (including a Particulate Management Plan),
- Method Statement and Working Plan, and
- Transport Statement

*Reason:* To protect the residential amenities of surrounding occupiers.

7. The site operator shall ensure an adequate quantity of water is available on-site to suppress dust and clean vehicle wheels on a daily basis prior to works commencing.

*Reason:* To ensure the satisfactory completion of the development and protect residential amenities of surrounding occupiers.

8a. The site operator shall agree a method for the cleaning of vehicle wheels before they exit onto the highway with the Local Planning Authority.

8b. The agreed methodology shall be fully implemented prior to works commencing and shall be maintained throughout the duration of the works.

*Reason:* To protect the adjacent highway.

9. Material shall be stored within storage bays only and shall not exceed the wall heights.

*Reason:* To protect the residential amenities of surrounding occupiers.

10. Prior to the commencement of the development the height, depth and breadth of all stockpiles shall be agreed in writing with the Local Planning Authority.

*Reason:* To protect the residential amenities of surrounding occupiers.

11a. Prior to the commencement of any works, the following details shall be submitted and approved in writing by the Local Planning Authority in conjunction with the Highway Authority;

- (i) Full engineering details of the proposed access off Winterley Lane
- (ii) Full engineering details and locations of the proposed passing places on Winterley Lane.
- (iii) Full engineering details of the proposed permanent closure of the existing access off Winterley Lane.
- (iv) Full details and locations of temporary/permanent advanced site access warning signs on Winterley Lane.

11b. Prior to the site being brought into use, all highway infrastructure works detailed and agreed, shall be fully completed and brought into use to the satisfaction of the local planning authority and all associated costs to be met by the applicant.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

12a. Prior to the commencement of development details shall be submitted to the Local Planning Authority in conjunction with the Highway Authority, setting out where the location of parking for site operatives and visitors has been provided within the application site.

12b. The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during the development process.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

13. The visibility splay at the access point shown on the approved plan shall at all times be kept clear of up-growth and overhanging vegetation between 0.6m and 2.0m above ground level.

*Reason:* In the interests of highway safety.

14a. No development or site clearance shall commence until full details of a restoration scheme is submitted to the Local Planning Authority and approved in writing. The scheme shall provide the following elements:

- (i) Restoring and enhancing native hedge and tree planting along the boundaries of the site;
- (ii) Creation/ enhancement of diverse species-rich native grassland in accordance with paragraph 5.1 of the ecological Assessment by Eco Tech; Full details shall be provided of:
  - Preparation of land for planting.
  - Specification and depths of topsoil/ subsoil/ growing medium and any mulches.
  - Locations of all planting.
  - Density of planting/ sowing.
  - Specifications for all planting to include: full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.
  - Phasing.

14b. The restoration scheme shall be implemented incrementally as each phase is completed in accordance with the approved scheme and retained and managed thereafter.



15a. No development or site clearance shall commence until a 5 year management plan has been submitted to the Local Planning Authority and approved in writing. The management plan shall be carried out to an accepted methodology and provide full details of:

- How the site will be managed to promote ecological diversity.
- How the all planting will be maintained through the establishment period and managed thereafter.
- Monitoring and reviewing the effects of management and incorporating any remedial works required to implement the approved restoration scheme.
- Provision for the replacement of any planted or seeded area which dies, becomes diseased or damaged.
- Details of routine maintenance such as pruning/ litter picking/ cutting/ watering in dry period/ weeding.
- Full details of all management operations will be set out together with a timetable for each operation.

15b. The restoration scheme shall be managed in accordance with the approved management plan.

*Reason:* To restore and enhance the visual, amenity and nature conservation value of the site and contribute to the ecological diversity of the site in linked green infrastructure in the neighbourhood in accordance with policies ENV23, ENV32 and ENV33 of the Council's adopted UDP.

16a. No development or site clearance shall commence until a scheme for the mitigation of adverse impacts on the canal and surrounding hedgerows and trees has been submitted to the Local Planning Authority and approved in writing. The approved scheme shall be put in place before any development commences and remain until the development is completed. The mitigation scheme shall comprise the following elements described:

- (i) No works shall be undertaken within 5 metres of the canal edge.
- (ii) This stand-off shall be delineated by a small bund no less than 1 metre high to prevent any run-off from the site entering the canal. The bund shall incorporate a shallow interceptor ditch on the canal side of the ditch which will both channel any run-off back onto the site and provide a new wetland habitat. Both the bund and ditch shall be further than 5 metres from the edge of the canal.
- (iii) No levels changes shall be permitted within 5 metres of any tree or hedgerow. The five metre stand-off area shall be demarcated on site and no storage of materials, temporary site buildings, vehicles or anything else shall be permitted in this zone.

16b. The approved scheme shall be put in place before any development commences and remain until the development is completed. Thereafter it shall be incorporated as a habitat feature into the restoration scheme.

*Reason:* To protect and enhance the nature conservation value of the site and the adjacent canal and contribute to the ecological diversity of the site in linked green infrastructure in the neighbourhood in accordance with policies ENV1 of the Black Country Core Strategy and policies ENV23, ENV32 and ENV33 of the Council's adopted UDP.

17a. Within two months of the date of this permission details of the proposed bund shall be submitted to and agreed in writing by the Local Planning Authority in consultation with the Canal & River Trust. This shall include details of whether the bund is to be removed once infilling works are completed and the site restored for open space.

17b. The development hereby approved shall thereafter only be carried out in accordance with the agreed details.

*Reason:* To protect the structural stability of the canal and ensure that the proposed development contributes to the ecological value of the waterway corridor in accordance with policies ENV1 and ENV4 of the Black Country Core Strategy.

18a. Within two months of the date of this permission details of the measures to prevent surface water from entering the canal and soakaway shall be submitted to and agreed in writing by the Local Planning Authority.

18b. The development shall be completed in accordance with the agreed details and maintained thereafter.

*Reason:* To ensure that surface water from the site is disposed of in a safe and appropriate manner in order to protect the integrity of the waterway structure and water quality in accordance with policies ENV4 and ENV5, Sustainable Drainage Systems and Urban Heat Island of the Black Country Core Strategy.

19. Upon completion of the works hereby approved all land affected by the works, including the haul roads, site access and material/storage compound, shall be grubbed up, the materials removed from the site and the areas of land restored to their former state. All other materials, structures or equipment brought on to the site for the purposes of the development shall be removed from the site. The site shall then be landscaped in accordance with an agreed restoration, management and mitigation measures required by conditions 14, 15 and 16 of this approval and maintained thereafter.

*Reason:* To protect the character and openness of the Green Belt and visual amenities of the area.

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

- Site Location Plan (ESID1) received 10/2/14
- Planning Application Boundary (ESID2) received 10/2/14
- Site Ownership Boundary (ESID3) received 10/2/14
- Bedrock Geology (ESID4) received 10/2/14
- Bedrock Aquifer Designation (ESID5) received 10/2/14
- Flood Map (ESID6) received 10/2/14
- Shaft Location Plan (ESID7) received 10/2/14
- Phasing Plan (ESID8) received 10/2/14
- Flood Protection (ESID9) received 10/2/14
- Original Levels (ESID10) received 10/2/14
- Proposed Levels (ESID11) received 10/2/14
- Tree Plan (ESID1) received 10/2/14
- Design & Access Statement prepared by M Design (Rev B) received 10/2/14
- Noise & Vibration Management Plan (revision 1.00) received 10/2/14
- Supporting Statement Volume 2 prepared by Enviroarm received 10/2/14

*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).

#### **Note for applicant regarding S38/S278 Works**

No works on the public highway shall be commenced until all engineering details have been approved by the Highway Authority and an agreement under Section 38/278 of the Highways Act, 1980 entered into. All costs are to be met by the applicant and it should be noted that any non standard materials, landscaping, highway drainage or structures etc will require a commuted sum for future maintenance.

**Note for applicant regarding Mud on Highway**

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.

**Note for applicant regarding Drainage over the public highway**

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning areas do not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway or vice versa.

**Note for applicant regarding dilapidation survey.**

Due to the nature and width of Winterley Lane it is recommended that a highway dilapidation survey is undertaken by the Highway Authority to assess and record the condition of the highway prior to commencement of the development in the event of the highway being damaged by the extraordinary traffic movements as a result of this application.

**Note for applicant – Coal Authority**

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 0845 762 6848. Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk) Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

**Note for Applicant – Canal & River Trust**

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

The Canal & River Trust offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location.

RE. PLANNING APPLICATION NO 13/0652/FL  
LAND OFF WINTERLEY LANE RUSHALL 2/13/14

NE THE UNDERSIGNED STRONGLY OBJECT <sup>10</sup>  
TO THE PROPOSAL ON THE FOLLOWING GROUNDS.  
POTENTIAL FOR.

- 1 NOISE POLLUTION FROM BRICK CRUSHER
- 2 DUST FROM CRUSHER (IE DARLINGTON CEMETARY)
- 3 HEAVY GOODS VEHICLES IN WINTERLEY LN  
AS ROAD IS NARROW + HAS BLIND BEND IN IT

127 FRIARY CRIES  
135 Friary Cres.

131. FRIARY Crescent.  
125 Friary Cres.  
119 Friary Crescent

101 Friary Crescent

99 Friary Cres

91 FRIARY CRES

117 FRIARY CRES

123 Friary Cres

139, Friary Cres.

141 FRIARY CRES

141 Friary Cres.

145 FRIARY CRES.

129 FRIARY CRES



## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 5.**

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

**Application Number:** 13/1500/FL  
**Application Type:** Full application

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Provision Concepts Ltd

**Applicant:** The Church at Junction 10

**Proposal:** Construction of a place of worship (use class D1) (following outline planning permission under reference 10/1232/OL)

**Location:** 323 WOLVERHAMPTON ROAD, WALSALL, WS2 8RL

**Ward:** Pleck

**Expired Date:** 31/01/2014

**Recommendation Summary:** Delegate to the Head of Planning and Building Control in order to apply a suitable condition to address the mitigation if bats are found

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## **Application and Site Details**

The site currently comprises a church and a community building, a large car park and access direct from the west bound carriageway of Wolverhampton Road. To the east are residential properties fronting Wolverhampton Road and Primley Close (nearest being number 21) however these buildings are separated from the Church by access to a substation and gas meter.

The application includes a small amount of land to the south owned by Walsall M.B.C., currently in school use, though the applicant has stated that the land is shortly to be acquired by the church.

The proposal includes the demolition of the existing church and community building and its replacement with a new building (a main hall and other rooms and facilities used for a wide range of community functions). It is intended to retain the existing access point but with some relatively minor modifications.

The proposed scheme incorporates a cascading form and varies in height across the site. The tallest part of the scheme is four storeys, which steps down to single storey in some places. Its maximum height is approximately 16.4m (at four storeys) and its minimum height is 3.5m (at one storey).

Present parking capacity is 121 vehicles on open land which is not laid out as a formal car park. This will be reduced to a maximum of 72 formally laid out spaces and include cycle parking and formal disabled parking provision. The total site area is 5115.7m<sup>2</sup> of which the building footprint occupies 28%.

Several documents have been submitted with the application as follows:-

*Design and Access Statement* sets out the reasoning behind the application, and what features are included in the development which includes an auditorium with stage with seating capacity of about 500.

The main auditorium also incorporates 2 storage rooms, 2 green rooms and a shower room. The L shaped aspect of the scheme houses the remaining accommodation. The ground floor features the main 'hub' of the scheme, including the reception, a café space, kitchen and servery, a food bank space, a minor hall, crèche and the primary WCs. The first floor houses seminar room 1, seminar room 2, seminar room 3 (including an external balcony) and seminar room 4. Seminar rooms 1-3 are separated by sliding acoustic partitions for greater flexibility. The second floor accommodates seminar room 5 and 6 (which are also separated by acoustic sliding partitions), as well seminar room 7, kitchen and toilets. Breakout spaces have been included throughout the scheme, to encourage social interaction between groups undertaking varying activities within the building.

The applicant states that the scheme's design has also considered the general context and building density in the surrounding area. The proposal has also been designed to complement the space available on site which is constrained by a High Voltage 11kV Underground Electric Service, which run across the site.

The statement also sets out policy issues, and the amount of development. It states that there is no reasonable likelihood of protected and priority species being adversely affected by the proposals but acknowledges the fact that there is scope for benefits for the species to be enhanced within the design and landscaping.

On the appearance of the development the Statement highlights that a phrase expressed by the church with regard to the vision of the scheme was that they would like "A Now Place". This concept has been developed to produce a design that is both practical and aesthetically

pleasing. The scheme will also be prominent from Junction 10 of the M6. The curved glazed nature of the entrance, as well as the overhanging roof and feature columns create an inviting feel to the scheme, as well as an exciting threshold to the scheme's internal 'hub'. The buildings materials are modern and deliberately offer a contrast to the surrounding buildings.

The Design and Access Statement also considers the Transport implications from the development.

*Ground Investigation Report* sets out contamination issues and the history of the ground conditions on the site and to determine the presence of ground gas in the area.

*Landscape Management Plan* sets out the primary management aim for the proposed planting is the establishment and future sustained growth of individual trees, shrubs and seeded areas. This document outlines the landscape maintenance procedures for this site and will apply throughout the life of the building.

*Noise Mitigation Statement* notes the conditions attached to the outline planning permission and considers that these would be re-applied.

*Ecological Appraisal* concludes that the study area supports a number of bird species including Blue tits and Long-tailed tits, particularly in the scrub habitats. The immediate surrounding area also supports a number of birds of conservation importance such as House sparrows. The site is also likely to support foraging, commuting and roosting bats (see 'UES bat scoping survey – Walsall Evangelical Centre').

*Bat Scoping Survey* as all species of bat and their roosts are afforded full protection under the Conservation of Habitats and Species Regulations 2010; an assessment of the likely significance of an offence being committed must be considered against a proposed activity. In the event that the application is approved, the proposed activity would be the demolition of the building on site. A potential offence resulting from demolition is likely due to the suitability of the building to support roosting bats. Further reasoning includes the suitability of the surrounding habitats to support commuting and foraging bats and the local records of bat populations identified during the previous ecological report desk study. A bat presence / absence survey is to be undertaken during the bat survey season, May to September inclusive, to determine if any bats are using the features identified during the survey.

*Flood Risk Assessment:* The proposed site use as a church and car parking facility is considered appropriate as 'Less Vulnerable' in Flood Zone 1, 2 and 3 as outlined in NPPF. The proposed location of the building is in Flood Zone 1 therefore the estimated standard of protection is the 0.1% (1 in 1000 year) probability event. The flood extent indicated on the Environment Agency map indicates the western margin of the site is at risk of flooding as it is located on the boundary of Flood Zone 2 and 3. However only parking and landscaping is proposed in this area which is an acceptable use.

## **Relevant Planning History**

### **On the site**

10/1232/OL Outline: redevelopment of existing Church and community building for the same purposes taking 'access' into account. Granted 15/11/2010

04/0111/FL Extension to existing Church to include, New Auditorium, Associated Activities, Car Park, New Access Points. Grant subject to conditions 04/08/2004

BC48162P Outline: hotel/conference centre/church/residential development/disabled riding activity centre/new public open space, Void 12/06/1998.



BC13768P Extensions to church and erection of youth/fellowship hall. Grant Subject to Conditions 18/07/1986.

BC17764 Amendments to BC9870 Proposed Pentecostal church Granted 30/05/1981

BC9870 Proposed Pentecostal church. Granted 14/09/1978.

Relevant applications on site adjoining

09/0605/FL Erection of three stand-alone, gateway office units of 3 and 4 storeys, with related landscaping, balancing pond, car parking and infrastructure. Granted 17 November 2009

BC56152P Outline: mixed use development at land adjoining J10. Granted 9 July 2002.

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

**The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)**

These have been considered a screening opinion. Whilst there are sensitive areas in proximity to the site (i.e. the Sneyd Brook SLINC) and there are protected species recorded, the significance of the development having regard to the amount of development and the reuse of existing land and area already development would not be a development that is so significant as to call for an Environmental Impact Assessment under the 2011 Regulations.

**National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG)**

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*".

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Reuse land that has been previously developed

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

17 Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking

- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution.

18-21 encourage Planning Authorities to support and put significant weight on economic growth and to proactively to meet the development needs of business whilst protecting strategically important economic areas from encroachment.

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



- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- are visually attractive as a result of good architecture and appropriate landscaping.

100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

101. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

103. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

109. The planning system should contribute to and enhance the natural and local environment protecting and enhancing valued landscapes, geological conservation interests and soils;

- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

111. Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.

123 – Planning decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development

128 In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting

of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

130. Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.

On planning conditions the NPPF says:

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

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

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

The above are supported by the following policies which have superseded UDP Waste Management Policies:

CSP3 – Seeks to improve environmental infrastructure

CSP4 – seeks high quality design and place making development

DEL1 - All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

EMP5 – seeks to deliver local jobs and training opportunities

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

ENV1 - Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.

ENV 3 sets out the criteria for design quality

ENV4 development must enhance the canal corridor.

ENV5 seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

ENV7 seeks to ensure new development promotes renewable energy provision

### **Saved Policies of Walsall Unitary Development Plan March 2005**

[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)”.

GP2 expects development to make a positive contribution to the environment and considers (II) the susceptibility to pollution of any kind as an adverse impact which would not be permitted, and VII. Adequacy of access will be taken into account.

GP5 - When considering development proposals care will be taken to ensure that the needs of all sections of the community are properly taken into account and that there is no discrimination against any individual or group on the basis of race, gender, age, poor mobility, disability, poverty, or any other factor.

ENV9a) Environmental improvement initiatives will be concentrated in the following general locations:

II. Prominent transport routes which create an important impression on travellers to the Borough.

VI. Future development sites requiring advance landscaping.

ENV10 - The development of an industry or facility which may cause pollution will only be permitted if it would not:-

I. Release pollutants into water, soil or air, whether on site or elsewhere, which would cause unacceptable harm to health and safety or the natural environment.

II. Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

III. Have an unacceptable adverse effect on nearby land uses and/or restrict the types of new development that could be permitted in the locality, or impose special conditions on them.

ENV17 Planting will be promoted particularly in the following areas:- IV (Transport corridors) and XI (As part of landscape design around new developments)

ENV23 - The layout of all new development must take account of:-

I. The potential for enhancement of the natural environment through habitat creation or the exposure of geological formations.

II. The nature conservation opportunities provided by buildings by designing in features which provide roosting / nesting places for bats / birds and other species.

ENV24 - (a) New development which would sever, or unacceptably harm the integrity of a wildlife corridor will not be permitted. The Council will expect development proposals within wildlife corridors to maintain the integrity of the wildlife corridor concerned and enhance its value for wildlife.

(b) New development which would sever, or unacceptably harm the integrity of linear features such as rivers, streams, canals, field boundaries, tree belts, green lanes, and road verges or 'stepping stone' features such as lakes, reservoirs, ponds and small woodlands will not normally be permitted.

ENV32 states that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

ENV33 - Good landscape design is an integral part of urban design and the Council will require, where appropriate, planning applications proposing development in the locations described in policy ENV32 to be supported by full details of external layout and landscape proposals.

LC8 – seeks to retain community facilities unless there are alternative and better located sites.

T4 – On Local Distributor roads. Traffic restraint measures will be used to deter through traffic and reduce traffic speeds. Frontage access will be allowed in principle, subject to local circumstances. Development proposals must, where there are significant transport implications, be accompanied by a Transport Assessment which considers the accessibility of the development by all modes of transport, including impact on the highway network in the surrounding area.

T5 - highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7 - All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T8 and T9 – seeks to promote and enhance walking and cycling.

T10 – seeks to ensure that development is accessible by a choice of transport modes including walking and cycling.

T13 – seeks an appropriate level of car parking for each development. There is no specific standard for cemetery development.

### **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 SPD**

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles.

## **Natural Environment SPD**

Policies NE1, NE2, NE3, NE4, NE5, NE8, NE9 & NE10 deal with the need to fully assess protected species, assess, protect and secure compensatory planting for trees. Protection is proposed for protected animals, plants etc.

## **Consultations**

**Transportation** – No objections to the current proposal subject to the following requested conditions on

**Highways Agency** – No objection

## **Pollution Control**

*Contaminated Land* – No objection subject to works being implemented to remediate ground gas issues identified in the Ground Investigation Report (reference M2995B dated April 2013) by Subsurface Midlands Ltd. Conditions to address these concerns have been provided.

*Scientific Team* – No objection to this application and recommend that noise mitigation measures previously agreed under the outline planning permission (10/1232/OL) are repeated for the current application.

**Environment Agency** – No objection

**Natural England** – No objection

## **Natural Environment Team**

Ecology – Object. Further bat survey work will be required. A tree survey will also be required. Some layout problems remain. This application should not be determined until these issues have been properly addressed and reflected in the design and layout of the scheme.

**Landscape Team** – No objection subject to a condition relating to detail being submitted.

Coal Authority – No objection **subject to the imposition of a condition securing** .

**WM Police** - No objections to this planning application. The Design and Access statement considers security. Being so close to junction 10 will increase the risk to the building and the vehicles as a result of the escape routes it offers to offenders. The developer should be made aware of the principles of safe parking which can be found under the requirements of the Park Mark Scheme.

**Fire Service** – No objection

**Local Access Forum (including Ramblers Association)** – No objection

**Public Rights of Way Officer** – No objection

**Severn Trent** – No objection subject to a condition requiring drainage detail

## **Representations**

1 letter of objection from a local resident stating that meetings are already being held but there are no parking facilities so everyone attending parks in residential streets and blocks driveway and results on parking on footpaths.

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

## **Determining Issues**

- Principle of the Development
- Proposed height and scale of the proposed extensions
- Relationship to residential properties to the south and west and the surrounding area
- Car parking and servicing

## **Observations**

### **Principle of the Development**

The proposals relate to the demolition and redevelopment of an existing church building which has been established on the site for a lengthy time and in principle, the redevelopment of the Church was agreed in 2010 with an outline planning permission. The proposed scheme is along the principles and the development framework outlined with alterations in the design to reflect the site constraints.

Having regard to the principles established by the outline planning permission and the continued use of the site for Church uses, it is considered that the proposals are acceptable in principle.

### **Height and scale of the proposed building and relationship to residential properties to the east**

The tallest part of the scheme is four storeys, which steps down to single storey in some places. Its maximum height is approximately 16.4m (at four storeys) and its minimum height is 3.5m (at one storey).

The proposals will be a modern feature to the street scene and a visual improvement to the surrounding area and will be a modern and well formed feature from Junction 10 and the entry into Walsall along a principle arterial route.

Having regard to the relationship to the neighbouring properties, the proposed Church at 130.72m (above sea-level) is approximately the same as the existing Church (130.9m above sea-level) at the boundary and whilst there are alterations in the bulk and mass, the tallest elements of the scheme are furthest away from residential properties.

It is considered that there would be no significant impact on 319 Wolverhampton Road from the bulk and mass of the proposed Church and there is the separation to 21 Primley Close via an access route and substation/gas meter.

Having carefully considered the bulk and mass of the proposed structure against the existing bulk and mass it is considered that the proposals would not result in material harm to neighbouring properties and would be an enhancement to the overall character of the area and replace tired and poor quality buildings.

### **Landscaping and Protected Species**

The proposed scheme has considered the conservation of wildlife in the area. Existing trees and vegetation are to be retained where possible and some new vegetation is to be planted. Car parking has been set back at least 5m from the western boundary and the tree corridor along the boundary of the Wolverhampton Road Site of Local Importance for Nature Conservation has been retained.

The ecological work and surveys identify that bats are present in the area and that the building is capable of accommodating bats. Access to the entirety of the loft spaces was restricted due to the lack of a loft hatch for the northern pitch, and the small crawl space and lack of stable platform in the southern loft space. Therefore further field signs of bats may be present within the building but are currently inaccessible.

Further survey work will be required prior to demolition and mitigation measures in accordance with BS 42020:2013 and prior to the determination. This work can be carried out in May. Committee are asked to delegate this requirement to the Head of Planning and Building Control and request any appropriate conditions as necessary.

### **Car parking and servicing**

The comments of the local resident are noted. The level of car parking is in accordance with the UDP standards (1 space per 22sqm) and introduces formalised parking layouts and disabled parking provision. In addition the enhancement to cycling provision and walking and access arrangements is also noted on the proposals.

The application site are on a major bus route and are related to a residential catchment, particularly in Alumwell.

It is considered that the proposals will represent a more formal and manageable car parking layout. The proximity to the J10 hotels (e.g. Village Hotel and Holiday Inn Express) which have generous car parking areas is also noted.

The parking proposed is considered to be acceptable and provides an appropriate level of parking.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

### **Recommendation: Delegate to the Head of Planning and Building Control in order to apply a suitable condition to address the mitigation if bats are found**

1. This development must be begun not later than 3 years after the date 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 undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

Site Location Plan (2114/A/01)

Site Plan as Existing (2114 /A/02)

Site Survey as Existing (2114/A/03)

Site Sections as Existing (2114/A/04)

Site Plan as Proposed (2114/A/05 Rev A)

Level 0 Floor Plan as Proposed (2114/A/06 Rev B)

Level 1 Floor Plan as Proposed (2114/A/07 Rev B)

Level 2 Floor Plan as Proposed (2114/A/08 Rev A)

Level 3 Floor Plan as Proposed (2114/A/09 Rev A)

Roof Plan as Proposed (2114/A/10 Rev A)

West Elevation as Proposed (2114/A/11 Rev C)

North Elevation as Proposed (2114/A/12 Rev B)

East Elevation as Proposed (2114/A/13 Rev B)

South Elevation as Proposed (2114/A/14 Rev B)

Section AA and BB as Proposed (2114/A/15 Rev A)  
Section CC and DD as Proposed (2114/A/16 Rev A)  
Overlay Plan as Proposed (2114/A/18)

#### Documents

Design and Access Statement prepared by Provision UK Limited (ref: 2114/Rev B)  
Landscape Management Plan prepared by aspect landscape planning (ref: 5379.Land.Man.001)  
Noise Mitigation Statement prepared by M-EC (dated January 2014)  
Preliminary Ecological Appraisal prepared by United Environmental Services (ref: UES01142/01)  
Bat Scoping Survey prepared by United Environmental Services (ref: UES01142/01)  
Flood Risk Assessment: prepared by Hannah, Reed and Associates Limited

Reason: To define the permission

3i) Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

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

iii) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered development shall cease until the “Remediation Statement” required by part i of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

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

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

4a) No development shall be carried out until full details of hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- correct botanical names
- numbers / planting densities for each block of planting proposed
- size supplied of all proposed tree and shrubs at time of planting
- details of proposed turf / seeded areas (if applicable)
- topsoil and mulching depths and specifications
- staking details for proposed trees
- Details of landscaping establishment / maintenance proposals to be undertaken during the standard maintenance period.
- Details of the future management of the landscape scheme
- ground preparation measures to be adopted
- Existing and proposed levels
- 5year Management plan

4b) The development shall be carried out in accordance with the agreed details.

*Reason:* To ensure the satisfactory appearance of the development.



5a) Prior to the commencement of any development, the following details shall be submitted and approved in writing by the Local Planning Authority and in conjunction with the Highway Authority;

- Full engineering details of the proposed new bellmouth access (including tactile paving) in accordance with BCCS TRAN4 and UDP Policies T1, T8 and T11

- Full details of the cycle shelter to ensure that the proposed cycle parking is safe, covered and secure in accordance with BCCS TRAN4 and UDP Policies T9 and T13.

5b) Prior to the occupation of the development, all highway infrastructure works detailed and agreed, shall be fully implemented, completed and brought into use to the satisfaction of the Highway Authority.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

6a) Before any part of the development is brought into use 2<sup>no</sup> Schwegler 1SP house sparrow terrace nesting boxes or an equivalent shall be erected in locations approved in writing by the Local Planning Authority.

6b) The boxes shall thereafter be retained with access openings maintained free of obstructions at all times.

*Reason:* To conserve local house sparrow populations.

7a) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- i) Risk assessment of potentially damaging construction activities.
- ii) Identification of "biodiversity protection zones".
- iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- iv) The location and timing of sensitive works to avoid harm to biodiversity features.
- v) The times during construction when specialist ecologists need to be present on site to oversee works.
- vi) Responsible persons and lines of communication.
- vii) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- viii) Use of protective fences, exclusion barriers and warning signs.
- ix) Mitigation implementation strategy

7b) The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

7c) Prior to the commencement of demolition details of bat boxes (including the number, location and type) shall be submitted to and approved in writing by the Local Planning Authority.

7d) The agreed bat boxes shall be installed in accordance with the agreed details prior to the first use of the development and thereafter be retained with access openings maintained free of obstructions at all times.

*Reason:* To ensure that protected species are not harmed by the construction activities on the site and that biodiversity is adequately managed through the proposals and to conserve local bat populations.

8a) Prior to the commencement of work on the car parking areas details of a scheme for external lighting have been submitted to and approved by the Local Planning Authority. Details of any external lighting shall comply with BS5489.

8b) The lights shall be installed and thereafter retained in accordance with the approved details.

*Reason:* To manage the impact of light pollution and to ensure protected species are not harmed by the development.

9a) Prior to the commencement of development (excluding demolition) details of security oriented design measures and physical security measures for all buildings and public spaces have been submitted to and approved in writing by the Local Planning Authority.

9b) The approved measures shall be implemented concurrently with the relevant element of the development, and thereafter retained.

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

10a) Prior to the commencement of development, drainage plans, including details of proposed sustainable drainage systems, including the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority.

10b) The scheme shall be implemented in accordance with the approved details prior to the first occupation of the development.

*Reason:* In order to reduce the risk of flooding, pollution and to ensure the development is provided with satisfactory drainage.

11a) Built development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

11b) The development shall be carried out in accordance with the agreed details.

*Reason:* To ensure the satisfactory appearance of the development.

12a) No development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the Local Planning Authority. The rear of the site will have boundary protection to prevent unauthorised access from an area that is secluded and has no natural surveillance. The submitted scheme shall include any internal site divisions.

12b) The development shall be implemented in accordance with the approved details and shall be completed prior to the development being brought into use and be retained thereafter.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises, to ensure the satisfactory appearance of the development and in the interests of crime prevention.

13a) Prior to the commencement of the development, a plan shall be submitted to and approved by the Local Planning Authority setting out where the location of parking for site operatives and visitors has been provided within the application site.

13b) The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

14a) Prior to the occupation of the development hereby approved the access, turning areas and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority

14b) These areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* In the interest of highway safety, and ensure the free flow of traffic using the adjoining Highway.

15a) No development shall take place until noise mitigation and control measures to safeguard against impacts upon residential areas have been agreed in writing with and approved by the local planning authority.

15b) Approved noise mitigation and control measures shall be completed before the development is brought into use and retained thereafter in accordance with the approval.

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

16. No permanent public address facility shall be installed without the prior written approval of the local planning authority.

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

17. Public address (P.A.) and any other loudspeaker systems associated with any music, drama, dance, vocal or similar performance, recording activity and production or reproduction of music, vocal and other sounds shall only be operated within the building and only between the hours 07.00 to 23.00 inclusive, unless otherwise approved in writing by the local planning authority.

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

18. Musical instruments shall only be used within the building and only between the hours 07.00 to 23.00 inclusive, unless otherwise approved in writing by the local planning authority.

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

19. Windows and doors in external wall and roof elements that serve rooms and areas used for music, vocal and dance performances, and/or rehearsals, and/or recording, shall remain closed when in use for these purposes.

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

20. Plant, machinery or equipment used for the purpose of providing ventilation and air conditioning shall be situated within building structure(s), or acoustically designed enclosures, or at suitable locations approved in writing by the local planning authority, and thereafter retained in accordance with any approval.

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

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

(\* 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 safeguard the amenity of the area.

#### NOTES FOR APPLICANT:

##### **S278 Works**

No work on the public highway should commence until any engineering detail of improvements to the public highway have been approved by the Highway Authority, and an agreement under S278 of the Highways Act 1980 entered into. Any agreement for street lighting should be agreed in writing with Walsall Metropolitan Borough Council's Street lighting partner Amey.

##### **Mud on Highway**

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.

##### **Drainage**

No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

##### **Contaminated Land**

CL2) When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 "Model Procedures for the Management of Land Contamination", The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 "Updated technical background to the CLEA model" and Science Report – SC050021/SR2 "Human health toxicological assessment of contaminants in soil" or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

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.

**General Coal Authority Information for the Applicant**

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<http://coal.decc.gov.uk/en/coal/cms/services/permits/permits.aspx>





## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 6.**

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

**Application Number:** 14/0165/FL  
**Application Type:** Full application

**Case Officer:** Alison Ives  
**Telephone Number:** 01922 652604  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**

**Applicant:** Lovell

**Proposal:** Amendment to permission 13/1201/FL relating to the erection of 98 properties to alter boundary alignments to the rear of plots 26-34 & 54-59, reposition parking for plots 30, 31, 32 and 34, reposition plots 57-59 and adjustments to car parking for plots 57-59

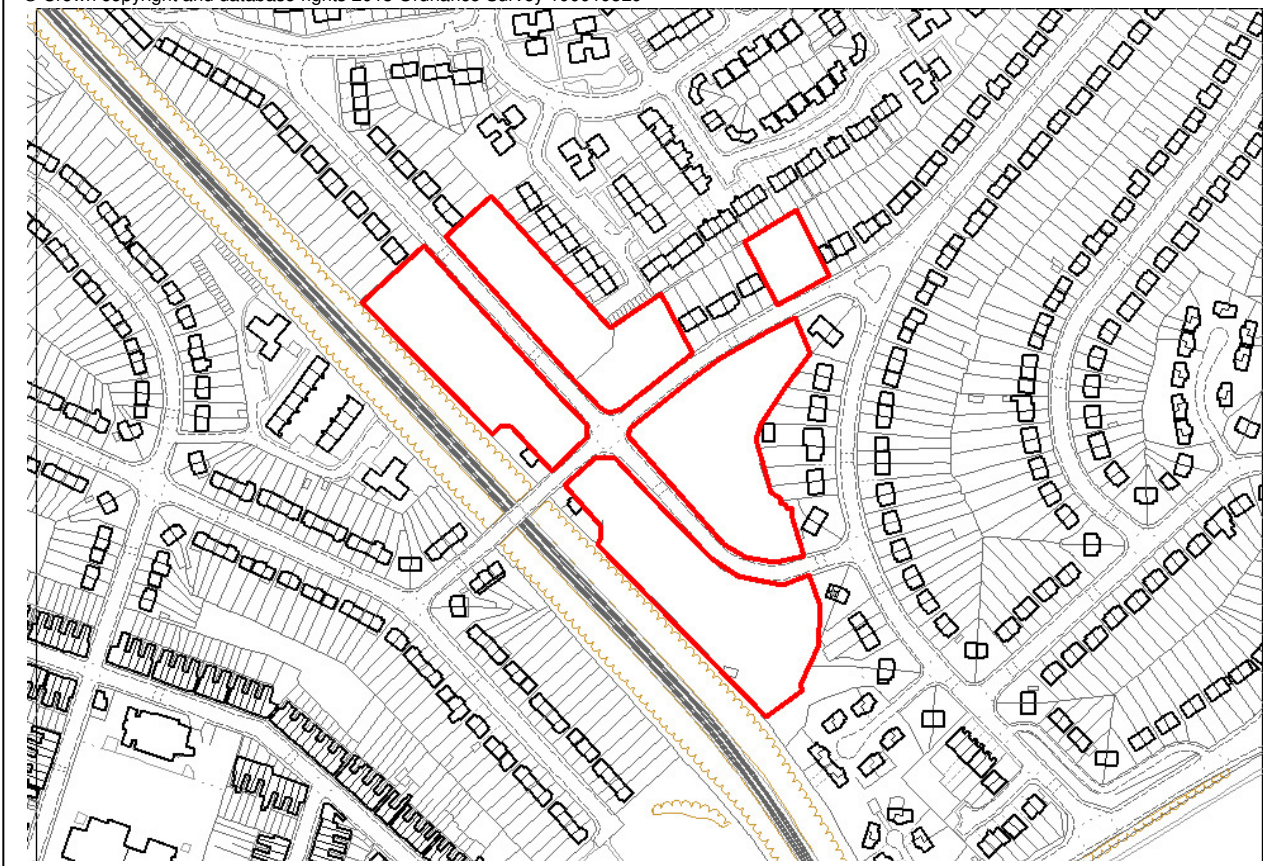
**Location:** SITES AT BEDDOWS ROAD AND RUTLAND STREET, WALSALL

**Ward:** Blakenall

**Expired Date:** 02/05/2014

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

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### **Application and Site Details**

The proposal is to amend permission 13/1201/FL relating to the erection of 98 properties to alter boundary alignments to the rear of plots 26-34 and 54-59, reposition parking for plots 30, 31, 32 and 34, reposition plots 57-59 and adjustment to car parking for plots 57-59.

The site is a vacant former housing site currently secured by palisade fencing. There is predominantly 2 storey housing in the surrounding area. The site comprises five parcels of land extending along Beddows Road and Rutland Street. There is a railway line to the south that backs on to Beddows Road.

The amendments to the boundaries are requested to reflect the actual boundaries on the ground and extent of the current land ownership. The amendments to the parking for plots 30, 31, 32 and 34 are to allow for this boundary alignment change. Parking for plot 34 is now proposed as tandem parking instead of side by side. As a consequence of the change to the boundaries the parking is moved closer to plots 30-32 reducing the rear garden sizes for these plots. Plots 57-59 have been moved forward to retain a reasonable rear garden area as a consequence of losing part of the land due to the new boundary alignment. As the plots have been repositioned parking has been relocated so plot 57 has side by side instead of tandem parking and plots 58 and 59 have tandem parking adjacent to the head of the cul-de-sac.

The approved tenure mix is 67 affordable rented properties (68%) and 31 open market properties for sale.

All of the affordable properties are to be constructed to Code for Sustainable Homes Level 3 but the private sale properties are not. This was approved by the earlier permission 13/1201/FL.

The site area is 2.44 hectares which equates to a density of 40 dwellings per hectare (dph).

**The Design & Access Statement** – Gives an assessment of the site and its surroundings, describes the proposals including landscaping, availability of nearby facilities, opportunities and constraints, density, scale and community consultation.

### **Relevant Planning History**

13/1201/FL – Amendment to permission 12/1360/TE to delete conditions 12A and 12B requiring 10% renewable energy and vary condition 17 to revise the proposals by substituting house types increasing the number of plots by two to 98, removal of garages on various plots and change in tenure mix – Granted subject to conditions 22/11/13.

12/1360/TE – Time extension to application 09/0974/FL for residential development of 96 properties comprising 46 affordable 2,3,4 & 5 bed 2 storey houses and bungalows, 50 open market 2 & 3 bed 2 storey houses – Granted subject to conditions 19/12/12.

10/0854/FL – Deletion of condition 13 of permission 09/0974/FL requiring new dwellings to be constructed to Code for Sustainable Homes Level 3 standard – Granted 10/9/10. The viability of the scheme was a consideration in determining this application.

09/0974/FL – Proposed residential development for 96 properties comprising 46 affordable 2,3,4 & 5 bed 2 storey houses and bungalows and 50 open market 2, 3 & 4 bed 2 storey properties – Granted subject to conditions 19/10/09

### **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:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

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

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

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that

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

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

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

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include provision of a high quality environment.

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CSP4: A high quality of design of the built and natural environment is required.

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness  
HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

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

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV7: All residential developments of 10 units or more gross (whether new build or conversion) must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion.

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

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

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

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

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

ENV32 & 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities

8.9: On housing sites of 1 hectare (or 30 dwellings) or more accessible community healthcare facilities should be provided to serve the development. The Council may require a contribution from developers towards such provision.

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

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

4 bedroom houses and above 3 spaces per unit

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

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

#### **Designing Walsall SPD**

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

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

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

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

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

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

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

### **Supplementary Planning Document for Affordable Housing**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

### **Supplementary Planning Document Urban Open Space**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

### **Consultations**

**Transportation** – No objections. Details of access, parking, highway works and travel plan should be secured by recommended conditions.

**Pollution Control (Scientific Team)** – No objections.

**Pollution Control (Contaminated Land)** – No specific contaminated land requirements.

**Environmental Health** – No comments.

**Natural Environment (Ecology)** – No objections.

**Rights of Way Officer** – No objections.

**Fire Service** – No objections.

**Local Access Forum (Walsall Ramblers)** – No objections as there are no rights of way affected but query whether there is scope to incorporate a footpath link to Wenlock Gardens.

**Network Rail** – The applicant will need to submit a risk assessment and method statement for all works within 10m of the railway boundary to the Network Rail Asset Protection Engineer for review and approval.

**Severn Trent Water** – No objections subject to securing provision of adequate drainage. A condition is recommended.

### **Public Participation Response**

None received.

### **Determining Issues**

- Principle of residential development
- Layout and design
- Relationship to surrounding properties
- Means of Access and Parking
- Provision for affordable housing
- Provision for Urban Open Space, Education & Healthcare
- Local Finance Considerations
- Environmental Impact Assessment Screening Opinion

### **Observations**

#### **Principle of residential development**

The principle of redevelopment for new housing on this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies. Planning permission for 98 properties has also been granted under application reference 13/1201/FL.

## **Layout and design**

The layout of the site is as approved previously with all new housing facing the street set back to respect the position of adjacent housing. The proposed amendments are to realign the boundaries of the site to reflect the extent of the current land ownership.

As a consequence of the boundary changes the site has reduced marginally in size and rear gardens of plots 26-29 have uneven boundaries losing up to 1.5m in length, car parking for plots 30-34 has moved closer to the dwellings reducing the garden length of plots 30-32 by a similar amount. Nevertheless the shortened gardens for plots 26-29 are still in excess of 12m long and rear gardens of plots 30-32 are 10m long and offer adequate garden space (between 52m<sup>2</sup> and 101m<sup>2</sup>).

The change to the boundary at the rear of plots 54-59 has reduced the rear gardens of plots 54-56 to between 7-10m in long. Plots 57-59 have been moved forward to retain at least 10m long rear gardens. Although these gardens are below the recommended guidance they achieve between 42m<sup>2</sup> and 212m<sup>2</sup> which is considered adequate. It is also noted that these plots look out onto an area of open space which offers visual amenity benefits for occupiers.

As plots 57-59 have moved forward the parking arrangements for these plots has been rearranged so that parking for plots 58 and 59 is adjacent to the head of the cul-de-sac leaving space for a lawn in front of the house and a better outlook.

The layout and design of the proposals are acceptable.

## **Relationship to surrounding properties**

The proposed sites are currently vacant. The proposed new dwellings are positioned to respect the residential amenities of adjoining housing in Beddows Road and Rutland Street.

The slight adjustments to the boundaries, position of plots 57-59 and parking arrangements maintains adequate space and separation between existing properties and proposed plots and has no significant impact on residential amenities.

As on the earlier permissions conditions are recommended to protect the properties from noise from the railway and to protect the integrity of the railway asset.

The relationship to surrounding properties is considered to be acceptable.

## **Means of access & parking**

The design of the access roads and levels of parking remains the same as previously approved. The adjustment to the position of the parking spaces maintains sufficient spaces and adequate manoeuvring space. The transportation officer is satisfied with the proposals.

The Local Access Forum suggested link to Wenlock Gardens would cause concerns as it would be next to a garage court with little natural surveillance and is outside the application site. The existing footway, public footpaths and enhancement of the pedestrian network within the site through improved surveillance will ensure good access towards Dartmouth Avenue and local shops.

As on the earlier permissions conditions are recommended to secure details of access, parking, highway works and a travel plan.

On this basis the means of access and parking is acceptable.

### **Provision for affordable housing**

Policy HOU3 of the BCCS requires provision of 25% affordable housing on qualifying sites of 15 units or over. This scheme proposes 98 units comprising a mix of 67 affordable social rented properties to be managed by Walsall Housing Group and 31 units for private sale developed by Lovells. The number of affordable units equates to 68% affordable properties which exceeds the required provision and was previously supported by the Housing Strategy officer and can be secured by a planning condition on any permission. The current proposals do not change this.

### **Provision for Urban Open Space, Education and Healthcare**

In accordance with policies GP3, 8.8, 8.9 and LC1 of the UDP, policy DEL1 of the BCCS and Supplementary Planning Document: Urban Open Space the proposal triggers the need for urban open space, education and healthcare provision.

The developer offers nil contributions on the basis that the viability of the scheme has been demonstrated previously considered by Committee who resolved to waive any financial contributions. The scheme is still providing 68% affordable homes which is more than double the usual amount required and as is reliant on considerable funding from the Homes and Communities Agency.

The proposals offer the opportunity to re-develop a former housing site and regenerate a vacant site within an established residential area for the benefit of residents. It is an exceptional case as 67 of the 98 proposed dwellings (68%) are affordable social rented tenure. It could also be considered that the replacement housing is unlikely to create greater pressure on education, urban open space or healthcare resources than the former housing on site did. Planning Committee previously accepted the developer's request for nil contributions other than the affordable housing provision. The current proposals do not change this.

### **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 98 new homes.

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

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

### **Environmental Impact Assessment (EIA) Screening Opinion**

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

The development falls within Schedule 2 part 10(b) as it is an urban development project with an area of development that exceeds 0.5 hectares. The site is not within a sensitive area as the site is not statutorily protected and is a previously developed brownfield site. The development is not of more than local importance given the limited number of proposed dwellings. The potential impact of the development on the surrounding area is not significant.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

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

1. The development must be begun no 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).

2a. No development shall take place until suitable noise mitigation measures to protect internal areas of the residential accommodation as identified in the approved reports submitted with the earlier applications 09/0974/FL and 12/1360/TE from noise.co.uk reference Report 4147 dated 17/12/2008 and Report 12356-1 dated 24/08/12 have been agreed in writing with the local planning authority.

2b. The development shall not be occupied until such measures have been fully implemented.

2c. The measures shall thereafter be retained in accordance with the approved details.

*Reason:* To protect residential amenities of future occupiers.

3a. 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. The surface water drainage shall be based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development. The scheme shall also include:

- Sustainable drainage features as described in JNP Group, Flood Risk Assessment June 2009 (MS40571/FRA/R001A)
- Details of how the scheme shall be maintained and managed after completion

No water or effluent should be discharged from the site or operations on the site into the railway undertaker's culverts or drains, without Network Rail approval. Soakaways should not discharge towards and/or within 10m of railway infrastructure.

3b. The development shall be completed fully in accordance with the approved details and retained as such.

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

4a. No development shall commence until samples of all facing and roofing materials, including the



size, colour and texture, have been submitted to and approved in writing by the Local Planning Authority.

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

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

5a. Prior to the commencement of development details of proposed measures to achieve a high quality sustainable design for the affordable units (plots 1-25, 26-46 & 78-98 inclusive) have been submitted to and agreed in writing by the Local Planning Authority. Examples include the following:

- 
- i. Measures to reduce energy consumption and carbon dioxide emissions (e.g. building insulation, energy display devices, drying space, energy labelled white goods, low and zero carbon technologies, cycle storage, home office)
- ii. Measures to reduce water consumption (e.g. recycling surface water or grey water)
- iii. Responsible sourcing of materials
- iv. Reduction of surface water run-off (e.g. surface water management and management of flood risk)
- v. Household recycling, construction waste management and composting facilities
- vi. Means of reducing pollution and emissions
- vii. Health and wellbeing measures (e.g. daylighting, sound insulation, private space, Lifetime Homes)
- viii. Management opportunities (e.g. home user guide and considerate constructors scheme)
- ix. Additional ecological measures

5b. The development shall be carried out in accordance with the approved details, and the affordable dwellings on plots 1-25, 26-46 & 78-98 inclusive 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 a higher quality and sustainable means of construction.

6. Prior to the commencement of the development;

- i) Full technical and engineering details of all adoptable highway works and works within the existing public highway, including highway drainage details and run-off calculations, vehicular footway crossings and access point alterations to the existing traffic calming measures in Beddows Road and Rutland Street required as a result of the development shall be submitted to and approved by the Local Planning Authority. The precise type, design and location of the replacement measures shall be agreed in advance with the Highway Authority and an agreement under S278 of the Highways Act 1980 shall be entered in respect of such works within the public highway.
- ii) Prior to the first occupation of any dwelling, the approved highway infrastructure and adoptable highway works and traffic calming measures shall be fully implemented in accordance with the agreed details to the satisfaction of the Highway Authority.

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

7a. Prior to the commencement of the development, a revised Draft Travel Plan shall be submitted for approval by the Local Planning Authority.

7b. The agreed measures shall be fully implemented in accordance with the approved plan.

Reason: To promote and encourage sustainable modes of travel in accordance with policy TRAN2 of the Black Country Core Strategy.

8a. Prior to the commencement of the development fully detailed drawings showing the design and operation of the access gates serving the communal parking areas and the design of all pedestrian access gates throughout the site are to be submitted to and approved in writing by the Local Planning Authority.

8b. The agreed scheme shall be fully installed prior to first occupation and retained in accordance with the agreed details thereafter.

*Reason:* To ensure the security of the site.

9. Prior to the first occupation of any dwelling, all accessways and parking areas shown on the approved plan shall be fully consolidated, surfaced and drained and the parking bays clearly demarcated on the ground and shall thereafter be retained for this purpose.

*Reason:* To ensure the satisfactory development of the site and availability of off-street parking.

10a. No development shall commence on site until details of a landscaping scheme, including spatial arrangement of proposed soft landscaping, species, numbers and size of all shrubs and trees, topsoil depths and specifications and staking details of proposed trees as well as any necessary phasing of implementation, are submitted to and approved by the Local Planning Authority.

10b. The scheme shall be completed fully in accordance with the approved details before the development is occupied and retained as such.

10c. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

11a. Notwithstanding the details of boundary treatments shown on the planning layout drawing (BR/301/01E) full details of boundary treatment alongside the adjacent railway, to include provision of a trespass proof fence (of at least 1.8m in height) and an ARMCO safety barrier at the edge of the parking courts, shall be submitted to and approved in writing by the Local Planning Authority.

11b. The agreed scheme shall thereafter be fully implemented, retained and maintained in accordance with the agreed details.

*Reason:* To ensure the security of the site and maintain a robust boundary with the operational railway line.

12. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) Schedule 2, Part 1, Class E no buildings or structures shall be erected on plots 59 – 96 inclusive within 2m of the boundary with the railway line.

*Reason:* To maintain the safety and security of the operational railway line.

13. No more than 15 dwellings shall be built on the application site, unless the applicant has made appropriate on-site provision towards affordable housing in accordance with policy HOU3 of the Black Country Core Strategy and policy GP3 of the Unitary Development Plan and the Affordable Housing Supplementary Planning Document. The affordable housing shall be retained thereafter.

*Reason:* To ensure that affordable housing needs are met in accordance with policy HOU3 of the BCCS and policy GP3 of the Unitary Development Plan and SPD: Affordable Housing.

14. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 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; Good Friday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.*

*Reason:* To protect the amenities of surrounding properties.

15. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions: -

- Location Plan (P0211) received 31/01/14
- Planning Layout (BR/301/01F) received 31/01/14
- Design & Access Statement prepared by Lovell (January 2014) received 31/10/14
- Previously approved under permissions 13/1201/FL & 12/1360/TE
- Site Sections (BR/301/02) received 28/8/13
- Evesham House Type Plans, Sections & Elevations (BED/EVES/201/01D) received 28/8/13
- Oldbury House Type Plans Sections & Elevations (BED/OLDB/201/01E) received 28/8/13
- Site Survey (627-32E) received 28/8/13
- Tree Survey prepared by Westside Forestry Limited (Aug 2012) received 28/8/13
- Flood Risk Assessment prepared by JNP Group (MS40571/FRA/R001A) received 28/8/13
- Vibration Monitoring: Beddows Rd prepared by noise.co.uk (12357-vib)
- Environmental Noise Survey prepared by noise.co.uk (12356-1) received 28/8/13
- Barkham, Barsham (WC), Burnham, Canwell, Elmwood, Fenton, Gayton, Halewood, Keinton, Leeswood, Linwood, Norwood, Rochester, Waltham and Wareham House Type Floor Plans and Elevations received 15/07/09
- Type G2, G6, G15, G16 and G21 Garage Floor Plans & Elevations received 15/07/09
- Close Boarded Screen Fencing (MRSD/DET/007) received 15/07/09
- Division Fencing (MRSD/DET/008) received 15/07/09
- Feature Brick Piers with Railings (MRSD/DET/013) received 15/07/09
- 215mm Screen Wall Detail (MRSD/DET/024) received 15/07/09
- Detail of gates (BR/304/01) received 25/09/09
- Draft Travel Plan prepared by JNP Group dated September 2009 (S82064-TP001) received 16/09/09
- Transport Statement prepared by JNP Group dated September 2009 (S82064-R001) received 16/09/09

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

#### **Notes for applicant - Noise mitigation**

With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233,

1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

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

Unless otherwise specified in a relevant standard, code or guidance, sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 1 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or British Standard BS 61672 Electroacoustics- Sound Level Meters - Part 3: Periodic tests, within a preceding 2 year period.

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

Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005  
British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".  
British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures; British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use  
British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits. British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas  
Calculation of Road Traffic Noise, 1988  
Calculation of Railway Noise, 1995  
This is not an exhaustive list.

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

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

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

## **Notes for Applicant – Contaminated Land**

**CL1:** Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 –

Planning and Pollution Control; British Standard BS10175: 2001

“Investigation of potentially contaminated sites – Code of Practice”;

British Standard BS5930: 1999 “Code of practice for site investigations”;

Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance.

You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

**CL2:** When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land

Contamination”, The Contaminated Land Exposure Assessment (CLEA) model

(Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive.

Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

**CL3:** Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority.

For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted.

Where appropriate records and results of any post remediation ground gas testing should be included in validation reports.

This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

## **Notes for applicant in respect of the operational railway**

**OPE:** At least six weeks prior to works commencing on site the developer MUST contact the Outside Parties Engineer (OPE) at the following address; Territory Outside Party Engineer, Network Rail (London North Western), 11<sup>th</sup> Floor, The Mail Box, 100 Wharfside Street, Birmingham, B1 1RT or by email at: [opelondonnorthwestern@networkrail.co.uk](mailto:opelondonnorthwestern@networkrail.co.uk). The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

**DEMOLITION:** Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail’s Outside Parties Engineer before the development can commence.

**FAIL SAFE USE OF CRANE AND PLANT:** All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail’s property, must at all times be carried out in a “fail safe” manner such that in the event of mishandling, collapse or failure, no materials

or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

**VIBRO-IMPACT MACHINERY:** Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

**SCAFFOLDING:** Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

**EXCAVATIONS/EARTHWORKS:** All excavations / earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Outside Parties Engineer should be undertaken.

**SECURITY OF MUTUAL BOUNDARY:** Security of the railway boundary will require to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Outside Parties Engineer.

**FENCING:** If not already in place, the Developer must provide a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

**METHOD STATEMENTS/FAIL SAFE/POSSESSIONS:** Method statements may require to be submitted to Network Rail's Outside Parties Engineer at the address given for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Outside Parties Engineer and are subject to a minimum prior notice period for booking of 20 weeks.

**TWO METRE BOUNDARY:** Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least **2 metres** from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus avoiding provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

**LIGHTING:** Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's approval of their detailed proposals regarding lighting. Following occupation of the development, if within three months Network Rail or a Train Operating Company has identified that lighting from the development is interfering with driver's vision, signal sighting, alteration/mitigation will be required to remove the conflict at the applicant's expense.

**ACCESS TO RAILWAY:** All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

**TREES/SHRUBS/LANDSCAPING:** Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Network Rail should be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below: Permitted: Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorne (Cretaegus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "Zebrina" Not Permitted: Alder (Alnus Glutinosa), Aspen – Poplar (Populus), Beech (Fagus Sylvatica), Wild Cherry (Prunus Avium), Hornbeam (Carpinus Betulus), Small-leaved Lime (Tilia Cordata), Oak (Quercus), Willows (Salix Willow), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), London Plane (Platanus Hispanica).

A comprehensive list of permitted tree species is available upon request and any landscaping proposals must be submitted to the Outside Parties Engineer.

**ARMCO SAFETY BARRIER:** The Department of Transport recommends the provision of a safety barrier adjacent to the railway, alongside all roads, turning circles and parking areas where the railway is situated at or below the level of the development. The safety barrier should be designed to cater for specific loadings dependent on the road traffic anticipated and in a position to stop vehicles driving into or rolling onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged.

**BRIDGE STRIKES:** Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the OPE is necessary to understand if there is a problem. Developers may be asked to pay for bridge protection barriers.

**ABNORMAL LOADS:** From the information supplied, it is not clear if any abnormal loads will be using routes that include any Network Rail assets (e.g. bridges). Network Rail have serious reservations if during the construction or operation of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contact our Outside Parties Engineer to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. I would also like to advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

**FORMER BR LAND SMALLER LAND ISSUES:** It is incumbent upon the applicant to investigate all the covenants and understand any restrictions relating to the site which may take precedence over planning conditions.

**Network Rail is required to recover all reasonable costs associated with facilitating these works**

**Note for applicant regarding refuse collection**

Refuse Bin Collection Areas are located within the gated car parking courts. The distance to these areas from the public highway exceeds that recommended by Walsall Waste Management (6 metres). The developer must therefore ensure that satisfactory arrangements for the location of bins on collection days have been agreed with Walsall Waste Management.

**Note for applicant – Badgers and Birds**

The site may provide cover for badgers and breeding birds. It is advised that immediately prior to site clearance works a breeding birds and badgers survey is undertaken by a suitably qualified and experienced ecologist. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. The discovery of badgers may require a Natural England licence. All wild birds, their nests, and eggs and badgers are protected by law. It is an offence to damage or destroy a nest of a wild bird or to damage, destroy or obstruct a badger sett. If nesting birds or badgers are discovered site clearance works should be delayed and advice sought from an ecologist or Natural England.





## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 7.**

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

**Application Number:** 14/0118/FL  
**Application Type:** Full application

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** BM3 Architecture

**Applicant:** Galliford Try Construction Central

**Proposal:** 27 one, two and three bedroom houses and flats with associated car parking, landscaping, access and gardens following demolition of remaining buildings on site.

**Location:** LAND AT CORNER OF CLOTHIER STREET AND WEDNESFIELD ROAD, WILLENHALL

**Ward:** Willenhall South

**Expired Date:** 06/05/2014

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

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## **Application and Site Details**

The application site is the former George Carter Pressings factory on the corner of Clothier Street and Wednesfield Road, Willenhall. A significant proportion of the application site is cleared and hoarded but the application site has been extended from previous permissions to include the Fortel Construction offices fronting Wednesfield Road. The application proposes 27, one two and three bedroom houses and flats with associated access, parking, garages, landscaping and amenity space.

The area is mixed in character with some employment on the opposite side of Wednesfield Road (Reflex Industrial Estate) but the area is predominantly two storey residential properties, particularly those of Clothier Street and Webster Road which are adjacent and opposite to the site.

There is a tall brick wall (c.4m to properties on Webster Road) and a raised table on Clothier Street.

The site area is 0.51ha with the development density being 52.94dph.

The scheme is entirely for affordable rent for Midland Heart. The proposed housing mix would be:

4, one-bedroom flats

14, two-bedroom houses

5, three-bedroom houses

34 spaces (125%) are provided within the site. Where possible this is provided in curtilage with all 3 bedroom properties having 200% parking and one and 2 bedroom properties 100%.

The application is supported by the following:

Design and Access Statement sets out the design principles of the layout, landscaping and access to the site. The appearance of the buildings has also been considered to reflect a traditional approach and include indicative choices for the colour of materials (red). The proposals have been designed to achieve Secured by Design, Code for Sustainable Homes Level 3, Lifetime homes and Housing Quality Indicators (HQL)

Transport Statement indicates that appropriate parking provision will be provided and that the development will have no impact on the local highway network.

Noise Assessment indicates that subject to appropriate controls the development will have no impact on the amenities of neighbouring residents.

## **Relevant Planning History**

10/1131/TE - Time extension of planning approval 07/1156/FL/W6: Demolition of existing buildings and erection of 22 houses and apartments. Granted 19/10/2012

07/1156/FL/W6 proposed the demolition of the former George Carter Pressings buildings on the corner of Wednesfield Road and Clothier Street, Willenhall and the erection of 4 flats and 18 houses. Granted - 12<sup>th</sup> September 2007

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

### **National Planning Policy**

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

The NPPF was published on Tuesday 27<sup>th</sup> March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy

Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- 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
- Reuse land that has been previously developed

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

A key priority is the deliver new homes.

35. Opportunities for the use of sustainable transport modes should be protected and exploited.

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

47-55 aim to deliver those aims, encouraging the recycling of buildings and land and ensuring that housing needs are met by the developments.

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

123 seeks to ensure that development mitigates against pollution, including noise.

On planning conditions the NPPF says:

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

## **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

The relevant key policies are:

CSP1 - sets out the targets for sustainable regeneration of the Black Country.

CSP2 – notes that additional windfall housing developments will occur on previously developed land.

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

CSP5 – sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

DEL1 – sets out to seek appropriate developer contributions and infrastructure improvements from development.

HOU2 – Sets criteria for Housing Density, Type and Accessibility

HOU3 – Seeks to deliver affordable housing

TRAN4 – creating coherent networks for cycling and walking – seeks to maximise the potential for this is new development. Cycle parking provision should be made.

ENV3 – Design Quality – seeks to promote this aspect of developments

ENV5 – Sets out criteria for Flood Risk, Sustainable Drainage Systems and Urban Heat Island

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

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

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

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

The relevant policies are:

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

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

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

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

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

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

7.1: Seeks to promote an efficient highway network;

T7: Sets out that parking provision should be well designed and sensitively integrated into the townscape or landscape.

T13: sets maximum car parking standards

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:

#### **Affordable Housing SPD**

#### **Designing Walsall SPD**

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles

#### **Urban Open Space SPD**

#### **Consultations**

**Transportation** – No objection subject to conditions relating to alterations to the bellmouth and relocation of the

#### **Pollution Control**

*Contaminated Land Team* – No objection subject to

Scientific Team – no objection subject to noise mitigation measures are undertaken, working hours are conditioned and a method statement agreed.

**Housing Strategy** – Support the proposals and mix of units proposed

**Natural Environment Team (Ecology)** – No objection

**Natural England** – no objection

**Severn Trent** – no objection subject to the submission of drainage details.

**Local Access Forum (including Ramblers)** – No objection

**Rights of Way Officer** – No objection

**Environment Agency** – No objection

**WM Police** – No objection but need to ensure that the development and fencing meets Secured by Design principles.

#### **Representations**

3 letters received from local residents objecting to the loss/reduction in height in the wall to Webster Road properties as this would reduce the privacy and security to properties on Webster Road.

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

### **Determining Issues**

The key determining issues are:

- Principle of the development
- Design and Layout
- Impact on the character of the area.
- Car parking and servicing
- Affordable Housing and Urban Open Space Contributions
- Local Finance Considerations

### **Observations**

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

The application site is in an area that has been in transition from a mixed industrial and residential area to higher proportions of residential development in the area. The proposals are a continuation of previous residential permissions on the site.

The proposals for residential development continue to be acceptable in principle

#### **Design and Layout**

The design and layout reflects the perimeter development and takes account of the character of the area which is a mixed of styles and ages but are predominantly two storey. The proposals are a traditional brick and tile design in a two storey design would be appropriate.

The comments of the Police are noted and many of the recommendations have been incorporated into the amended plans. Close boarded timber fencing to a height of 1.8m with trellis topping is proposed to rear gardens, with lockable timber gates to rear access. Where alleyways are shared, the gates would be non climbable, 2.4m in height and be open to improve visibility and security. Where feasible fencing would incorporate small gaps to provide connectivity between gardens for hedgehogs. Walls are proposed to boundaries which front onto open public space. These may incorporate brickwork piers or be fronted by taller shrub planting. Gardens would incorporate a paved patio area and provision for recycling bins and clothes drying.

The proposed design and layout is considered to be acceptable and are a considerable enhancement to the current site and its operations.

#### **Relationship to neighbouring residents**

The comments of Webster Road residents with regard to the wall have been carefully considered. The structural stability of the high wall is of concern as it is a freestanding structure. The applicant shows a 2.1m wall with 300mm of trellis in this location subject to the results of a structural survey.

The wall is a positive feature and appears at this time to be in a reasonable state of repair without any bowing or significant damage. There is some damage to the top parts but this does not appear to be significant and could be easily repaired.

Officers note a reduction in height to prevent future issues and problems between neighbours over the structural stability of the wall however will seek an appropriate and informed decision on this once the structural report is submitted. Officers seek this by an appropriate condition.

Other elements of the proposals would have a positive impact on the relationship to neighbouring residential properties with the proposals enhancing the area and replacing largely poor quality buildings and improving the street scene.

The proposals would offer no new overlooking or privacy issues from the approved scheme and is considered to be acceptable.

### **The character of the area**

The area is in a state of transition from industrial to town centre and residential uses with residential development already approved and delivered on the former Lithographic factory site and to the rear of the site. The area now includes a number of new residential developments with a mix of apartments and housing.

The proposals would be a positive impact on the character of the area and form a positive relationship to the existing residential character of the area.

### **Car parking and servicing**

The car parking levels are noted in relation to the type of housing and also the proximity to Willenhall District centre. In this regard the level of car parking will offer an appropriate level of car parking whilst not compromising the overall design.

Some minor changes to improve the layout has been suggested by Highways Officers which involves an improvement to the bellmouth and a re-working of parking areas fronting Clothier Street which will make the need to remove/relocate the speed table as unnecessary.

The proposed car parking level is considered acceptable.

### **Affordable Housing and Urban Open Space Contributions**

The previous planning permission is still extant. As part of the time extension to the application, it was demonstrated that the scheme was not viable to collect any contributions. The scheme is now to deliver 100% affordable housing which would be an improvement on the offer previously presented.

It is considered that the proposals are acceptable.

### **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 27 new homes.

The New Homes Bonus award to Walsall Borough 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 working with the applicant**

Officers have liaised with the applicant in response to concerns raised. Additional information and amended plans have been submitted to enable full support to be given to the scheme.

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

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

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

2. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

52566/P001

52566/P002 Rev E

52566/P010

52566/P011

52566/P012

52566/P013

52566/P015 Rev A

6245-100 Rev P0

871 Rev 1

Documents

Design and Access Statement prepared by BM3 Architecture

Transport Statement prepared by Couch Consulting Engineers (Reference C6245-01)

Noise and Vibration Assessment prepared by Noise.co.uk (reference 14541-1)

Coal Mining Risk Assessment prepared by M&J Drilling Services Ltd

*Reason:* To define the permission.

3a) Prior to the commencement of development a schedule of the facing materials to be used have been approved in writing by the Local Planning Authority.

3b) The approved scheme shall be implemented in accordance with the submitted details.

*Reason:* To ensure the satisfactory appearance of the development.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking, re-enacting or modifying that Order), no additional extensions, outbuildings, structures or means of enclosure (e.g. walls, gates, or fences) shall be erected without prior written approval of the Local Planning Authority.

*Reason:* Having regard to the size of the approved back gardens, relationship to neighbouring properties and possible ground contamination on the site.

4a) Prior to the commencement of development a detailed landscaping scheme and maintenance strategy for the development (including any necessary phasing of implementation) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include, where applicable, details of:

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

4b) The approved scheme shall be implemented in accordance with the submitted details.



*Reason:* To ensure the satisfactory appearance of the development.

5i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

5ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

5iii) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

5iv) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

5v) 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.

5vi) 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.

6a) Prior to the commencement of development the following details shall be submitted to and agreed in writing by the Local Planning Authority:

- i) Revised driveways to Clothier Street to avoid the speed table.
- ii) A standard bellmouth layout with pedestrian crossing points and tactile paving.

6b) The development shall be carried out in accordance with the agreed details.

*Reason:* To ensure satisfactory access arrangements.

7a) Prior to the commencement of development parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the Local Planning Authority,

7b) The agreed details shall be retained and kept available during construction of the development.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

8a) Notwithstanding the proposed boundary treatment as shown on drawing number P002 Rev E, prior to the commencement of the development a structural survey to the existing wall to Webster Road properties shall be submitted to and agreed in writing by the Local Planning Authority. The

existing wall shall be retained unless otherwise recommended as part of the survey. Full details of boundary treatment shall be submitted to and agreed by the Local Planning Authority.

b) The agreed details shall be installed prior to the first occupation of the development.

*Reason:* To ensure the satisfactory appearance of the development and to protect the amenities of neighbouring residents.

9. Prior to the first occupation of any dwelling to which this permission relates all existing redundant vehicular accesses onto the adjoining highway shall be permanently closed. Details of the means of closure and reinstatement of this existing access shall be submitted to and approved in writing by the local planning authority.

*Reason:* To ensure the safe and free flow of traffic using the adjoining highway.

10. Prior to the first occupation of any dwelling to which this permission relates the accessways, turning areas and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* In the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway.

11. 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 (see Note for Applicant), and such works shall only take place between the hours of 08.00 to 18.00 Monday to Friday 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.

*Reason:* In the interests of the amenity of nearby residents

## **NOTES FOR APPLICANT**

### **Notes for Applicant – Contaminated Land**

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

CL2) When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the

land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3) Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.”





## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 8.**

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

**Application Number:** 13/1490/FL  
**Application Type:** Full application

**Applicant:** Mar City Developments Ltd

**Proposal:** Erection of 62 Dwellings

**Location:** SITE OF FORMER MARY ELLIOTT SCHOOL AND BREWER STREET CENTRE,  
BREWER STREET, WALSALL, WS2 8BA

**Ward:** Blakenall

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

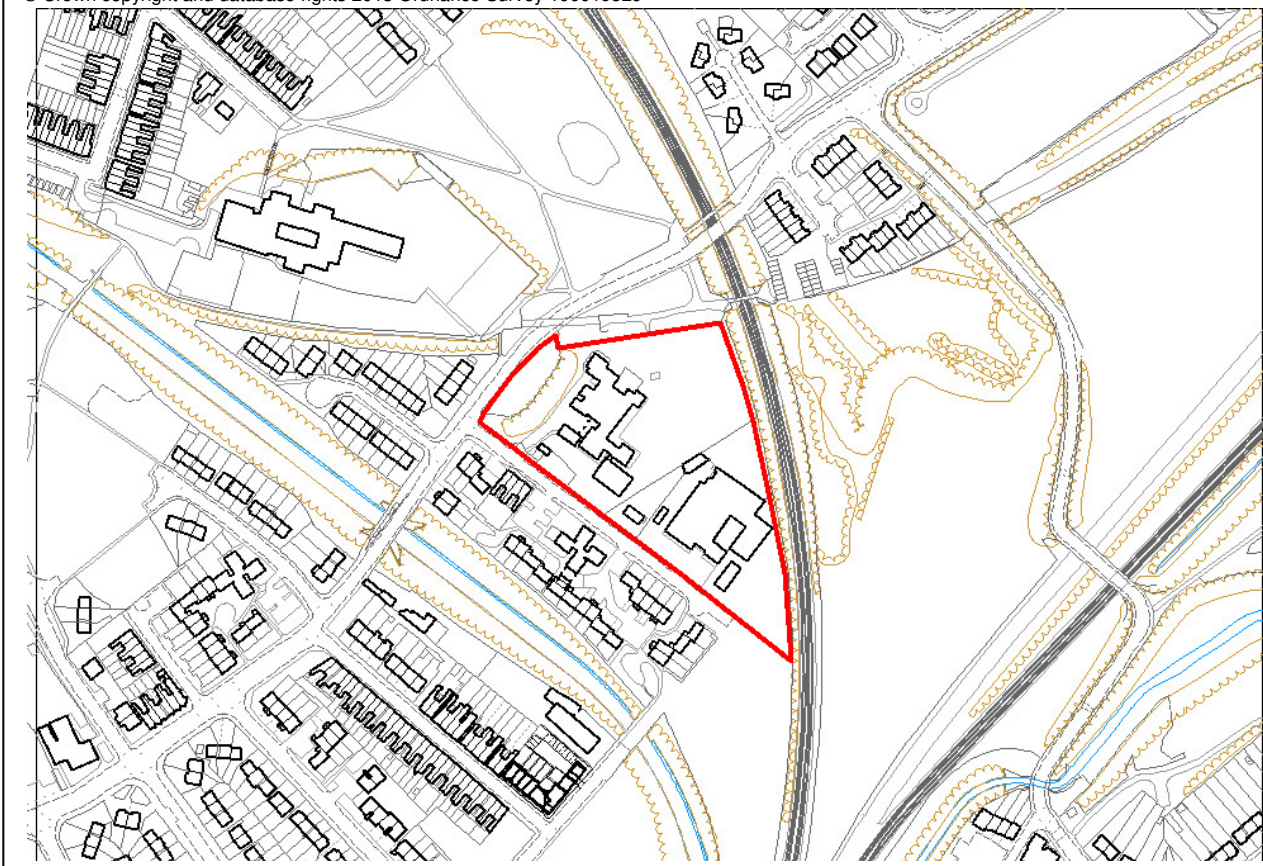
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:**

**Expired Date:** 20/02/2014

**Recommendation Summary:** Grant permission subject to conditions and a S106 Agreement subject to provision of further protected species surveys.

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### **Application and Site Details**

The proposal is for the erection of 62 dwellings on the site of the former Mary Elliot Special School and Education Training Centre located at the junction of Brewer Street and Coalpool Lane. The proposals show a three storey apartment block located at the top of the site near the highway junction and 2 and 2.5 storey housing elsewhere throughout the site.

The former buildings have been demolished with the exception of an electricity substation near the original school access and a retaining wall which dissects the site broadly half way in an east/west direction. A railway line bounds the eastern side of the site and there is a subway and pedestrian links to open space on the opposite side of Coalpool Lane to the north. There are significant trees around the perimeter of the site and along the top of the retaining wall. The site levels drop by 8m across the site from Coalpool Lane to the end of Brewer Street. There are houses and flats opposite in Brewer Street.

The site is presently owned by the Council.

The proposed dwellings and flats are traditional brick and tile construction with pitched roofs. The 2.5 storey houses have dormer windows in the front roof elevation. The apartment building introduces some cladding and there are balconies on the front elevation for two of the apartments.

The developer offers 15 units for affordable housing provision comprising of 9 x 2 bed apartments, 4 x 2 bed houses and 2 x 3 bed houses. No provision for open space is made as the developer considers there is good access to playing fields and open space in the vicinity.

The proposal is to utilise the two existing accesses to form two cul-de-sacs. The northern cul-de-sac serves the 9 apartments and 28 houses and has a private drive extension at its head; the southern cul-de-sac serves 13 houses. The remaining 12 plots are served directly off Brewer Street. There is a pedestrian access linking the two cul-de-sacs in the centre of the site and a pedestrian access between plots 15 & 16 linking up with the existing pathway leading to the subway. There are 2 off-street parking spaces per 3 bed dwelling and 1 off-street parking space per 2 bed dwelling. A foul and storm pumping station and balancing pond are included in the bottom corner of the site.

The site is 1.44 hectares which equates to a density of 43 dwellings per hectare.

The Design & Access/Planning Statement – Discusses planning policy, describes the site and its surroundings, site analysis and constraints, the design strategy, acoustic strategy and form of development. It includes an affordable housing statement and open space statement and ecology/bat survey statement. It offers 18 units for affordable housing but no provision for open space. Three Ash trees likely to be suitable for use by roosting bats are retained and the report recommends careful consideration of lighting throughout the site to protect foraging or commuting bats.

The Report on the Existing Noise Climate – Concludes that the general noise climate is determined by traffic noise punctuated by additional short term noise from passing trains. Acoustic screening will reduce the noise impact from the railway and Coalpool Lane traffic and protect the amenity within gardens. Vibration from the railway has a “low probability of adverse comment” so no mitigation measures for vibration are recommended.

The Transport Statement – Highlight the proposals to improve the visibility splay at the access. It also states the site is well located to promote sustainable modes of travel, close to bus routes and within walking distance of local destinations. The proposal would generate low levels of traffic (36 and 38 trips in the AM/PM peaks) which does not take account of the former use as a school.

There are good safety records at the highway junction. The development can be accommodated without harm to the safety of the local highway network.

The Pre-Development Tree Condition Survey – The site was surveyed in October 2013 and identifies 50 individual trees and eight groups of trees. The majority of the trees are of moderate to low quality (category B/C) and one category U (dead) tree. Of these 28 individual trees, including the dead tree, and 5 groups of trees are to be removed to allow for the development to take place.

The Flood Risk Assessment – Reviews the existing site, assesses sources and extents of flood risk. It identifies the flood risk assessment in terms of natural and artificial drainage, storm water management and proposes flood mitigation works including minimum floor levels, flood resilience and resistance, floor routing and access and egress.

The Coal Authority Search – Identifies that there are no known coal mine entries within or within 20 metres of the boundary of the site. It recommends a full investigation of coal and former coal mines and their treatment prior to any development being carried out.

The Geo-Environmental Assessment –Details non-intrusive investigations, ground conditions, preliminary geotechnical recommendations, environmental assessment (including soils, groundwater, hazardous gas and waste) and risk assessment. It suggests a remediation strategy to include eradication of Japanese Knotweed, removal of asbestos, removal of black cindery made ground, gas monitoring, importation of clean material for domestic gardens and landscape areas and recommends health and safety procedures for construction workers.

### **Relevant Planning History**

BC55554P – Erection of security fencing along site boundary fronting Brewer Street, Coalpool Lane and railway line – GSC 30/3/2000.

Other applications relate to the school premises which have been demolished.

### **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:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

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

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

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

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

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

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there



is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

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

CSP4: A high quality of design of the built and natural environment is required.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness.

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more.  
DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

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

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the energy demand of the 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:

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

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

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

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

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

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

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

ENV32 & 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities

8.9: On housing sites of 1 hectare (or 30 dwellings) or more accessible community healthcare facilities should be provided to serve the development. The Council may require a contribution from developers towards such provision.

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

LC5: Greenway networks will be created, enhanced and safeguarded.

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

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

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

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

### **Designing Walsall SPD**

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

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

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

### **Supplementary Planning Document for Affordable Housing**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

### **Supplementary Planning Document Urban Open Space**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

### **Consultations**

**Transportation** – No objections in principle to residential development. There are 81 parking spaces for the housing and apartments which equates to 133% provision throughout the site.

Policy T13 recommends a minimum of 2 spaces per dwelling and 1.5 spaces per apartment which equates to 120 spaces. The site is in a relatively sustainable location close to a network of footpaths, close to frequent bus routes and 500m from Walsall town centre and Stafford Street local centre. In the circumstances this level of parking is acceptable. Conditions are recommended to secure parking provision, maintain adequate visibility splays and appropriate access design.

**Pollution Control (Scientific Team)** – No objections in principle subject to incorporation of acoustic mitigation measures and agreement of a working plan to minimise impacts during the construction. It is recommended that “good” internal standards are achieved for bedrooms. Conditions are recommended to secure these provisions.

**Pollution Control (Contaminated Land)** – No objections subject to a desk study and site reconnaissance being carried out to identify the potential for contaminants and/or ground gases likely to be present on the site. Should the potential contaminants or ground gases be identified on site a ground contamination survey and site investigation should be carried out to identify risk to future occupants or structures on the site. Conditions to address these issues are recommended.

**Asset Management** - The former Mary Elliott Special School closed in August 2008 and the adjoining Adult Training Centre in October 2008. The buildings on both sites were demolished in September 2010. The Department for Education granted consent for disposal under Schedule 1 of the Academies Act in February 2013. Both sites are surplus to the Council’s requirements.

**The Coal Authority** – The site falls within a defined Development High Risk Area. A Coal Mining Risk Assessment is required. A condition to secure intrusive investigations and any remedial works is recommended and a note for the applicant regarding coal mining.

**Ecology** – Objects. Further survey work on protected species is required before the application is determined. The site is within a strategic location in the borough’s green infrastructure within a wildlife corridor, close to Mill Lane Local Nature Reserve and Site of Importance for Nature Conservation (SINC) and Walsall Railway Cutting Site of Local Importance for Nature Conservation (SLINC). It is essential that retained trees and landscape treatment maintains landscape connectivity at this key junction. There is a risk that retained trees will be lost in the early life of the proposed development. No landscape plan has been provided to demonstrate how the site could be enhanced in line with recommendations made by the applicant’s ecological consultant. Comments on the amended plans will be updated at Committee.

**Environment Agency** – No objections subject to securing flood risk mitigation measures as identified in the Flood Risk Assessment. An appropriate condition is recommended.

**Fire Service** – No objections.

**Housing Strategy** – The proposal triggers a requirement for 25% affordable housing required on site as affordable rented units. This equates to 15 units and it is recommended that 9 flats and 7 x 2 and 3 bed houses are provided.

**Network Rail** – No objections in principle subject to securing measures to protect Network Rail’s assets. Appropriate conditions and advisory notes for the applicant are recommended to secure this. The site is within 10m of the operational railway line so the applicant should supply a risk assessment and method statement for the works.

**Sport England** – No objections.

**Tree Officer** – Objects to the loss of a significant number of trees within the site. The layout has been amended to retain more of the existing trees. The existing layout is cramped with small

gardens leading to potential for significant tree removals. The layout could be redesigned to take account of tree constraints and allow for a greater number of tree retentions. There is currently little scope for replacement planting. It is recommended that a TPO is made to protect the existing stock.

### **Public Participation Response**

One letter of objection has been received which is summarised as follows:

- Road safety issues at the junction of Brewer Street/Proffitt Street
- Poor visibility due to the bend in the road and railway bridge
- Loss of trees
- Loss of wildlife

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

### **Determining Issues**

- Principle of residential development
- Layout and design
- Relationship to surrounding properties
- Means of access & parking
- Ecology & Trees
- Provision for affordable housing
- Provision for Urban Open Space and Education
- Local Finance Considerations
- Environmental Impact Assessment Screening Opinion

### **Observations**

#### **Principle of residential development**

The site was previously developed as a school and education centre, since demolished and declared surplus to requirements by the Council. The proposals are for residential development. The Department for Education granted consent under Schedule 1 of the Academies Act 2010 in February 2013 to the disposal of the site.

The principle of new housing development on a previously developed site in a sustainable urban location is in accordance with development plan policies.

Policy CSP2 of the BCCS states that outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided. This previously developed site is in an established residential area in a sustainable location close to local amenities and bus routes and is considered suitable for housing purposes.

The principle of new housing on the site is considered acceptable.

#### **Layout and design**

The layout has been revised to retain as many of the trees as possible, largely those around the perimeter of the site, and to maintain some of the existing ground levels in the centre of the site to protect trees and wildlife.

The apartment block (plots 1-9) is positioned so as to retain the majority of the trees at the front of the site and highway junction. This will form the shared amenity space for the apartments.

The housing faces the street with secure private rear gardens and parking within each plot. Although gardens are small they provide a useable space for each house and given the proximity of the site to existing open space there are alternative amenity benefits for residents. The gardens of plots 10-19 have a boundary to the subway footpath but there is a robust fence along this boundary and the retention of the trees will help secure the boundary.

The back to back relationship between plots 27-31 in the centre of the site and plots facing Brewer Street is a minimum of 17m which is below the recommended 24m distance. Nevertheless the offset position of the majority of the dwellings is designed to reduce potential overlooking. There is also a minimum distance of 11m between the rear elevation of plot 24/25 and gable elevation of plot 27 but as there are only non-habitable windows in the gable there is no significant overlooking. It is recommended that permitted development is removed from all plots due to the small gardens and proximity of dwellings and the relationship to retained trees.

The design of the houses is considered appropriate as there is a mix of different properties in the area.

There is a substation adjacent to plots 57 and 58 at the corner of the northern access. This is a flat roof brick work structure and is well screened by existing shrubs. In the circumstances it will not be obtrusive within the street scene or to neighbouring properties.

The layout retains most of the trees along the boundary to the railway line and limits the number of plots with elevations directly facing the railway (plots 34-40) to protect amenities. Conditions are recommended to protect the integrity of the railway.

The balancing pond and pumping station in the southern corner of the site will provide appropriate Flood Risk Mitigation for the development. They will not have a significant impact on the outlook or amenities of adjacent housing.

The proposed development equates to 43 dwellings per hectare which is a lower density than the existing flats and housing opposite the site in Brewer Street which has a density of 80 dwellings per hectare. The lower density is a consequence of accommodating the constraints of trees and levels across the site and is considered acceptable.

### **Relationship to surrounding properties**

The proposed housing on Brewer Street will inevitably alter the outlook from housing opposite but given that there is a public highway between the two sites there is no greater impact on privacy. Housing in Coal Poll Lane is a higher ground level than the application site so the apartment block will appear as two storeys from this elevation and have no significant impact on the outlook.

The railway is safeguarded by retention of the trees along this boundary and recommended conditions.

### **Means of access & parking**

The proposals utilise the existing two access points on Brewer Street creating two cul-de-sacs with linked pedestrian access. This arrangement is satisfactory.

There is also a pedestrian link between plots 15 & 16 and adjoining houses have secondary windows to provide some surveillance of this area. The path will link to existing paths that connect to public footpaths and open spaces in the area. This enhances the sustainability of the site.

Residents are concerned that there are road safety issues already in Brewer Street and Proffitt Street and there is poor visibility at the junction due to the bend in the road and nearby railway bridge. The position of the access points is identical to when the site was formerly occupied as a school and training centre. When compared to these former uses the 62 new dwellings will not have a significant impact on highway safety or the surrounding highway network.

Each house has its own parking space in plot and the level of parking is considered appropriate. Revised plans have been received to provide more parking for the apartments adjacent to plot 11 which has resulted in the loss of a further house. The level of parking is considered acceptable. The Transportation officer has no objections in principle. Whilst the parking provision is low the site is in a sustainable location close to walking and public transport links to Walsall town centre and Stafford Street local centre. Conditions are recommended to secure parking provision, maintenance of visibility splays and details of the access.

It is recommended that provision for improved lighting to the subway required as a result of the development is secured through a S106 Agreement. A figure of £30,776.70 towards the improvements is required.

The means of access and parking is acceptable.

### **Ecology & Trees**

The ecologist and tree officer recommend that a TPO is made on the existing trees. This would prevent future removal of further trees without the submission of an application. Subject to this application being approved, officers will seek to secure a Tree Preservation Order on the site.

The revised layout seeks to minimise the removal of existing trees around the perimeter of the site. Although residents are concerned about loss of trees and potential impact on loss of wildlife the revised layout retains more of the existing trees and further mitigation can be secured by condition and potential mitigation can be secured by condition.

The Council Ecologist and Tree officer are concerned about the proximity of the buildings to the retained trees and the potential impact this may have on the character of the area and ecological benefits. The layout has been amended to try to address these issues as far as practicable without precluding a level of viable development.

The Council Ecologist recommends that the garden boundaries of plots 19 and 20 are amended to place the boundary tree planting outside the control of the occupiers to afford greater protection to the retained trees. Plot 19 in particular has a lot of trees in the small garden in a prominent location where tree retention is preferred. It is likely that trees would reduce the amount of useable garden space for the occupiers and overshadow the house. Nevertheless, the suggested TPO would offer greater protection to the trees and secure replacement planting if required. The developer is seeking to address this issue by proposing smaller house types.

It is recommended that an ecological impact assessment is provided prior to determination of the application to include further protected species surveys and consider the habitats and species likely to be found on site and effects of the development on the wider environment. Subject to receipt of a satisfactory report it is likely that further conditions will be required to secure any mitigation measures found necessary. Comments will be updated at committee.

### **Provision for affordable housing**

Policy HOU3 of the BCCS requires provision of 25% affordable housing on qualifying sites of 15 units or over. This equates to 15 units for a scheme of 62 units.

The developer is offering 15 units as affordable housing provision comprising of 9 x 2 bed apartments, 4 x 2 bed houses and 2 x 3 bed houses. This will be secured by a S106 Agreement and the level of affordable housing provision is acceptable to officers.

### **Provision for Urban Open Space and Education**

In accordance with policies GP3, LC1 and 8.8 of the UDP, policies DEL1 and HOU3 of the BCCS and Supplementary Planning Document: Urban Open Space the proposal triggers the need for

urban open space and potential for requiring provision towards education. In accordance with the policies an urban open space contribution of £125,355.00 is required.

This will be secured through a S106 Agreement.

### **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 62 new homes.

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

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

### **Environmental Impact Assessment (EIA) Screening Opinion**

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

The development falls within Schedule 2 part 10(b) as it is an urban development project with an area of development that exceeds 0.5 hectares. The site is not within a sensitive area as the site is not statutorily protected and is a previously developed brownfield site. The development is not of more than local importance given the limited number of proposed dwellings. The potential impact of the development on the surrounding area is not significant.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice amended plans and relevant supporting information has been submitted to enable full support to be given to the scheme.

### **Recommendation**

Grant permission subject to conditions and a S106 Agreement subject to provision of further protected species surveys.



**Recommendation: Grant permission subject to conditions and a S106 Agreement subject to provision of further protected species surveys.**

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

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

2. In order to address potential impact from land contamination the following matters shall be addressed:

- i. A desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases likely to present a risk to proposed structures or future occupants of the development to be present on site. Results of the desk study and site reconnaissance shall be submitted to and agreed in writing prior to built development commencing. (see Note for Applicant CL 4)
- ii. In the event that the desk study and site reconnaissance indicates the potential presence of contamination and/or ground gases on site. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- iii. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iv. Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- v. The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- vi. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part ii) 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.
- vii. 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.

3a. Prior to the commencement of the development details of measures for controlling noise, dust, flying debris, and drag-out from engineering and construction activities at the site shall be submitted to and agreed in writing with the Local Planning Authority.

3b. All agreed measures shall be implemented and maintained throughout the duration of demolition operations and construction activities.

*Reason:* To protect the amenities of surrounding occupiers.

4a. Notwithstanding the submitted details prior to the commencement of the development drainage plans for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the local planning authority. The details shall include measures to ensure all surface

water drainage is directed away from the railway.

4b. The scheme shall be implemented in accordance with the agreed details before the development is first brought into use 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 and protect the railway from flooding and pollution.

5. The development shall be carried out in full accordance with the mitigation measures within the approved Flood Risk Assessment (FRA) J-B0580-R01 Issue 2 prepared by Opus dated February 2014 including the following:

- i. Limiting the rate of surface water run-off generated by the site to discharge at no more than the existing Greenfield rate of 6.5 litres per second
- ii. Attenuation of surface water on site to the 1 in 100 year flood event standard plus an allowance of 30% for climate change, using sustainable drainage as proposed in the FRA. Additional attenuation volume must be provided to mitigate against the risk of pump failure.
- iii. The proposed on site surface water drainage system should be designed to the Sewers for Adoption, 30 year standard or similar. Details should be submitted for approval to confirm that surface water will not leave the proposed site in the 1 in 100 year 30% (climate change) event. If the system surcharges, additional space may be required for water. The location of any surcharging should be identified as should the resultant overland flood flow routes. Any excess surface water should be routed away from any existing or proposed properties. Drainage calculations must be included to demonstrate this (e.g. Micro Drainage or similar package calculations) including the necessary attenuation volume, pipeline schedules, network information and results summaries.

*Reason:* To reduce the risk of flooding to the proposed development and future occupants.

6. No part of the development shall be occupied until acoustic mitigation measures have been agreed in writing with the Local Planning Authority and fully implemented. With due regard to the noise mitigation measures recommended in Section 8 of the acoustic report by Hoare Lea Acoustics, Ref 10-05131-AM-181013-R2. This shall include the following measures:

- i. A 2 metre solid barrier, with a minimum mass of  $10\text{kgm}^{-2}$  to garden boundaries adjacent to Coal Pool Lane and the railway
- ii. Bedroom windows overlooking the railway shall be fitted with glazing and proprietary wall or window mounted trickle vents that have sound reduction properties, Rw 38dB.
- iii. Bedroom windows overlooking Coal Pool Lane and Proffitt Street shall be fitted with glazing and proprietary wall or window mounted trickle vents that have sound reduction properties, Rw 38dB.
- iv. All other habitable rooms shall be fitted with glazing and proprietary wall or window mounted trickle vents that have sound reduction properties, Rw 31dB.

*Reason:* To protect the residential amenities of future occupiers.

7a. Prior to the commencement of the development full details of proposed ground levels, earthworks and excavations to be carried out throughout the site and in particular adjacent to the railway boundary shall be submitted to and approved in writing by the local planning authority.

7b. The development shall be carried out in accordance with the approved details.

*Reason:* To protect the integrity of the adjacent railway and protect the visual amenities of the area.

8a. Prior to the commencement of development details shall be submitted to the Local Planning Authority setting out where the location of parking for site operatives and visitors has been provided within the application site.

8b. The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

9. Prior to the commencement of the development, a layout plan showing an Autotrack swept path analysis demonstrating that a 10.7m long refuse vehicle can safely and satisfactorily make a full turning manoeuvre within both cul-de-sac turning areas shall be submitted to and approved by the Local Planning Authority.

*Reason:* To ensure that the development is accessible to service vehicles in the interests of the safe and satisfactory operation of the development and highway safety.

10a. Prior to the commencement of the development, full technical and engineering details of all adoptable highway works and works within the existing public highway including:-

- i. the new estate roads and footways,
- ii. the northern link footpath and appropriate anti motorcycle barrier,
- iii. highway drainage details and run-off calculations,
- iv. vehicular footway crossings and access points along Brewer Street,
- v. the link footpath and adoptable shared surface between the two cul-de-sacs including gradient details
- vi. the upgrading of the existing pedestrian crossings across the Brewer Street/Proffitt Street junction to include tactile paving

to comply with the plans hereby approved, shall be submitted to and approved by the Local Planning Authority. The adoptable street lighting shall be with the agreement in writing with Walsall Council's Street lighting partner Amey.

10b. Prior to the first occupation of any dwelling on the development, the above highway infrastructure and adoptable highway works shall be implemented to the satisfaction of the Highway Authority.

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

11a. Prior to the first occupation of any new dwelling on the development, the visibility splays shown on Phil Jones Associates drawing no. 1163-Visi01 dated February 2014, at the junction of Brewer Street and Proffitt Street and the two new adoptable cul-de-sacs on Brewer Street shall be fully implemented and kept free of any structure or planting exceeding 600mm in height above carriageway level.

11b. The visibility splays shall thereafter be retained and maintained for this purpose only.

*Reason:* To ensure adequate visibility is provided and retained in the interests of highway safety.

12a. Prior to the commencement of the development, full details of a cycle storage facility for the use of residents of the apartments Plots 1 to 9 shall be submitted to and approved in writing by the Local Planning Authority.

12b. The facility, which shall be secure and covered, shall be fully implemented in accordance with the approved details prior to the apartments being first occupied and shall thereafter retained and used for no other purpose.

*Reason:* To encourage sustainable travel and in accordance with Black Country Core Strategy policy TRAN4.

13a. Prior to the commencement of the development, a construction methodology statement shall be submitted to and approved by the Local Planning Authority detailing where parking and turning facilities for site operatives and construction deliveries will be provided during the period of construction.

13b. The agreed provision shall be retained during construction in accordance with the approved details.

*Reason:* To minimise disruption to the free flow of traffic on the public highway and in the interests of highway safety.

14a. Prior to the first occupation of the apartment block Plots 1 to 9 , the car parking areas serving the apartments shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground, in accordance with the approved details.

14b. These areas shall thereafter be retained and used for no other purpose.

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

15a. Prior to the first occupation of any individual dwelling on the development, all vehicle hard standing and parking areas that serve that dwelling shall be fully consolidated, hard surfaced and drained

15b. These areas shall thereafter be retained and used for no other purpose.

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

16a. All vehicle access points to the new dwellings shall provide 2.4m x 3.4m pedestrian visibility splays, within which no planting or structures exceeding 600mm in height above footway levels shall be permitted.

16b. These splays shall thereafter be retained and used for no other purpose.

*Reason:* To ensure adequate pedestrian/vehicle inter-visibility in the interests of highway safety.

17a. Prior to the commencement of development, details of all proposed boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority. This shall include provision of a suitable trespass proof fence along the boundary with the railway.

17b. The development shall be implemented in accordance with the agreed details thereafter.

*Reason:* To ensure the satisfactory appearance and security of the site.

18a. Prior to the commencement of the development full details of all facing and roofing materials shall be submitted to the local planning authority for approval in writing.

18b. The development shall be completed in accordance with the agreed materials.

*Reason:* To ensure the satisfactory appearance of the development.

19a. Prior to the commencement of the development a landscaping scheme shall be submitted and approved in writing by the local planning authority.

19b. The approved landscaping shall be implemented within 12 months of the completion of the development.

19c. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants 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 of the area.

20. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 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; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

*Reason:* To protect the amenities of surrounding occupiers.

21. No development within Classes A (enlargement, improvement or alteration to the dwelling), B (addition to roof), C (alteration to roof) and E (buildings within the curtilage) of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development Order 1995) (Amendment No.2)(England) Order 2008, or succeeding Orders shall be carried out to the dwelling or on the site, as appropriate, without the prior submission and approval of a planning application.

*Reason:* To protect residential amenities of adjacent occupiers.

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

- Site Location Plan (OS001A) received 21/11/13
- Planning Layout (P006 Rev C) received 27/3/14
- House Type 2A – Plans & Elevations (2A/020) received 1/11/13
- House Type 3A – Plans (3A/020) received 1/11/13
- House Type 3A – Elevations (3A/021) received 1/11/13
- House Type 3B – Plans & Elevations (3B/020) received 1/11/13
- Apartments Floor plans (LB/AAA/001A) received 20/2/14
- Apartment Elevation A (LB/AAA/002) received 20/2/14
- Apartment Elevations B & D (LB/AAA/003) received 20/2/14
- Apartment Elevation C (LB/AAA/004) received 20/2/14
- Vehicle Refuse Tracking (1163-ATR01) received 20/2/14

- Car Tracking (1163-ATR02) received 20/2/14
- Visibility Splays (1163-Visi01) received 20/2/14
- Survey (S001) received 1/11/13
- Design & Access/Planning Statement prepared by Marcity Developments received 20/2/14
- Report on Existing noise Climate prepared by Hoare Lea (Revision 2) received 4/11/13
- Transport Statement prepared by Phil Jones Associates (1163) received 4/11/13
- Pre-Development Tree Condition Survey prepared by Ruskins (1013-1397 Rev 2) received 26/2/14
- Flood Risk Assessment prepared by Opus (J-B0580-R01) received 21/2/14
- Geo-Environmental Assessment prepared by Merebrook Consulting (GEA-18470B-14-80) received 21/3/14
- Extended Phase 1 Habitat Survey prepared by Middlemarch Environmental Ltd (RT-MME-115460-01) received 26/2/14

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).

#### **Note for applicant from the Coal Authority**

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<http://coal.decc.gov.uk/en/coal/cms/services/permits/permits.aspx>

#### **Note for applicant – Contaminated Land**

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

**CL2:** When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

**CL3:** Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also

be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

**CL4:** The desk study and site reconnaissance shall have regard to the previous unknown filled ground and “Model Procedures for the Management of Contamination” (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

### **Notes for Applicant – Highways**

The applicant will be expected to enter into an agreement under section 38/278 of the Highways Act 1980 in respect of all adoptable and highway infrastructure works.

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.

### **Note for applicant – Network Rail**

#### Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.

- There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil.
- Any future maintenance must be conducted solely within the applicant's land ownership.
- Should the applicant require access to Network Rail land to facilitate their proposal they would need to approach the Network Rail Asset Protection Team at least 20 weeks before any works are due to commence on site. The applicant would be liable for all costs incurred in facilitating the proposal and an asset protection agreement may be necessary to undertake works. Network Rail reserves the right to refuse any works by a third party that may adversely impact its land and infrastructure.
- Any unauthorised access to Network Rail air-space or land will be deemed an act of trespass.

#### Scaffolding

Any scaffold which is to be constructed within 10 metres of the Network Rail / railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The applicant / applicant's contractor must consider if they can undertake the works and associated scaffold / access for working at height within the footprint of their property boundary. The applicant is reminded that when pole(s) are erected for construction or maintenance works, should they topple over in the direction of the railway then there must be at least a 3m failsafe zone between the maximum height of the pole(s) and the railway boundary.

This is to ensure that the safety of the railway is preserved and that scaffolding does not:

- Fall into the path of on-coming trains
- Fall onto and damage critical and safety related lineside equipment
- Fall onto overhead lines bringing them down, resulting in serious safety issues (this is applicable if the proposal is above the railway and where the line is electrified).

The applicant is requested to submit details of proposed scaffolding works to the Network Rail Asset Protection Engineer for review and approval.

#### Drainage

All surface water is to be directed away from the railway.

Soakaways, as a means of storm/surface water disposal must not be constructed near/within 20 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property.

- Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains.
- Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property.
- Proper provision must be made to accept and continue drainage discharging from Network Rail's property.
- Suitable foul drainage must be provided separate from Network Rail's existing drainage.
- Once water enters a pipe it becomes a controlled source and as such no water should be discharged in the direction of the railway.
- Drainage works could also impact upon culverts on developers land.

Water discharged into the soil from the applicant's drainage system and land could seep onto Network Rail land causing flooding, water and soil run off onto lineside safety critical equipment or de-stabilisation of land through water saturation.

#### Excavations / Earthworks

Network Rail will need to review all excavation works to determine if they impact upon the support zone of our land and infrastructure as well as determining relative levels in relation to the railway.

#### 2m Gap

Network Rail requests that the developer ensures there is a minimum 2 metres gap between the **buildings and structures on site** and our boundary fencing.

- To allow for all construction works on site and any future maintenance to be carried out wholly within the applicant's own land ownership and without encroachment onto Network Rail land and air-space. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (**s55 British Transport Commission Act 1949**).
- To ensure that should the **buildings and structures on site** fail or collapse that it will do so without damaging Network Rail's boundary treatment or causing damage to the railway (e.g. any embankments, cuttings, any lineside equipment, signals, overhead lines) and to prevent the materials from the **buildings and structures on site** falling into the path of trains.
- To ensure that the **buildings and structures on site** cannot be scaled and thus used as a means of accessing Network Rail land without authorisation.
- To ensure that Network Rail can maintain and renew its boundary treatment, fencing, walls.
- To ensure that the applicant does not construct their proposal so that any foundations (for walls, buildings etc) do not end up encroaching onto Network Rail land. Any foundations that encroach onto Network Rail land could undermine, de-stabilise or other impact upon the operational railway land, including embankments, cuttings etc. Under Building Regulations the depth and width of foundations will be dependant upon the size of the structure, therefore foundations may impact upon Network Rail land by undermining or de-stabilising soil or boundary treatments.





## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 9.**

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

**Application Number:** 14/0313/FL  
**Application Type:** Full application

**Case Officer:** Stuart Crossen  
**Telephone Number:** 01922 652608  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Brownhill Hayward Brown

**Applicant:** Walsall MBC

**Proposal:** Amendment to Planning Permission 09/1086/FL and 13/1053/TE :

1. Currently approved glazed mansard roof above educational facility to be changed to pitched roof finished with plain clay tiles.
2. Staff entrance omitted and replaced with glazed windows.
3. Reduction in area of butterfly roof and extension of green roof (above public toilets).

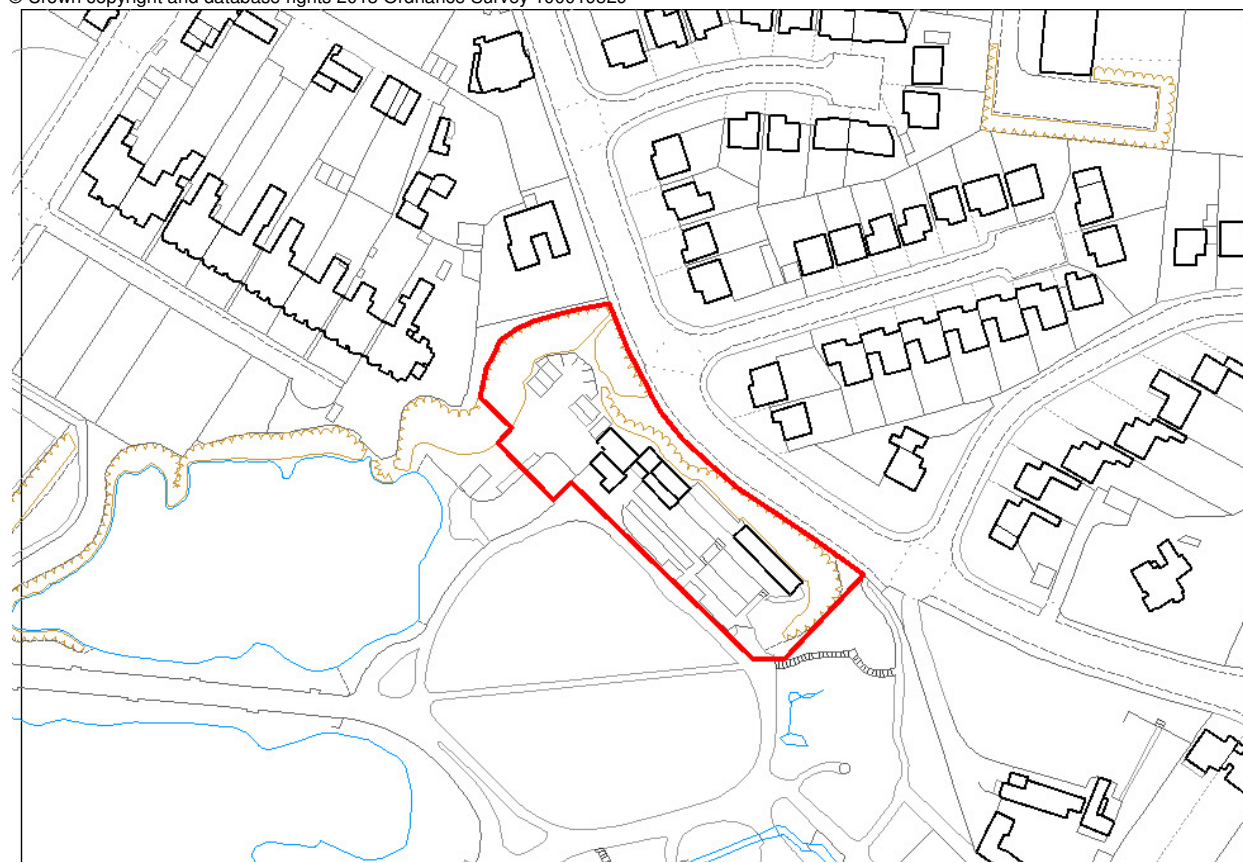
**Location:** THE ARBORETUM, LICHFIELD STREET, WALSALL

**Ward:** St. Matthews

**Expired Date:** 29/04/2014

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

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### **Application and Site Details**

The application proposes the following amendments to Planning Permissions 09/1086/FL and 13/1053/TE:

- Glazed mansard roof above educational facility to be changed to pitched roof 300mm higher finished with plain clay tiles.
- The staff entrance to be omitted and replaced with glazed windows.
- Reduction in area of butterfly roof (reduced width) and extension of green roof (above public toilets).
- Shutters on the front elevation of the original former lodge keeps cottage.

The original applications were for erection of a new visitor centre with an existing brick storage building retained (former lodge keepers cottage) in the design (for its historic connections to the early days of the Arboretum).

The centre will provide educational facilities, changing rooms, meeting room, visitor café, toilets and staff facilities. The building is a modern design (other than the retained element) and aims to enhance the Arboretum's historic buildings such as the boathouse and bandstand by providing a contrast.

The building is designed to incorporate energy saving technologies and constructed from sustainable materials. The building will provide disabled access throughout.

The intention is not to bring users vehicles into the Arboretum due to the detrimental effect on pedestrians. The scheme includes three parking spaces for disabled users outside the building and for school minibuses, to improve access to the new facility for these groups.

As a result of the work on flooding, the previous application was amended to provide for the replacement of a bridge. The demolition of the toilet block, which sits astride the brook (approved in November 2009) is also part of the work to the Arboretum and includes the removal of some boulders in the brook. The implications of this work for flooding have been included in this application.

The application is accompanied by the resubmission of Design and Access Statement and a Flood Risk Assessment.

The proposed building is within the Arboretum Conservation Area, the boathouse is a Grade II listed building and the Arboretum is a Registered Park and Garden (Grade II).

The Flood Risk Assessment relates to the Arboretum as a whole, rather than just the Visitor Centre, although particular attention has been given to this proposed building. As a result it is necessary to focus only on those parts of the Assessment relevant to the application. Flood level data was obtained from consultants modelling the extent of predicted flooding and frequencies.

The new building was designed to incorporate part of an existing building complex constraining proposed floor levels.

The building incorporates flood mitigation features, including; locating electrical equipment above the 1 in 100 flood level, a flood sensor and alarm system. Emergency evacuation of the building will ascend the bank to Buchanan Avenue at the rear of the visitor centre to ensure the safety of occupiers and users of the building in the event of a flood.

### **Relevant Planning History**

Demolition of nearby toilet block granted 2009.

09/1086/FL - Proposed demolition of single storey buildings & erection of new visitor centre.  
Granted by Planning Committee Subject to Conditions - 02/08/10

13/1053/TE - Time Extension of planning application 09/1086/FL- Proposed demolition of single storey buildings and erection of new visitor centre. Granted Subject to Conditions - 15/01/14

14/0107/FL - Removal of an unstable embankment in the Arboretum between the site of the proposed new visitor centre and No.8 Victoria Terrace and No.6 Buchanan Avenue. The application includes engineering works to stabilise the embankment and restore the original boundaries. Undetermined

### **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:

- Secure high quality design and a good standard of amenity for all existing & future occupants
- Take account of different roles and character of different areas
- Take full account of flood risk
- Conserve and enhance the natural environment
- Conserve heritage assets in a manner appropriate to their significance

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

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

**Paragraph 57** states ...important ... for the achievement of high quality and inclusive design for all development, including ... public and private spaces...

**Paragraph 58** states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area ... over the lifetime of the development
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation
- are visually attractive as a result of good and appropriate landscaping.

**Paragraph 61** considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

**Paragraph 64** states 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

**Paragraph 73** states Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

**Paragraph 79** states the essential characteristic of Green Belts is their openness and permanence.

**Paragraph 80** identifies the five purposes of Green Belts which are:

- *to check the unrestricted sprawl of large built-up areas*
- *to prevent neighbouring towns merging into one another*
- *to assist in safeguarding the countryside from encroachment*
- *to preserve the setting and special character of historic towns*
- *to assist in urban regeneration by encouraging recycling of derelict and other urban land*

**Paragraph 81** states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity. It also encourages improving damaged or derelict land in the Green Belt.

**Paragraph 87** states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

**Paragraph 88** states very special circumstances will not exist unless the potential harm is clearly outweighed by other considerations.

**Paragraph 90** certain types of development are not inappropriate provided they do not conflict with the openness of the Green Belt including engineering operations.

**Paragraph 100** Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;*

- if necessary, applying the Exception Test;*

- safeguarding land from development that is required for current and future flood management;*

- using opportunities offered by new development to reduce the causes and impacts of flooding; and*

- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations.*

**Paragraph 101** states the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

**Paragraph 102** states If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and*

- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

Both elements of the test will have to be passed for development to be allocated or permitted.

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

**Paragraph 109** states the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;*

- recognising the wider benefits of ecosystem services;*

- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*

- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and*

*-remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

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

**Paragraph 116** states Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

*-the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*

*-the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*

*-any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

**Paragraph 117** states to minimise impacts on biodiversity and geo-diversity, planning policies should:

*-plan for biodiversity at a landscape-scale across local authority boundaries;*

*-identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them and areas identified by local partnerships for habitat restoration or creation;*

*-promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan;*

*-aim to prevent harm to geological conservation interests; and*

*-where Nature Improvement Areas are identified in Local Plans, consider specifying the types of development that may be appropriate in these Areas.*

**Paragraph 118** states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

**Paragraph 120** seeks to prevent unacceptable risks from pollution and land stability. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

**Paragraph 121** Development sites should be suitable for new uses taking account of ground conditions and land instability, including from natural hazards or former activities such as mining and pollution.

Planning policies and decisions should also ensure that:

*-the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;*

*-after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*

*-adequate site investigation information, prepared by a competent person, is presented.*

**Paragraph 122** states in doing so, local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

**Paragraph 123** aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts 27 on health and quality of life as a result of new development;

- mitigate and reduce to a minimum other adverse impacts 27 on health and quality of life arising from noise from new development, including through the use of conditions;

- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; 28 and

- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

**Paragraph 126** - Local planning authorities should have a positive strategy for the conservation and enjoyment of the historic environment. LPA's should recognise Heritage Assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

**Paragraph 127**- When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.

**Paragraph 128**- In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

**Paragraph 129** - Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal and take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

**Paragraph 130** - Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.

**Paragraph 131**- In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

- the desirability of new development making a positive contribution to local character and distinctiveness.

**Paragraph 132** - When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

**Paragraph 133**- Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent,

unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

**Paragraph 137-** Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

**Paragraph 138-** Not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 133 or less than substantial harm under paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

### **Decision-taking**

**Paragraph 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.

**Paragraph 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.

### **Other Relevant National Policy**

Technical Guidance to the National Planning Policy Framework (on flood risk and minerals, published 27 March 2012),

### **Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990**

#### **Section 72(1) General duty as respects conservation areas in exercise of planning**

**functions:** In the exercise, with respect to any buildings or other land in a conservation area, of any **[F1]functions under or by virtue of** any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that 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)



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

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

- 3.** Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.
- 6.** A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.
- 9.** Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.
- 10.** Safeguard and make the most sustainable use of the Black Country’s mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The relevant policies are:

**ENV1:** Seeks to safeguard nature conservation.

**ENV2:** Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings. Buildings, structures and archaeological remains of traditional manufacturing and extractive industries such as coal mining and limestone quarrying should be conserved.

**ENV3:** This Policy seeks to ensure that all new development has regard to key design principles but which need to interpret and reflect both the overall character of the Black Country and local distinctiveness.

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



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

**CSP4:** The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers in terms of its local character and heritage whilst responding to current day needs, changes in society and cultural diversity.

**EMP6:** Cultural Facilities and the Visitor Economy In order to help deliver economic, social and environmental transformation, sub-regionally important cultural facilities within the Black Country (including tourist attractions, leisure facilities, museums, theatres & art galleries as identified on the Economy Theme Diagram) will be protected and, where necessary enhanced, promoted and expanded in partnership with key agencies and delivery partners.

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

The relevant policies are:

**GP2 and 3.6** require new development to make a positive contribution to the quality of the environment and the principles of sustainable development.

**ENV1:** Identifies the Green Belt boundaries.

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

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

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

**ENV14:** Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

**ENV18:** relates to the protection of trees within Conservation Areas

**ENV23:** requires new development to take account of the natural environment and nature conservation opportunities.

**ENV25:** Proposals for development which affect archaeological sites will normally be accompanied by an evaluation of the archaeological resource.

**ENV26:** Seeks to protect the Borough's industrial archaeology including canal heritage.

**ENV29:** requires development to preserve or enhance the character of a Conservation Area

**ENV30:** seeks to protect the Borough's Registered Parks and Gardens of Special historical Interest from the effects of inappropriate built development and insensitive alteration.

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

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

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

**LC1:** proposes the enhancement of urban open spaces

'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**

DW3 Character

All new development must be designed to respect and enhance local identity

DW9 High Quality Public Realm

New development must seek to ensure it creates places with attractive environmental quality

A quality public realm plays a key role in establishing the environmental quality experienced by people within the borough. It is achieved through well considered materials, planting... Investment ... can turn public spaces into memorable and enjoyable places.

Arboretum Conservation Area Appraisal and Management Plan 2007

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

Provides guidance on development which may adversely affect trees, important species and habitats.

**NE7:** planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

'It is considered in this case that the relevant provisions of Designing Walsall and Conserving Walsall's natural environment are consistent with the NPPF.'

## **Consultation Replies**

**Transportation:** No objection

**Environment Agency:**

**English Heritage:** No objection

**Natural England:** No comments

**Natural Environment Bats:** No objections

**Natural Environment Trees:**

**Conservation Officer:** No objection,

**Severn Trent:** No objection. Recommend conditions requiring drainage details to be submitted.

**Pollution Control Contaminated Land Team:** No objection.

**Pollution Control Scientific Team:**

**Environmental Health:** No objection.

**Fire Service:**

**Police Architectural Liaison Officer:**

**Landscape:** No objection.

**Centro:**

**Structures:**

**Access Officer:** No objection

## **Public Participation Responses**

None

## **Determining Issues**

- Design, impact on the character of the area and whether the amendments raise any other material considerations.
- Updating planning conditions

## **Observations**

**Design, impact on the character of the area and whether the amendments raise any other material considerations.**

The proposed pitched and tiled roof would not increase the footprint, would be just 300mm higher and is considered would integrate with the rest of the development.

The reduction in area of butterfly roof (reduced width) and extension of green roof (above public toilets), and the omission of the staff entrance and inclusion of glazed windows instead are also considered acceptable integrating well with the rest of the design.

Although the Conservation Officer considers the shutters are not required and they are considered to be not in-keeping with either the original building or modern additions, they would be a small addition to provide security and not sufficient reason to refuse the application.

The proposed changes are considered acceptable having no more impact on the character of the area than the original design which was considered acceptable.

The design changes raise no new material considerations that were not already considered in the previous two applications numbers 09/1086/FL and 13/1053/TE.

### **Updating planning conditions**

The original conditions are repeated in this permission if granted unless already discharged which can be confirmed by condition.

### **Recommendation**

Grant subject to no new material issues following consultation responses which cannot be resolved through condition.

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

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

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

2 (a): The development shall be undertaken in accordance with the ground gas protection measures to be installed in the proposed structure details submitted agreed under discharge of conditions application 14-0247-DOC.

2 (b): The approved measures shall be fully installed prior to the development being brought into use and thereafter retained in working order.

*Reason:* To ensure the satisfactory functioning of the development.

3 (a): No development shall be carried out until drainage plans for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority.

3 (b): 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.

4 (a): The development shall be undertaken in accordance with the ventilation and fume control equipment details submitted agreed under discharge of conditions application 14-0247-DOC.

4 (b): The approved details shall be fully implemented before this development is brought into use and thereafter maintained in working order.

*Reason:* To safeguard the amenities of the area and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

5 (a): Notwithstanding the details shown on the submitted plans and prior to commencement of the development details of a proposed evacuation route or routes, including existing and proposed site levels, materials and all safety measures including the conclusions of the Hafren Water Flood Risk Assessment July 2009 shall be submitted to and approved in writing by the Local Planning Authority.

5 (b): The approved scheme shall be constructed as approved and be available for use prior to the building being first brought into use and thereafter maintained and retained free of any obstacles.

*Reason:* To provide flood mitigation as recommended in the Flood Risk Assessment July 2009 prepared as part of this application.

6 (a): No development shall be carried out until details of the proposed surfacing of the areas of the application site to be used for pedestrians and vehicles shall have been submitted to and approved in writing by the Local Planning Authority.

6 (b): The approved scheme shall be fully implemented prior to the development being first brought into use and thereafter retained.

6 (c): The disabled car parking spaces shown on the deposited plan shall have been marked out prior to the first brought into use and thereafter retained and used for no other purpose than for disabled parking.

*Reason:* To ensure the satisfactory functioning of the site and the provision of disabled parking spaces.

7 (a): No development shall be carried out until details of secure cycle parking shall be submitted to and approved in writing by the Local Planning Authority.

7 (b): The approved details shall have been implemented prior to the development being brought into use and thereafter retained.

*Reason:* To encourage cycling as a means of travel.

8 (a): No development shall be carried out until a scheme for the creation of new bat roosting opportunities shall have been submitted to and approved in writing by the Local Planning Authority. Some of the bat boxes shall be integral to the new buildings' and all bat roosts shall be constructed from durable materials.

8 (b): Prior to the development being brought into use the approved scheme shall be fully installed and thereafter retained with access openings maintained free of obstructions at all times.

8 (c): No external lighting scheme in the vicinity of these potential access points shall be installed other than in accordance with the requirements set out below. Namely:

- There shall be no direct illumination of the new bat roosts installed.
- Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.

- Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased.

8 (d): All external lighting shall be carried out in accordance with the above requirements and retained and maintained thereafter.

*Reason:* to conserve local bat populations.

9 (a): No development shall be carried out until a sample panel of all facing materials to be used in the development (other than the brickwork of the retained building) shall have been submitted to and approved in writing by the Local Planning Authority to include scale, texture, colour and finishes. The sample panel shall contain both new and weathered examples of the facing materials and colour finishes that demonstrate the proposed pointing and mortar mix.

9 (b): The development shall be fully carried out in accordance with the approved sample panel details.

*Reason:* To ensure the satisfactory appearance of the building and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

10 (a): No development shall be carried out until a method statement demonstrating how the glazed link will be fixed to the external brickwork of the Victorian building to be retained has been submitted to and approved in writing by the Local Planning Authority.

10 (b): The glazed link shall be fixed fully in accordance with the approved method statement prior to the development being brought into use.

*Reason:* In the interests of the satisfactory appearance of the proposed development and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

11 (a): No development shall be carried out until a detailed landscaping scheme for the application site shall have been submitted to and be approved in writing by the Local Planning Authority.

11 (b): The approved landscaping scheme shall be fully implemented within 12 months of any part of the development being brought into use.

*Reason:* To ensure the satisfactory appearance of the development and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

12 (a): No development shall be carried out until details of the security measures to achieve Secured by Design accreditation are submitted to and approved by the local authority

12 (b): These approved submitted details shall be fully implemented and retained thereafter.

*Reason:* To ensure the security of the proposal and in accordance with Policy GP7 of Walsall's Unitary Development Plan.

13 (a): No development shall be carried out until the arboricultural works specified in paragraph 9.4 of the Arboricultural Method Statement submitted in connection with this application have been carried out fully in accordance with this Method Statement and British Standard 3998.

13 (b): No other trees within the application site shall be topped, lopped or felled.

13 (c): Any tree within the application site which is removed, uprooted or dies within 5 years of the completion of the development, shall be replaced in the same location by a tree of a size and species, within a timescale to have been agreed in writing by the Local Planning Authority.

*Reason:* To preserve and enhance the visual amenities of the area in accordance with Policy ENV18 of Walsall's Unitary Development Plan.

14 (a): Bat survey work found a small number of old bat droppings and no evidence of current occupation (as identified in the bat report by Morgan Bowers dated September 2013) and the following precautions shall be taken when implementing this planning permission:

1. Contractors undertaking demolition works shall be made aware that bats may be present and undertake demolition works in accordance with the method of working set out in Morgan Bower's bat report; namely:
  - The roof of the cottage shall be stripped under the supervision of an experienced and qualified bat ecologist.
  - All works to the cottage shall take place between October and March inclusive.

If no bats or evidence of bats are found during these operations, the approved works can continue.

14 (b): If bats or evidence of bats are found during these operations:

1. bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
2. no further destructive works shall be carried out to the building until the need for Natural England licence has been established.
3. within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
4. work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued

*Reason:* to conserve local bat populations.

15. All new external and internal works to the former lodge keepers building, including works of making good, shall match the original work in respect of methods, detailed execution and finished appearance.

*Reason:* To ensure the satisfactory appearance of the proposed development and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

16 (a). The protective fencing and ground protection described in appendix A of the Arboricultural Method Statement submitted in respect of this application shall be fully installed following the completion of the arboricultural works referred to in condition 14 of this permission and before any equipment, materials or machinery are brought onto the site in connection with the development.

16 (b). The protective fencing and ground protection shall be retained until all equipment, machinery and surplus materials have been removed from the site.

16 (c). At no time shall anything be stored or placed within the approved protective fencing; there shall be no fires lit, tipping, refuelling, disposal of solvents, cement mixing or vehicular access within this area and its ground level shall not be altered.

*Reason:* To preserve and enhance the visual amenities of the area in accordance with Policy ENV18 of Walsall's Unitary Development Plan.

17: No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Christmas Day; Boxing Day; New Year's Day; Good Friday, Easter Monday; May Day; Spring Bank Holiday Monday or August Bank Holiday Monday, and such works shall only take place between the hours of 07.00 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.

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

#### NOTE FOR APPLICANT

- 1 All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. Most birds nest between mid-February and the end of August, although exceptions to this do occur. No site clearance work should take place in the bird nesting season if there is a risk that nests may be damaged or destroyed. If site clearance work is unavoidable, a suitably qualified and experienced ecologist should check the development site for the presence of nesting birds prior to the commencement of any site clearance work. If nesting birds are discovered clearance works should be delayed and advice sought from Natural England.







## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 10.**

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

**Application Number:** 14/0189/FL  
**Application Type:** Full application

**Case Officer:** Alison Ives  
**Telephone Number:** 01922 652604  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**

**Applicant:** Marcity Developments

**Proposal:** Amendments to planning permission 10/0763/FL relating to the erection of 251 dwellings to substitute 14 x 3 bed houses for 14 x 2 bed houses on plots 235-248 inclusive (scheme previously amended by permissions 11/1364/FL and 13/1572/FL).

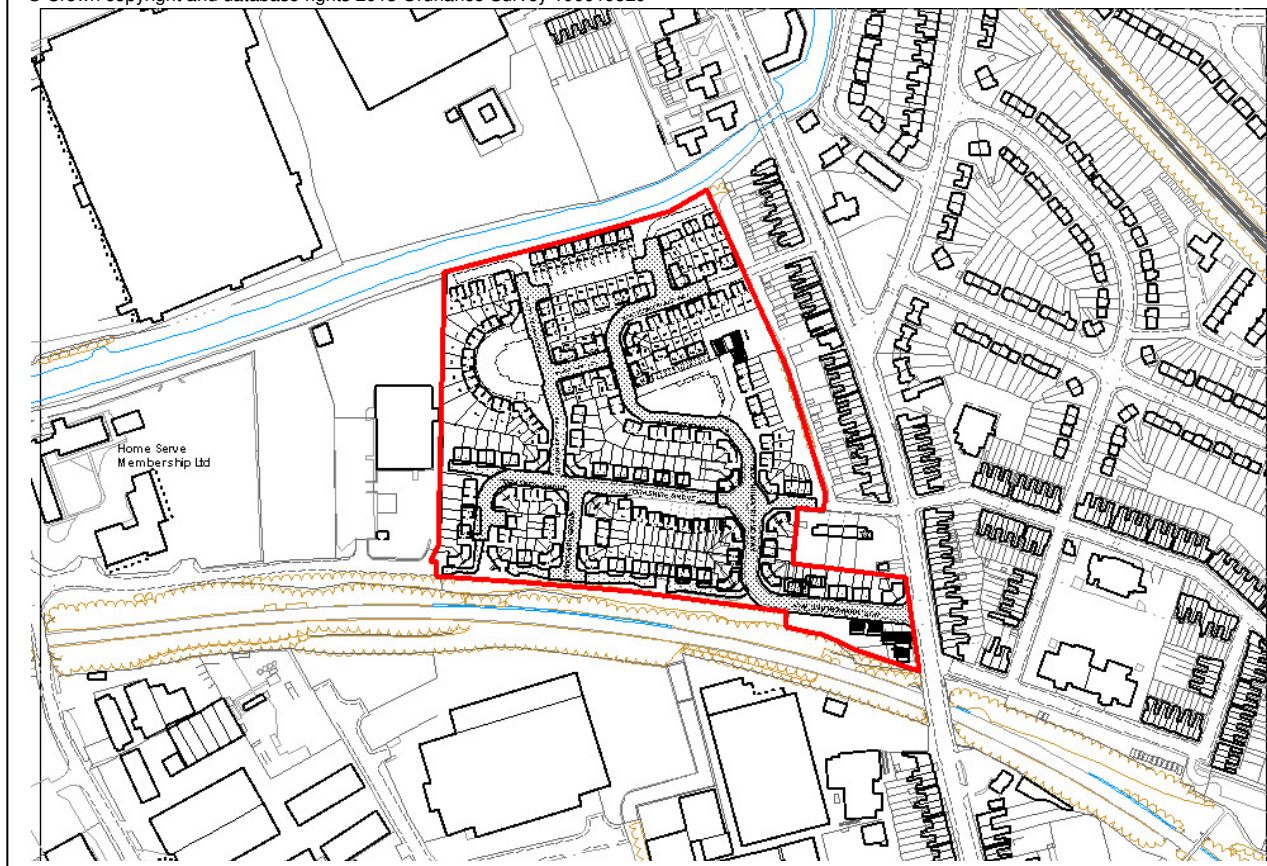
**Location:** FORMER SITE OF WALSALL DEPOT, NORFOLK PLACE, WALSALL

**Ward:** Birchills Leamore

**Expired Date:** 13/05/2014

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

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### **Application and Site Details**

The proposal is to amend permission 10/0763/FL relating to the erection of 251 dwellings to substitute 14 x 3 bed houses for 14 x 2 bed houses on plots 235-248 inclusive. The scheme has previously been amended by permissions 11/1364/FL and 13/1572/FL.

The application site is located off Bloxwich Road and has boundaries with the Wyrley & Essington Canal to the north, terraced housing to the east, a railway cutting to the south and industrial premises to the west. Development has commenced on site and two developers, Taylor Wimpey and MarCity are both in the process of construction.

### **Relevant Planning History**

13/1572/FL - Amendments to permission 10/0763/FL relating to the erection of 267 dwellings reducing the amount to 251 dwellings, amending details of phasing and location of affordable housing, drainage detail, landscaping, house types, and associated works (amendment to planning permission 11/1364/FL (canalside phase) and substitution of house types) – Granted subject to conditions 3/1/14

13/0855/FL – Variation to condition 7 (materials) of permission 13/0137/FL - Granted 02/09/13.

13/0137/FL – Amendments to planning permission relating to affordable housing – Granted 10/04/13.

11/1578/DOC – Discharge of conditions including materials – Materials Granted 12/3/12.

11/1364/FL - Amendments to permission 10/0763/FL relating to the erection of 267 dwellings reducing the amount to 251 dwellings, amending details of phasing and location of affordable housing, drainage detail, landscaping, house types, and associated works – Granted subject to conditions 9/12/11

10/0763/FL – Demolition of existing industrial/depot buildings and erection of 264 dwellings – Granted subject to conditions 22/11/10

### **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:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

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

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

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with

this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include provision of a high quality environment.

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CSP4: A high quality of design of the built and natural environment is required.

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

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

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV7: All residential developments of 10 units or more gross (whether new build or conversion) must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion.

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

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

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

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

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

ENV32 & 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities

8.9: On housing sites of 1 hectare (or 30 dwellings) or more accessible community healthcare facilities should be provided to serve the development. The Council may require a contribution from developers towards such provision.

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

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



4 bedroom houses and above 3 spaces per unit

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

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

#### **Designing Walsall SPD**

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

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

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

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

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

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

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

#### **Supplementary Planning Document for Affordable Housing**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

#### **Supplementary Planning Document Urban Open Space**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

### **Consultations**

**Transportation** – No objections. The impacts of the development on the surrounding highway network are not severe.

**Pollution Control (Contaminated Land)** – No objections subject to securing appropriate remediation of the site by condition as on the earlier permission.

**Environment Agency** – No objections.

**Inland Waterways Association** – No objections.

**Natural England** – No objections.

**Network Rail** – No comments.

### **Public Participation Response**

None received.

### **Determining Issues**

- Principle of residential development
- Layout and design
- Relationship to surrounding properties
- Means of Access and Parking
- Provision for affordable housing, urban open space, education & public art
- Local Finance Considerations

### **Observations**

#### **Principle of residential development**

The principle of redevelopment for new housing on this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies. Planning permission for 251 properties has already been granted under previous permissions.

#### **Layout and design**

The position of the proposed semi-detached housing on plots 235-248 is identical to that already approved. The only change is that instead of 2.5 storey three bedroom houses these plots are now proposed as 2 storey two bedroom houses. Effectively the third bedroom within the loft has been removed. Three elevation treatment variations are proposed, a half render option, a red brick and a lighter brick. This will mix the appearance of the dwellings to improve the variety. The house types have been approved elsewhere on the site.

Conditions are recommended to secure the same provisions regarding the layout and development of the site as the earlier permissions.

The proposed alternative house types are considered acceptable as they do not have a significant impact on the layout and design of the site.

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

The position of the dwellings has not altered so the relationship to surrounding properties and the canal is not significantly different.

The relationship to surrounding properties is considered to be acceptable.

#### **Means of access & parking**

There are fewer bedrooms so this will place less demand for parking spaces. The Transportation officer is satisfied with the access and parking provision.

#### **Provision for Affordable Housing, Education, Urban Open Space and Public Art**

Planning Committee previously approved a reduced offer of 18 dwellings for affordable housing and £188,100 towards urban open space under application 11/1364/FL. Committee also agreed to waive any requirement for provision for education and public art. The S106 agreement to secure open space has been completed and paid. Affordable housing is to be secured by condition as on the previous permissions.

### **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 14 new homes (251 in total throughout the site).

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

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

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

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

**The following conditions relate to the Canalside Phase of development shown un-hatched on P-105 Rev R. The remainder of the site shall be developed in accordance with planning permission 11/1364/FL approved 9/12/11**

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. Parking for site operatives and visitors shall be provided within the application site and such provision shall be retained and kept available during construction of the development.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

3. The approved wheel-cleaning apparatus shall be operated and maintained during construction of the development hereby approved.

*Reason:* To ensure that the wheels of vehicles are cleaned before leaving the site in the interest of highway safety.

4a. The public car park re-location shall be carried out in accordance with the phasing plan submitted under agreed highways works.

4b. Following construction, the proposed public car park shall be thereafter retained as built, and only used for parking for local residents, unless otherwise agreed in writing.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.



5. The development will be implemented and occupied in accordance with the approved Travel Plan.

*Reason:* In order to encourage sustainability at the site and to promote use of alternative modes of transport.

6a. The Southern Phase (being developed by Taylor Wimpey under the name of Jubilee Gardens) shall be carried out using the materials as shown on planning layout plan ref: 1A1286-100-01 Rev N.

6b. The Canalside Phase (being developed by MarCity) shall be carried out in accordance with the following brick and tiles schedule (as shown on drawing P-105 Rev P):

Facing Bricks: Hanson Harborough Multi (Buff) and Hanson Village Sunglow (red)

Render: Cream - Monocouche

Roof Tiles: Russell Grampian - Grey

*Reason:* To ensure the satisfactory appearance of the development.

7(i). The remedial measures as set out in the "Remediation Statement" agreed with the Local Planning Authority shall be implemented in accordance with the agreed timetable.

7(ii). If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation are encountered development shall cease until the "Remediation Statement" has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

7(iii). 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.

8. The approved landscape scheme shall be implemented in accordance with the approved timetable, or such other period as may be agreed in writing by the Local Planning Authority. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

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

*Reason:* To ensure the satisfactory appearance of the development.

9. Prior to the occupation of the apartments hereby approved, the location of communal satellite dishes to serve those apartments shall be submitted to and agreed by the Local Planning Authority.

*Reason:* In order to maintain a satisfactory appearance of the development.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking, re-enacting or modifying that Order), no additional extensions, outbuildings, structures or means of enclosure (e.g. walls, gates, or fences) shall be erected without prior written approval of the Local Planning Authority.

*Reason:* Having regard to the size of the approved back gardens, relationship to neighbouring properties and possible ground contamination on the site.

11. The boundary treatment to the development shall be as shown on drawing P105 Rev R.

*Reason:* To ensure the satisfactory appearance of the development and to ensure that a defensible barrier to the residential development from towpath activities.

12. The garages and car spaces to be provided shall be kept available for the parking of motor vehicles at all times. The car parking spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

*Reason:* In order to provide satisfactory access and parking provision.

13. Notwithstanding the plans submitted, prior to the commencement of each phase of development details of the existing and proposed ground levels and finished floor levels shall be submitted to and agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details.

*Reason:* In order to assess, and if necessary mitigate against the impact of the development on the integrity of the waterway and the appearance of the waterway corridor.

14. Lighting details shall be implemented in accordance with agreed details.

*Reason:* The lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and efficient, and protect the integrity of the waterway infrastructure.

15. Notwithstanding the plans submitted prior to the commencement canalside phase of development (as shown on the submitted phasing plan - P101 RevH), details of the proposed access to the towpath to be constructed shall be submitted to and agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details.

*Reason:* In order to ensure that the integrity of the waterway infrastructure is not compromised, future maintenance provision of the access has been identified and agreed and the proposed access does not have a detrimental impact on the appearance of the waterway corridor.

16. If surface water run-off and ground water is proposed to drain into the waterway due to mitigation measures implemented during construction of the development details shall be submitted for consideration.

*Reason:* To determine the potential for pollution of the waterway and likely volume of water. Potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site, and high volumes of water should be avoided to safeguard the canal environment and integrity of the canal infrastructure.

17. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 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.

*Reason:* In the interests of neighbouring residential amenities.

18. Prior to the occupation of each dwelling noise mitigation measures shall fully implemented in accordance with details submitted in the Hoare Lea report (reference 10-03552 – Norfolk Place, Walsall R1).

*Reason:* In the interests of future residential amenities.

19a. The Affordable Housing Plots are at plot numbers

- i) Social rented: Plots 186, 187, 188, 189, 201, 202, 203, 204, 205, 206, 207, 208, 209 and 210.
- ii) Intermediate rent or shared ownership (to be confirmed prior to the first occupation of the plots): Plots 198, 199, 211 and 212

19b. The development shall be carried out in accordance with the agreed details relating to:

- i) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- ii) the arrangements for the transfer of the affordable housing to an affordable housing provider[or the management of the affordable housing] (if no RSL involved)
- iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iv) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

*Reason:* To secure delivery of Affordable Housing in compliance with the Development Plan policies, and the adopted Supplementary Planning Document and Housing Needs Study.

20. The proposed amendments to Plots 235-248 shall be carried out in accordance with the submitted details shown on drawings P-105 Rev R and 2A/020 Rev A received on 3/2/14.

*Reason:* In order to define the permission

#### NOTES FOR APPLICANT:

A)Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

C) 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.

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

E) The applicant/developer is advised to contact the Works Engineering Team on 01827 252000 order to ensure that any necessary consents are obtained and that the works comply with British Waterways’ “Code of Practice for Works affecting British Waterways”.

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

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

i). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(8 hours), of 30 dB together with a maximum instantaneous level of 45 dB LAFmax, between the hours 23.00 to 07.00;

ii). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(16 hour), of 40 dB between the hours 07.00 to 23.00;

H) Unless otherwise specified in a relevant standard, code or guidance, sound level measuring instrumentation shall conform to either ‘Type 1’ of British Standards BS EN 60651: 1994 ‘Specification for sound level meters’ and/or BS EN 60804: 1994 ‘Specification for integrating-averaging sound level meters’ and/or Class 1 of BS EN 61672: 2003 ‘Electroacoustics- Sound Level Meters - Part 1: Specifications which shall have been verified in accordance with British

Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996  
'Comprehensive procedure' or British Standard BS 61672 Electroacoustics- Sound Level Meters -  
Part 3: Periodic tests, within a preceding 2 year period.

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

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994; Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005; British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise". British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures; British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use. British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits. British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas Calculation of Road Traffic Noise, 1988 Calculation of Railway Noise, 1995  
This is not an exhaustive list.

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

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

K) Bank and Public holidays for the purpose of this application 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.

L) Your attention is drawn to the Coal Authority Letter of 24<sup>th</sup> June 2010 with regard to the proposed development being within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future.

M) The Council consider the scheme should meet the terms of the Secured by Design concept.





## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 11.**

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

**Application Number:** 14/0154/FL  
**Application Type:** Full application

**Case Officer:** Devinder Matharu  
**Telephone Number:** 01922 652602  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** K G Bramwell MCIAT

**Applicant:** Manor Primary School

**Proposal:** Erection of a dance studio and extension of external canopy

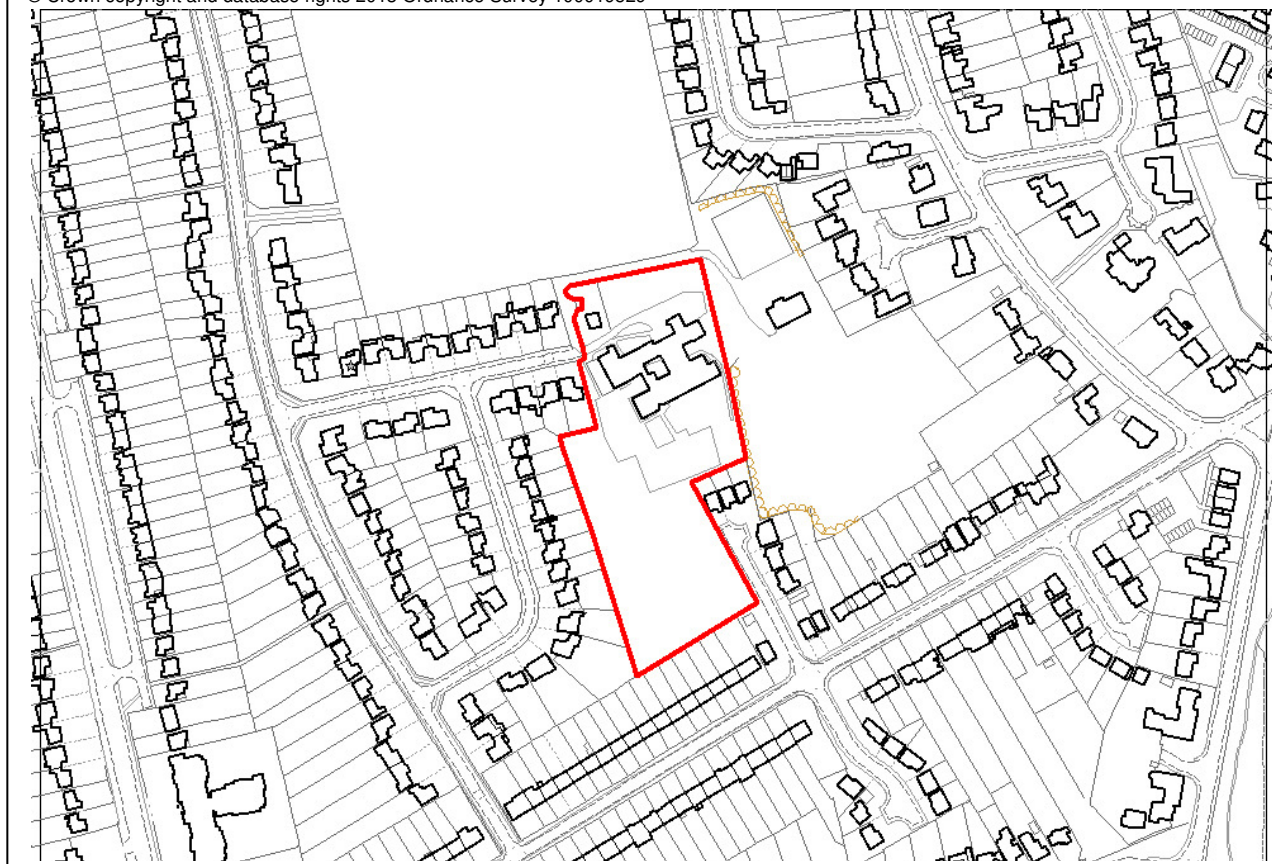
**Location:** MANOR PRIMARY SCHOOL, BRIAR AVENUE, WALSALL, B74 3HX

**Ward:** Streetly

**Expired Date:** 31/03/2014

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

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### **Application and Site Details**

Manor Primary School is located at the eastern end of Briar Avenue cul de sac. The school building is set back from Briar Avenue and sits to the side of 24 Briar Avenue. The car park to the school is located opposite the school building adjacent number 14 Briar Avenue. The school playing field forms the boundary with the rear of numbers 1 to 21 Hawthorn Road and 25 to 39 Manor Road and 7, 9 and 11 Icknield Close. Beyond the eastern boundary of the school site is Streetly cricket and bowling club. The school play ground is located towards the rear of the school building.

There is an extension to the school on the rear elevation adjacent the boundary with the cricket and bowling club. There is a covered walkway from the main school building to the extension.

The school ground levels slope downwards towards the rear boundaries of number 7, 9 and 11 Icknield Close.

The application proposes the erection of a dance studio and extension of external canopy. The dance studio would be constructed on the parcel of land adjacent to the school building constructed in 2011 along the eastern boundary.

The dance studio would measure 14m in length, 9.5m wide and approximately 5.7m high. The extended canopy would measure 6.1m in length. Due to the ground levels the dance studio would be constructed on two levels but the roof height would remain the same height as the existing building on the site. The main windows and access to the dance studio would be facing the school playground.

The dance studio would be located off the boundary with number 7 Icknield Close by 6m at the closest point and 7.5m at the furthest point.

Along the eastern boundary of the school site and within the school grounds, there are 5 trees.

The agent has submitted the following information:

- The school has 12 classrooms currently.
- There are 27 car parking spaces on site.
- The dance studio will be used for the use of the school only and not for external hire.

A tree survey has been submitted which outlines tree protection measures for the trees along the eastern boundary.

A Design and Access Statement has been submitted which states the proposed scheme is to extend the year 6 block to create a gym/dance studio which would have a variety of uses to enhance current facilities at the school. The dance studio will allow children to have space for indoor physical education for the improvement and progress of pupils.

### **Relevant Planning History**

BC59085P Manor Primary School, Briar Avenue. Single storey entrance and ramp - granted subject to conditions 1999.

BC61097P Portable classroom Manor Primary School, Briar Avenue - granted subject to conditions 2000

03/2300/FL/E5 Manor Primary School, Briar Avenue Portable classroom renewal of BC6109P - granted subject to conditions 2002



02/2077/FL/E5 Manor Primary School, Briar Avenue single storey teaching block and covered walk way - granted subject to conditions 2002.

06/0913/FL/E3 Manor Primary School, Briar Avenue. Early years teaching block, ramp, lobby, waiting area and activity area- granted subject to conditions 2006

10/1438/FL- Infill ex courtyard to create new library - granted subject to conditions 2006

### **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.
- Support the transition to a low carbon future in a changing climate including encouraging the use of renewable resources.
- Contributing to conserving and enhancing the natural environment.

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

#### **7: Requiring Good Design**

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

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

59. Consider using design codes where they could help deliver high quality outcomes.

Design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

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

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

#### **11. Conserving and enhancing the natural environment**

109. contribute to and enhance the natural and local environment

118. opportunities to incorporate biodiversity in and around developments should be encouraged.

120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.

121. Planning policies and decisions should ensure the site is suitable for its new use

taking account of ground conditions and land instability, including natural hazards or former activities such as mining.

123. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

On **conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

### **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.

### **Other Relevant National Policy**

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

### **Local**

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

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

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

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

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

HOU5 – The existing network of education facilities will be protected and enhanced.

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

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

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

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

The relevant policies are:

Policies GP2, 3.6, 3.7 seek to make a positive contribution to the quality of the environment, whilst protecting people and not permitting development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

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

ENV23 all development to take account of potential enhancement of the environment through habitat creation , all development to take account of existing features for wildlife and geology and require development to create creation, enhancement of wildlife.

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 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;

### **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

**Pollution Control Contaminated Land Team** – No objection

**Pollution Control Scientific Team** – No objection subject to the doors and windows being kept closed when the dance studio is in use.

**Environmental Health** – No objection

**Fire Service** – No objection

**Police** – No objection subject to secure by design

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

**Sport England** – No objection

**Environmental Health** – No objection

**Arboricultural Officer** – No objection subject to the tree protection measures as detailed in the submitted tree report on 14<sup>th</sup> March 2014 are adhered to.

### **Public Participation Responses**

Six letters from 3 residents have been received objecting to the proposal on the following grounds:

- Noise and disturbance
- Residents work night shifts - use of building cause disruption and disturbance
- Music from dance studio
- No indication of opening and closing times
- Whether the dance studio will be used in the evening or weekends
- Closer to residential properties
- School extended over time of years
- Increase in vehicles and pedestrians to the site
- Recently had circus, fete, fire work displays, parties and bbq's which cause disturbance and noise.

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

### **Determining Issues**

- Principle of development
- Design

- Impact upon neighbouring occupier
- Impact on trees
- Parking and access

## **Observations**

### **Principle of development**

Residents have stated that the school has been previously extended. Policy HOU5 of the Black Country Core Strategy supports the enhancement of existing educational facilities. In this case, the dance studio would provide enhanced facilities for children at the school and as such the proposal would be supported.

### **Design**

The design of the proposed building is considered acceptable, as it would blend in with the design of the existing building on site, to which this proposed dance studio would sit next to.

The proposed dance studio and external canopy would not be seen from the public realm as it is located within the school site. The proposed development would be seen from the adjacent cricket and bowling club, however the proposed development would be seen in context of the existing school building, so would not be visually detrimental.

### **Impact upon neighbouring occupier**

Neighbouring residents on Icknield Close have raised concerns with the proposed dance studio.

The agent has confirmed that the dance studio would only be used by the school and not for external hire. To protect the amenities of surrounding residential occupiers, especially those 3 neighbours to the south of the application site, the hours of use of the dance studio can be controlled through relevant planning conditions. The use of the dance studio during evenings and weekends can also be controlled through planning conditions.

Residents in Icknield Close are concerned that the proposed dance studio would be located to residential properties. The proposed dance studio would be located off the boundary with number 7 Icknield Close by 6m at the closest point and 7.5m at the furthest point. Furthermore, the elevation facing these residential properties would be blank with no openings. Pollution Control Scientific Team have no objection to the proposal subject to the windows and doors of the proposed dance studio being closed when musical equipment is in use and when electronically amplified music is being played. This would protect the amenities of the nearest neighbouring properties 7, 9 and 11 Icknield Close.

Residents have stated that the school have had social events such as a circus, fete, fire work displays, parties and bbq's which cause disturbance and noise. The use of the school grounds for ancillary school functions would not require planning permission. The uses specified above would only be one day events that may cause some social nuisance, however these events would only be for a short period of time and any issues with noise can be dealt with through Environmental Health Legislation.

### **Impact on trees**

The Arboricultural Officer has no objection to the proposal subject to a planning condition to ensure the tree protection measures detailed in the submitted arboricultural report are fully implemented prior to any works commencing on site and these measures should be retained until the construction works are completed.

### **Parking and access**

Transportation have no objection to the proposal as the proposal would provide enhanced facilities for pupils and would not impact on existing access or parking arrangements.

Residents have objected to the proposal on the grounds that the dance studio would increase vehicles and pedestrians to the site. The dance studio would be used by the school and there is no evidence to suggest that the dance studio would increase vehicles and pedestrians to the school if it is only being used by the school.

The proposal is consistent with the NPPF and is considered to accord with the aims and objectives of the Black Country Core Strategy (2011), in particular policies HOU5, ENV3, ENV2, Walsall Unitary Development Plan (2005), in particular saved policies 3.6, 3.7, 3.113, 3.114, 3.115, 3.116, GP2, ENV32, ENV14, ENV18 and ENV23, and Supplementary Planning Documents – Designing Walsall (2013), in particular policy DW3 and Conserving Walsall's Natural Environment in particular policies NE7 and NE8.

### **Positive and Proactive Statement**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

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

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

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

2a. Prior to the commencement of this development, details of the facing and roofing materials of the dance studio hereby approved shall be submitted to and approved in writing by the Local Planning Authority.

2b. The dance studio shall be completed in accordance with the approved facing and roofing materials and thereafter retained and maintained.

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

3. Prior to the commencement of any development on site, the tree protection measures hereby approved as detailed in the Arboricultural Impact Assessment by Godwin's Arboriculture Ltd dated 18 March 2014 shall be fully implemented and retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2012.

*Reason:* To safeguard the existing trees on site.

4. External windows and doors of the dance studio hereby approved shall remain closed when musical equipment is in use and when electronically amplified music is being played.

*Reason:* To protect the amenities of the nearby residential occupiers.

5. The dance studio hereby approved shall only be used from 9am to 5pm Mondays to Fridays for school purposes and shall neither be used during the evenings or weekends nor used for external social events outside of school hours.

*Reason:* To protect the amenities of the nearby residential occupiers.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, 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 nearby residential occupiers and to comply with policy GP2 of Walsall's Unitary Development Plan.

7. The development shall be carried out in accordance with the following plans:

- Site plan submitted on 28<sup>th</sup> February 2014.
- Drawing number B1204:1:2/A submitted on 28<sup>th</sup> February 2014
- Drawing number B1204:1:5 submitted on 28<sup>th</sup> February 2014
- Drawing number B1204:1:1/A submitted on 28<sup>th</sup> February 2014
- Side elevation submitted on 3 February 2014.
- Location plan submitted on 3 February 2014.

*Reason:* To define the permission.







## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 12.**

#### Reason for bringing to committee: Disposal of Council owned land

**Application Number:** 13/1698/FL  
**Application Type:** Full application

**Case Officer:** Devinder Matharu  
**Telephone Number:** 01922 652602  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Matlab Architecture  
**Expired Date:** 17/04/2014

**Applicant:** Oraco Ltd

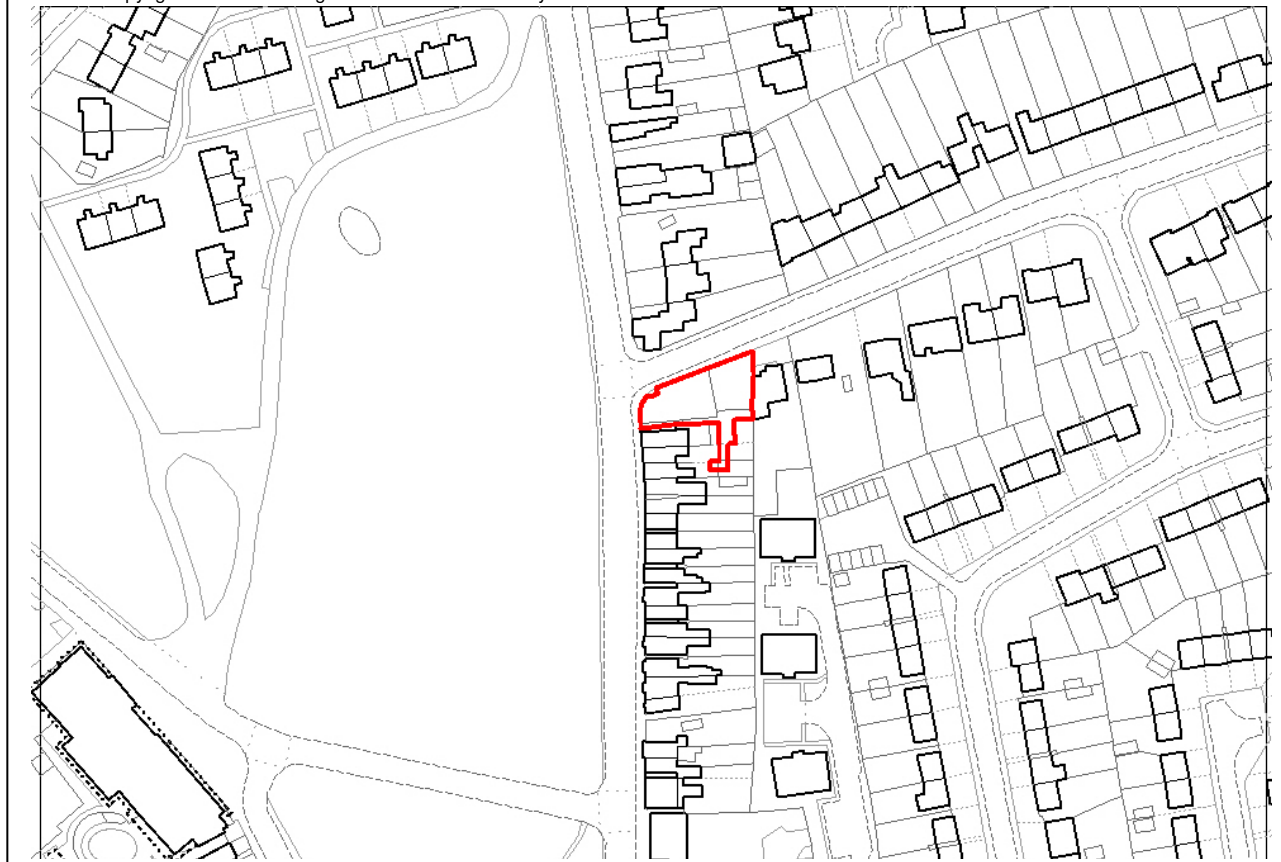
**Proposal:** Change of use of vacant land to parking for dental surgery, dental clinique.

**Location:** Vacant land at the corner of Ryders Hayes Lane and Norton Road, Pelsall, Walsall

**Ward:** Pelsall

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

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## **Application and Site Details**

The application site is a parcel of open land at the junction of Ryders Hayes Lane and Norton Road. The parcel of land is split into two as there is a tarmac access drive to access the rear of numbers 54, 55 and 56 Norton Road from Ryders Hayes Lane. The boundary to site is defined by a low level fence and wall. Concrete bollards along the access drive prevent vehicles from accessing the grassed sections of the site. Two silver birch trees are located towards the front of the site towards Norton Road.

To the east of the application site is number 1 Ryders Hayes Lane, a residential property with a two storey side flat roof extension in close proximity to the application site. On the ground floor of the property are 3 windows facing the application site and these windows appear to belong to a garage. Number 56a is a commercial property at the end of Norton Road adjacent the application site. The property has a first floor side facing window and a single storey rear extension, as does numbers 55 and 54.

There is an art feature at the junction of Norton Road and Ryders Hayes Lane. There is street furniture along Norton Road and Ryders Hayes Lane.

There are double yellow lines along the front and part side of the site along Norton Road and Ryders Hayes Lane.

The site is within Pelsall Common Conservation Area.

There is an existing parking area towards the rear of number 54 and 55 Norton Road currently used by the dental surgery.

There is on street parking in front of the commercial properties along Norton Road.

The application proposes the change of use of vacant land to parking for dental surgery, dental Clinique at 55 and 54 Norton Road.

The submitted plans illustrate 9 parking spaces, including a disabled parking space. Five spaces would be located to the eastern part of the site adjacent 1 Ryders Hayes Lane. The parking spaces would be set off the boundary with this residential property by 1.3m at the closest point and 3.6m at the furthest point. The four parking spaces located to the western part of the site would include the disabled parking space and would be positioned approximately 13m back into the site from Norton Road. In front of these parking spaces a willow screen 1.5m high will be erected with a proposed hedge to be planted in front of this screen.

A soak away is proposed in the centre of the proposed access way and an ACO hexdrain channel across the entrance to the driveway.

Four iGuzzini direct lighting bollards measuring 1m high by 170 diameter with 180 degree asymmetric light emission will be erected, 2 at the entrance to the proposed car park and 2 at either end of the parking spaces 5 and 6.

A sign will be erected stating the car park is for the use of the dental practice, this will require separate advertisement consent.

Five cycle stands will be located towards the rear of the dental surgery positioned 1.8m off the boundary with 53 Norton Road.

Details of the cycle parking stands have been submitted but it has not been confirmed what type of cycle stands will be installed. Details of the proposed bollards have also been submitted.

The plans show a new steel post for height restriction will also be installed.

The dentist surgery is open from:

8am to 5pm Mondays

8am to 6pm Tuesdays and Thursdays

8am to 7pm on Wednesdays

8am to 2pm on Fridays and Saturdays

### **Relevant Planning History**

BC1339 – erection of three dwellings at 54 to 59 Norton Road – granted subject to conditions 1975.

EA4216 – Garage and verandah at 1 Ryders Hayes Lane – granted 1963.

EA4937 – extension over existing garage at 1 Ryders Hayes Lane – granted 1964.

EA4755 – Garage, verandah and bay window - at 1 Ryders Hayes Lane – granted 1964.

### **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.
- Support the transition to a low carbon future in a changing climate including encouraging the use of renewable resources.
- Contributing to conserving and enhancing the natural environment.

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

7: Requiring Good Design

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

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

59. Consider using design codes where they could help deliver high quality outcomes.

Design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

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

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

11. Conserving and enhancing the natural environment

109. contribute to and enhance the natural and local environment

118. opportunities to incorporate biodiversity in and around developments should be encouraged.

120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.

121. Planning policies and decisions should ensure the site is suitable for its new use taking account of ground conditions and land instability, including natural hazards or former activities such as mining.

123. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

**12. Conserving and enhancing the historic environment**

134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

On **conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

**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.

**Other Relevant National Policy**

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

**Local**

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

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

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

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

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

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

### **Walsall’s Unitary Development Plan (UDP) (2005)**

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

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

The relevant policies are:

Policies GP2, 3.6, 3.7 seek to make a positive contribution to the quality of the environment, whilst protecting people and not permitting development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime’ through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

ENV17 the planting of new trees and hedgerows will be promoted.

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

ENV23 all development to take account of potential enhancement of the environment through habitat creation , all development to take account of existing features for wildlife and geology and require development to create creation, enhancement of wildlife.

ENV29 (a) The Council will determine whether a development preserves or enhances the character and appearance of a Conservation Area in terms of:-

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

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

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

IV. The nature of its use and the anticipated levels of traffic, parking and other activity that will result.

3.104 The Council has a duty to preserve or enhance the character and appearance of conservation areas.

T4 local distributors are spine roads within residential areas.

T7 All car parking provision should be well designed and sensitively integrated into the townscape or landscape.

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 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;

### **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.

Other legislation

**Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 Section 72(1) General duty as respects conservation areas in exercise of planning functions:** In the exercise, with respect to any buildings or other land in a conservation area, of any [F1]functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

### **Consultations**

**Transportation** – No objection subject to conditions relating to implementation and use.

**Pollution Control Contaminated Land Team** – No objection

**Pollution Control Scientific Team** – No objection

**Public Rights of Way Officer** – No objection

**Severn Trent Water** – No objection subject to the drainage details as shown on the submitted plan are adhered to.

**Conservation Officer** – No objection subject to conditions relating to landscaping, hedge species and willow screen.

**Access Forum** – No objection subject to drainage issues being considered.

**Coal Authority** – No objection

**Arboricultural Officer** – No objection subject to a condition requiring landscaping and replacement tree planting details.

### **Public Participation Responses**

Four letters have been received objecting to the proposal on the following grounds:

- Cycle stand close to neighbouring property allowing access for intruders.
- Security issues
- Noise
- Air pollution
- Damage to property
- Devalue of property – *not a material planning consideration in this case.*
- Attract skateboarders.
- Customers should be encouraged to use proposed parking to prevent on street parking.
- Replacement tree planted for the one previously damaged.
- Double yellow lines should be extended along Ryders Hayes Lane where proposed parking finishes
- Existing problems with on street parking near junction causing hazards at junction.

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

### **Determining Issues**

- Visual impact upon the Pelsall Common Conservation Area
- Impact upon neighbouring occupiers
- Landscaping
- Parking and access

### **Observations**

#### **Visual impact upon the Pelsall Common Conservation Area**

The existing grassed area provides little amenity either visual or functional and therefore an alternative use could be considered. The use of the site as a car park is harmful and would not be considered to constitute the proper planning of the area.

Paragraph 134 of the NPPF states that 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use'.

The site offers little public benefit currently and therefore mitigation would be necessary in order to ensure the proposal does not harm the character and appearance of the conservation area.

As a strip of green space is to be preserved towards the front of the site a section of natural woven fencing with hedging in front of the fence has been requested to be erected/planted across the front of the parking area. This would screen the proposed car parking from the conservation area and as such would preserve the character and appearance of the conservation area.

The plans includes a steel post for height restriction which indicates the installation of a goal frame surround to limit high sided vehicles entering the site. This would be harmful to the character and appearance of the conservation area and as such will not be supported as part of the proposal. A condition ensuring this feature is not installed will be included to the decision.

The illuminated bollards are considered acceptable and would not unduly impact upon the character and appearance of the conservation area.

The proposed advertisement board requires advertisement consent. A user note will be attached to the decision to ensure an advert consent application is submitted for any proposed advertisements.

### **Impact upon neighbouring occupiers**

Residents have objected to the proposal on the grounds of noise and air pollution; the proposed car park will be used by the dental surgery located at 55 and 54 Norton Road during opening hours. It is unlikely that the use of the car park during the daytime would unduly impact upon the amenities of the occupiers of the nearest residential property to warrant refusal of the application.

The proposed car park would be located away from the nearest residential property at 1 Ryders Hayes Lane by 1.3m at the closest point and 3.6m at the furthest point. It is considered as the proposed car park is located away from this residential property that the proposal is unlikely to cause significant damage to this property to warrant refusal of the application.

The use of the car park can be controlled through a planning condition to protect the amenities of the occupiers of 1 Ryders Hayes Lane.

Objectors have raised concerns over security, in particular the cycle stands allowing easy access into neighbouring properties. The cycle stands are located towards the rear of the site behind number 54 Norton Road. A revised plan has been submitted relocating the cycle stands towards the rear of 54 Norton Road 1.8m off the boundary with 53 Norton Road. The repositioning of the cycle stands would ensure access to neighbouring properties cannot be easily obtained from the application site by utilising these cycle stands.

Objectors have raised concerns that the car parking area will attract skateboarders; there is no evidence to suggest this would be the case.

### **Impact on trees**

The Arboricultural Officer has no objection to the proposal subject to a replacement tree being planted and details of the proposed soft landscaping being submitted; this can be secured by planning condition.

### **Parking and access**

Transportation have no objection to the proposal subject to planning conditions to ensure the parking area being fully consolidated, hard surfaced and drained and a vehicular access way being created with the old one being reinstated to full kerb height and that the parking area is used solely for 55 Norton Road.



Transportation have advised should it be found necessary to alter or reposition the existing traffic calming features (speed humps) in Ryders Hayes Lane as a result of the creation of the new access point, then the full costs of any such works shall be met by the applicant, this can be relayed to the applicant by way of a user note on the planning decision.

Transportation have pointed out that the plans refer to cycle stands being installed in two separate locations on the submitted plans. A condition ensuring the cycle stands are installed towards the rear of 54 Norton Road can be imposed to ensure they are secure and there is surveillance of them from the dental surgery.

Objectors have raised concerns that customers should be encouraged to use the parking space. Once customers are aware that there is a dedicated parking space, it is likely customers would utilise this provision, as on street parking along Norton Road is not always available.

Objectors have raised concerns over existing on street parking at the junction of Ryders Hayes Lane and Norton Road and the double yellow lines being extended along Ryders Hayes Lane. These issues can be raised with Traffic Management who can look into extending the yellow lines along the side of Ryders Hayes Lane where the car parking is proposed.

The proposal is consistent with the NPPF and is considered to accord with the aims and objectives of the Black Country Core Strategy (2011), in particular policies ENV3, ENV2, Walsall Unitary Development Plan (2005), in particular saved policies 3.6, 3.7, 3.113, 3.114, 3.115, 3.116, GP2, ENV32, ENV14, ENV18, ENV17, ENV29, 3.104, ENV23, T4 and T7 and Supplementary Planning Documents – Designing Walsall (2013), in particular policy DW3 and Conserving Walsall's Natural Environment in particular policies NE7 and NE8.

### **Positive and Proactive Statement**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

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

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

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

2.The development shall be completed in accordance with the following plan numbers:

- P101/E entitled proposed site plan submitted on 28<sup>th</sup> March 2014
- P102/D entitled proposed car park layout submitted on 28<sup>th</sup> March 2014
- P10 entitled location plan submitted on 5<sup>th</sup> February 2014.

*Reason:* To define the permission.

3a.Prior to the commencement of this development, details of the replacement tree to be planted at location 10 as shown on drawing P102/D entitled proposed car park layout submitted on 28<sup>th</sup> March 2014 shall be submitted to and approved in writing by the Local Planning Authority. The

details shall include species of the tree to be planted, the size of the tree and how the tree will be supported throughout its establishment years.

3b. The replacement tree shall be planted within the first planting season following completion of the development.

3c. Should the tree become seriously diseased, damaged or is removed it shall be replaced with a tree of the same or greater size and the same species as that originally required to be planted.

*Reason:* In the visual amenities of the Pelsall Common Conservation Area.

4a. Prior to the commencement of any development on site, details of the vehicle footway crossing at the new access point and details of the existing redundant footway crossing being reinstated back to full kerb height shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be completed in accordance with the approved details and retained and maintained at all times.

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

5a. Prior to the commencement of this development, the type of cycle stands to be installed shall be submitted to and approved in writing by the Local Planning Authority.

5b. The development shall be completed in accordance with the approved cycle stands and retained and maintained at all times and used for no other purpose.

5c. The cycle stands shall be installed to the rear of number 54 Norton Road.

*Reason:* In the visual amenities of the area and to ensure the cycle stands are located where there is surveillance from the dental surgery.

6a. Prior to the use/operation of the car park hereby approved, the proposed 1.5m high willow screen as shown on drawing number P102/D entitled proposed car park layout submitted on 28<sup>th</sup> March 2014 shall be erected.

6b. The 1.5m high willow screen shall be retained and maintained at all times.

*Reason:* In the visual amenities of the Pelsall Common Conservation Area.

7a. The landscaping (hedge) details hereby approved on drawing number P102/D entitled proposed car park layout submitted on 28<sup>th</sup> March 2014 shall be carried out in the first planting season following completion of the proposed car park.

7b. Any shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a shrub or plant of the same or greater size and the same species as that originally required to be planted.

*Reason:* In the visual amenities of the Pelsall Common Conservation Area.

8a. The development shall be completed in accordance with the soak away and the ACO hexdrain channel drainage details as shown on plan number P102/D entitled proposed car park layout submitted on 28<sup>th</sup> March 2014.

8b. No foul sewage to be discharged from the site and all surface water is to discharge to the onsite soak away.

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

9. Prior to the car park first coming into use the area shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground in accordance with the approved details as shown on drawing number P102/D entitled proposed car park layout submitted on 28<sup>th</sup> March 2014.

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

10. For the avoidance of doubt, the proposed steel post for height restriction as indicated as number 5 on plan number P102/D entitled proposed car park layout submitted on 28<sup>th</sup> March 2014, shall not be installed/erected.

*Reason:* To preserve the character and appearance of the Pelsall Common Conservation Area.

11. The proposed iguzzini lighting bollards as shown as number 13 on plan P102/D entitled proposed car park layout submitted on 28<sup>th</sup> March 2014 shall be 1.0m high.

*Reason:* To preserve the character and appearance of the Pelsall Common Conservation Area and in the visual amenities of the area.

12. The car park shall be ancillary to and used solely for the main premises 55 and 54 Norton Road only 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 and T7.

13. The proposed car park hereby approved shall only be used between the hours of 8am to 7pm Mondays to Fridays and Saturdays 8am to 2pm.

*Reason:* To protect the amenities of the occupiers of 1 Ryders Hayes Lane.

Note to the applicant

- 1) Should it be found necessary to alter or reposition the existing traffic calming features (speed humps) in Ryders Hayes Lane as a result of the creation of the new access point, then the full costs of any such works shall be met by the applicant.
- 2) An advertisement consent application is required for any proposed advertisement board to be erected within the application site. You are advised to seek formal advice prior to the submission of any proposed advertisements on site from the LPA.





## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 13.**

#### Reason for bringing to committee: Departure from Development Plan

**Application Number:** 14/0080/FL  
**Application Type:** Full application

**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652615  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** KGBramwell MCIAT

**Applicant:** WWheat & Son

**Proposal:** New refreshment tea room, amended: scheme to increase the size of the floor area of the tea room

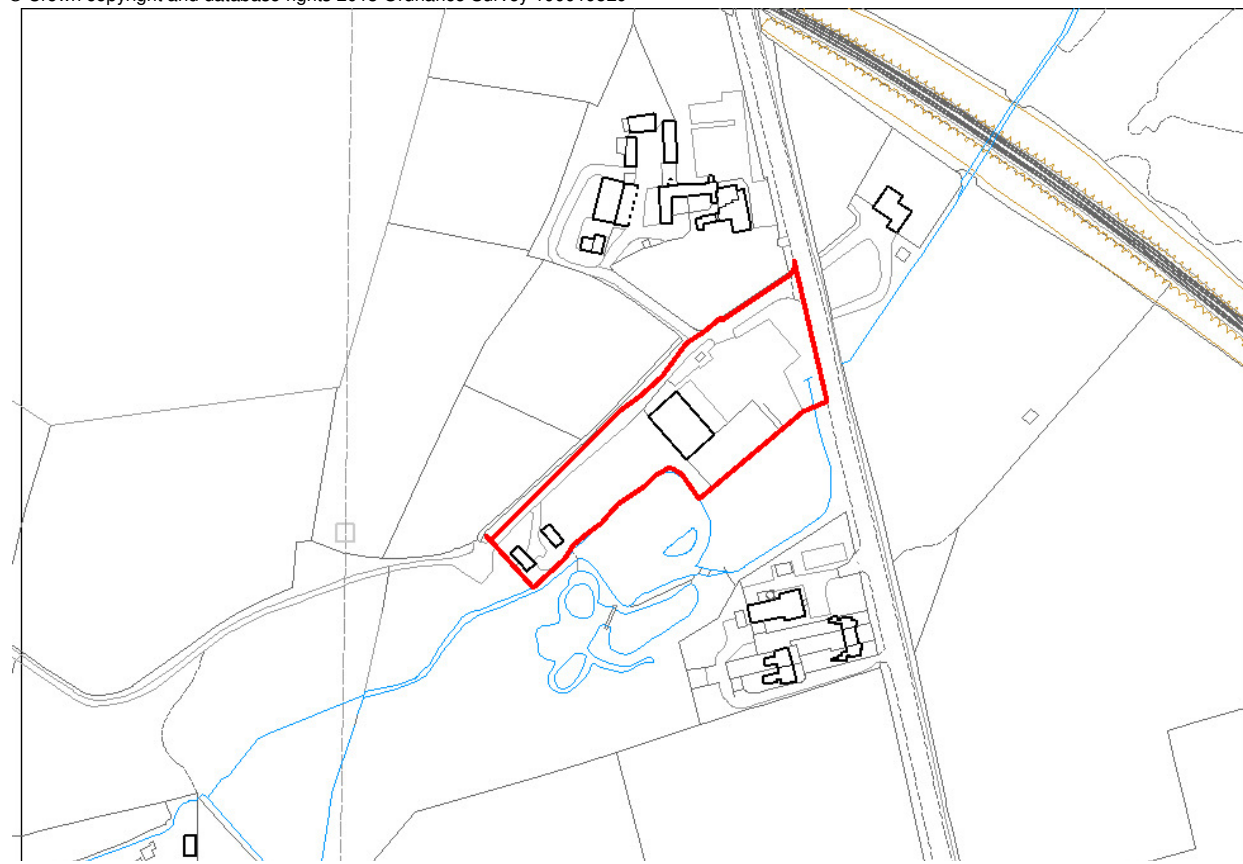
**Location:** 520 CHESTER ROAD, WALSALL, WS9 0PU

**Ward:** Aldridge Central & South

**Expired Date:** 14/03/2014

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

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## **Application and Site Details**

The site is situated on the western side of Chester Road (A452 Strategic Highway Network) and comprises a Garden Centre. The main retail store is set behind a large car park on the frontage of Chester Road and a series of polytunnels are set to the rear of the main building. A service road access sits to the north of the buildings. The site is situated within the Green Belt.

The garden centre is set to the south of Simon's Restaurant and Bourne Farm and north of Bourne Vale pumping station. There is a residential bungalow opposite on Chester Road and other housing beyond the pumping station. Other than this the surroundings are agricultural fields and a sand gravel quarry. Bourne Pool a Site of Local Importance for Nature Conservation (SLINC) is located at the rear of the garden centre.

The proposal seeks an amendment to the size the proposed tea room building at Wheat's Garden Centre, Chester Road. The tea room was granted permission in August 2012 and amendments were approved in October 2013, in a location behind the main retail building between the service road access and Bourne Pool to replace an existing double polytunnel that measures 9.6m wide x 16m long and a maximum height of 4m.

### **The building on the original consent:**

Measured 12m wide x 11m long which included a 3m long covered external seating area at the front, a double pitched roof 4m high with a 20 degree pitch steel sheet finish and treated cedar wood to the gables. It included an ancillary store room, kitchen and server set to the rear of the building, with a tea room area of 57sqm excluding the covered seating area. The walls and piers for the external seating area were brickwork with floor to ceiling windows in the front and east elevation.

### **The approved amended scheme:**

An enlargement of the store room, kitchen and servery within the building from 2.4m long to 3.1m long and enlarge the tea room area to 78sqm by incorporating the approved external seating area into the building. The approval incorporated minor changes to the appearance of the building but the external size of the building remained the same. The approval made variations to Condition 6 on the original approval to allow for the increase in the floorspace of the team room, store and servery.

### **The proposals:**

This would further extend the tea room building so that it would measure 17m long by 12m wide, which would increase the floorspace of the tea room to 143sqm and allow for the provision of a disabled toilet within the building. The maximum height of the double pitched tiled roof would remain at 4m and additional glazed doors and windows would be included in each of the side elevations.

The tea rooms would operate ancillary to the garden centre and would only be accessed through the main building and would employ 2 staff.

Planning consent has already been granted for the provision of three new polytunnels at the rear of the site in compensation for the loss of the polytunnel on the application site.

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

### **A Design and Access Statement**

This discusses the history of the site, the details of the proposal, materials, access and parking and landscaping.

### **Planning Statement**

This discusses the proposals in terms of Green Belt policy and provides more detail behind the requirements for a larger tea room building.

Extensive research into customer requirements, professional advice and trade/footfall information has been undertaken which concludes that the size of the tea room already approved would not be adequate for the numbers of people likely to use the facility and the necessity for the provision of a disabled WC.

### **Relevant Planning History**

12/0628/FL – Demolition of glazed poly tunnel and erection of tea room/cafe with covered external seating area ancillary to Wheats Garden Centre – Granted subject to conditions 24 August 2012. Conditions were included requiring details of drainage, ventilation and fume control, facing materials, restricting the use as ancillary to Wheats to open only when the garden centre is open, restricting the floor space areas of various elements and listing the approved plans.

13/1223/FL – Amendment to permission 12/0628/FL to vary condition 6 by amending the internal dimensions and elevations of the cafe building. Granted subject to conditions 28 October 2013.

13/1415/FL – 3 new polytunnels and removal of ex aquarium. Granted subject to conditions 13 December 2013.

### **Relevant Planning Policy Summary**

#### **National Planning Policy**

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

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

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

- Proactively drive and support sustainable economic development and meet business needs of the area
- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different area, promoting the vitality of our main urban areas, protecting Green Belts around them
- Contribute towards conserving and enhancing the natural environment
- Promote mixed use developments
- Conserve heritage assets
- Manage patterns of growth to make fullest possible use of public transport, walking and cycling

#### **1: Building a Strong, Competitive Economy**

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth

20. Meet development needs of businesses

#### **2. Ensuring the vitality and town centres**

24. Local Planning Authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and when considering out of centre proposals preference should be given to accessible sites that are well connected to a town centre.

### 3. Supporting a prosperous rural economy

28. advises planning policies should support economic growth in rural areas in order to create jobs and prosperity and should:-

- *support sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings*
- *promote development and diversification of agricultural and other land based rural businesses*
- *support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside*
- *promote retention and development of local services and community facilities*

32. states all developments should have safe and suitable access to the site for all people.

34. advises decision should ensure developments that generate significant movement are located where the need to travel will be minimised and use of sustainable transport can be maximised.

### 7. Requiring good design

58. supports high quality design and highlights several criteria including the need for development that will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, and are visually attractive as a result of good architecture and appropriate landscaping.

Paragraph 79 states the essential characteristic of Green Belts is their openness and permanence.

### 9. Protecting Green Belt Land

80. identifies the five purposes of Green Belts which are:

- *to check the unrestricted sprawl of large built-up areas*
- *to prevent neighbouring towns merging into one another*
- *to assist in safeguarding the countryside from encroachment*
- *to preserve the setting and special character of historic towns*
- *to assist in urban regeneration by encouraging recycling of derelict and other urban land*

81. states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity.

87. states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

89. states the construction of new buildings is inappropriate in Green Belt except for specific purposes including:

- *buildings for agriculture or forestry*
- *provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it*
- *replacement of a building provided the new building is the same use and not materially larger than the one it replaces*

### 10. Meeting the challenge of climate change, flooding and coastal change

100. states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.



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

Annex 2 defines previously developed land as land which is or was occupied by a permanent structure; including the curtilage of the developed land (although it should not be assumed the whole of the curtilage should be developed). This excludes land that is or has been occupied by agricultural or forestry buildings.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

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

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

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors the broad approach will be to focus on previously developed land, locations with best access to services (where appropriate) and areas of lowest flood risk.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

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

TRAN2: Requires development proposals to manage transport impacts of new development

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

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

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

ENV2 and 3.3: In the Green Belt there will be a presumption against the construction of new buildings except for certain purposes. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

ENV3: Identifies more detailed considerations for proposals in the Green Belt.

ENV10: Development of a facility which may cause pollution will only be permitted if it would not have an unacceptable adverse effect on nearby land uses.

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

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

3.116 & ENV32: seeks to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

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

S13: Acknowledges nurseries, garden centres and builders' merchants may need to trade from out-of-centre locations and that appropriate conditions to ensure the goods sold are limited to an appropriate range of gardening and/or building products.

T7 – Car Parking

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

T10 (a): Refers to accessibility standards.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

Buildings for public assembly and food and drink: 1 space per 22 m2 plus 1 bike stand for every 10 car park spaces, with a minimum of 2 bike stands, and taxi facilities.

Other shops: 1 spaces per 20 m2 gross floor space, 1 bike stand for every 20 spaces , minimum of 2 bike stands, plus taxi facilities.

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

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

### **Designing Walsall SPD**

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

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

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

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

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

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

NE1: All relevant applications to be supported by an adequate impact assessment.

## **Consultations**

**Transportation** – No objections.

**Pollution Control Scientific Team** – No objections

**Pollution Control Contaminated Land Team** – No objections however as the site was formerly a pumping station that may have resulted in localised ground contamination that may present Health & Safety implications for persons undertaking ground works a note to applicant is recommended.

## **Public Participation Response**

None received.

## **Determining Issues**

- The principle of the development
- Impact on the openness and character of the Green Belt
- Design and Layout

## **Observations**

### **The Principle of the Development**

The principle of the provision of a small tea room building in the proposed location within the site has already been established with two previous approvals which are still valid. This proposals represents a significant increase in the size of the tea room area from 57sqm on the original approval to 143sqm.

The erection of new buildings in the Green Belt is inappropriate development unless very special circumstances are demonstrated. In this case the cafe would remain ancillary to the main use of the site as a garden centre but would support the existing nursery and garden centre use to help sustain and create jobs and help the business survive in these difficult times. The only public access would be through the main building. It is considered that despite the increase in size of the building it would still be an appropriate scale to remain ancillary to the main use of the site. The building would replace an existing polytunnel in a position set amongst other garden centre buildings. Whilst the footprint of the building would now be increased over that previously approved, there would be little difference to the polytunnel it would replace, the overall height and design would remain the same and it is considered that the improvements the building would offer would outweigh any harm to the Green Belt by reason of inappropriateness.

### **Impact on the openness or character of the Green Belt**

The proposals would increase the length of the building by 6m over the previous approval to measure 12m wide by 17m in length with a maximum height of 4m. The frontage of the building would remain along the line of the existing polytunnels and the previous approval, increasing the length of the building towards the service access drive. The building would replace the existing double polytunnel and would only be 1m longer than the existing structure. The general appearance of the building would remain the same. The building would be located between the main building of the garden centre and existing polytunnels and would replace an existing structure of similar size.

It is considered that the increase in length of the building would have no greater impact on the openness and character of the Green Belt.

As before it is recommended that conditions are imposed to restrict the size of the tea room area to ensure that it remains ancillary and is only open during the hours of opening of the Garden Centre as otherwise it would be considered inappropriate in this out of centre location within the Green Belt.

Whilst the building would be increased in length, it would only be 1m longer than the existing polytunnel and the position would remain the same as approved, it is considered that it would have no greater impact on the amenity of surrounding properties. The tea room would lie amongst the existing garden centre buildings and would be an ancillary facility only, open only when the garden centre is open. It is considered that the proposals would have no significant impact on neighbouring properties.

### **Design and Layout**

The design is largely the same as that previously approved with the inclusion of additional double doors and windows to the side elevations of the tea room area. The new window and door openings are in keeping with those already approved facing Bourne Pool and are considered acceptable.

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

At the request of the case officer the agent has provided a Planning Statement to justify the use and discuss the impact of the proposals on the Green Belt.

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

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

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

2a. Prior to the commencement of the development, drainage plans for the disposal of surface water and foul sewage shall be submitted to the Local Planning Authority for written approval.

2b. The scheme shall be implemented in accordance with the approved details before the development is first brought in to use.

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

3a. No development shall be carried out until details of the ventilation equipment and fume control measures including their siting, design and appearance have been submitted to and approved in writing by the Local Planning Authority.

3b. The approved details shall be implemented before this development is brought into use and thereafter retained in working order.

*Reason:* To safeguard the amenities of the occupiers of nearby adjoining residential premises and the visual amenities of the area.

4a. Prior to the commencement of the development and notwithstanding the details shown on drawing B591:2:1 Rev B submitted on 3<sup>rd</sup> February 2014 samples of all external facing and roof materials shall be submitted to the Local Planning Authority for approval.

4b. The development shall be completed in accordance with the agreed materials and retained thereafter.

*Reason:* To protect the visual amenities of the surrounding area.

5. The tea room building shall only be used for purposes ancillary to the existing nursery/garden centre, shall only remain open during nursery/garden centre opening hours and no separate public access shall be allowed to the team room building.

*Reason:* To ensure the tea room remains ancillary to the main use of the site which has been demonstrated as justification for inappropriate development in the Green Belt.

6. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or succeeding orders) the café shall only be used for the sale of hot and cold food and drinks for consumption on the premises and the different areas of the building shall only be used for the specific purposes shown on the approved drawing B591:2:1 Rev B submitted on 3<sup>rd</sup> February 2014 and shall not exceed the following internal floor space areas:

- (i) Stores/kitchen = 21 m<sup>2</sup>
- (ii) Servery = 10 m<sup>2</sup>
- (iii) Tea Room = 143 m<sup>2</sup>

*Reason:* To protect the Green Belt and ensure the tea room remains ancillary.

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

- Location Plan submitted 17<sup>th</sup> January 2014
- Block Plan submitted 14<sup>th</sup> January 2014
- New Tea Room Plans & Elevations (B591:2:1 Rev B) submitted 3<sup>rd</sup> February 2014
- Design & Access Statement submitted 14<sup>th</sup> January 2014
- Planning Statement submitted 3<sup>rd</sup> February 2014

*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 and effective control is maintained over ancillary elements of the development, as such (except in so far as other conditions may so require).

#### **Note to Applicant - Flood Risk**

Please refer to the Environment Agency Standing Advice to reduce the potential for flood risk at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

#### **Note to Applicant – Contaminated Land**

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





## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 14.**

**Reason for bringing to committee: Called in by Councillor Murray / Departure from Development Plan**

**Application Number:** 13/0482/FL

**Application Type:** Full application

**Applicant:** Mr R. Tarbuck

**Proposal:** Demolition of out buildings and erection of new dwelling in place of previously approved barn conversion (adjacent public footpath ALD33).

**Location:** ALDRIDGE COURT FARM, LITTLE ASTON ROAD, WALSALL, WS9 0NN

**Ward:** Aldridge Central & South

**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652614

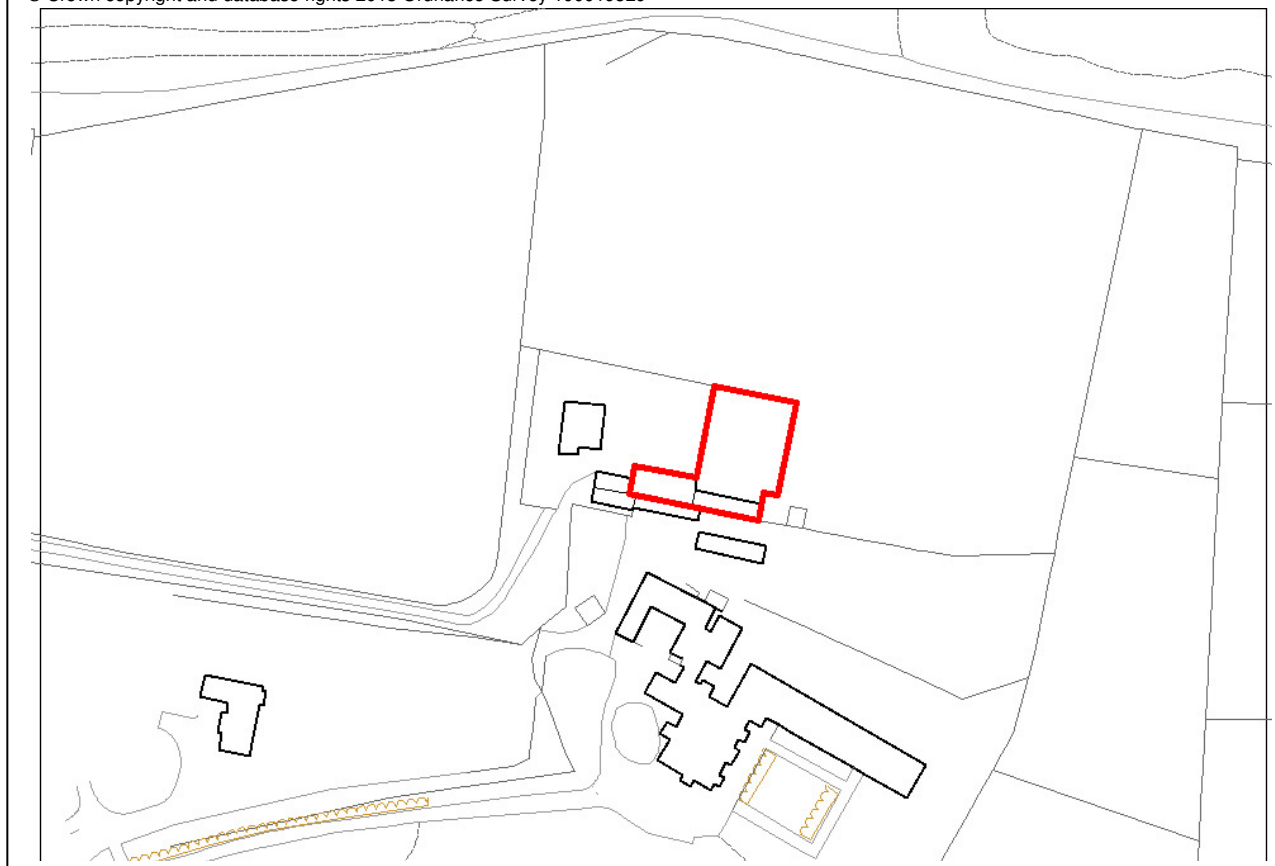
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Spooner Architects

**Expired Date:** 10/06/2013

**Recommendation Summary:** Refuse

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### **Current Status**

Called in by Councillor John Murray on the grounds that the determination requires a delicate judgement to be made.

This application was previously considered at the Planning Committee meeting dated 13<sup>th</sup> February, 2014. Members were advised that whilst the building design was attractive and complimentary to the conservation area, the location of the housing site within Green Belt land lead to a recommendation of refusal. As there was not a shortage of housing land within the Borough developments should not be allowed to encroach on to Green Belt land unless there were special circumstances. In this case it was reported that officers were of the opinion that no special circumstance had been identified.

In the meeting the question was raised of how the new dwelling would relate to the existing buildings on the land, how the new build would be more attractive and preferable to the existing outbuildings within the landscape, the potential loss of green belt land and the risk of the development acting as a precedent supporting future applications for developments on green belt land.

After due consideration the Committee resolved to defer the application to allow officers to examine the application further and liaise with the applicant in relation to the existing buildings, and that the application be brought back to a future Committee meeting.

Following discussion with officers, amended plans have been submitted by the applicant. The application now proposes the demolition of the barn buildings with the retention of the stables to be utilised by the new dwelling as a double garage and storage building. This would be in place of the previously approved barn conversion (application 10/0228/TE; approved 06/05/2010).

Reconsultation on the amended plans has generated two further representations one from a local resident on Little Aston Road objecting on the grounds of impact on the landscape and intensifying the use of the access drive and the other from the Cooper and Jordan School who have concerns about the impact on the green belt.

The use of the access drive has been addressed within the this report similarly the impact on the landscape and indeed the green belt has also been addressed.

On balance, it is your officers opinion that in addition to the conclusions reached previously, the proposed removal of the outbuildings will result in the appearance of the new dwelling being more dominant and have a materially greater impact than that of the existing buildings and will sit more prominently within the Green Belt to the detriment of the openness and purposes of the Green Belt.

Accordingly, the proposal would constitute inappropriate development within the green belt and the applicant has not demonstrated the very special circumstances required to outweigh the harm caused to the Green Belt.

The remainder of this report is unaltered since last being presented to the planning committee.

### **Original Report – 13<sup>th</sup> February 2014**

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

This application seeks consent for the erection of a new dwelling consisting of five double bedrooms, one en-suite, family bathroom, living room, dining room, study/sitting room and kitchen on land at the rear of Aldridge Court Farm, Little Aston Road, Aldridge.



The site currently consists of a single two storey dwelling with farm buildings accessed by a private driveway from Little Aston Road.

The new house will have a floor area of some 132 square metres, the existing cowshed and stables will be retained, the corrugated metal roof will be replaced with reclaimed slates. One half of the stables is proposed to be used as a double garage with space for cycle storage, with the other half continuing to serve its traditional function as a stable.

The area to be developed is a paddock fronting the stables, with a large field in between the site and the adjoining golf club, the boundary between the two consists of a hedgerow including mature trees and bushes. The paddock is accessed by a shale driveway which skirts around the application site. The existing house stands in its own grounds and together with the application site, will be approached by a 255m long single track drive off Little Aston Road which is very private and located up this long drive and largely hidden from view by high tree lines and hedgerows.

**The site is situated on the northern side of Little Aston Road, set back off the road within the Green Belt and Aldridge Conservation Area. Aldridge Court farm is a large early-mid C19 detached villa, light brick with stone dressings, plain sashes, Italianate character with shallow hipped slate roof and bracketed eaves.**

To the south is the Aldridge Court, a nursing home providing care for the elderly, it occupies a large plot on the north side of Little Aston Road. From most directions, the buildings of the nursing home and Aldridge Court Farm are hidden from view by the thick woodland and trees which surround it.

To the north of Aldridge Court and the application site, the conservation area includes school sports grounds, the buildings of Court Farm and agricultural fields.

Aldridge Court Farm, to the north of Aldridge Court, is within the same Character Area.

The application is accompanied by the following documents:

*Bat Survey Report* – which concludes that there is an opportunity to improve roosting opportunities for bats.

*A design and access statement* – states that the proposals combine 21st Century building techniques and mitigation measures, along with a high standard of design which pays due regard to the traditional scale and massing, along with the rural vernacular of the Aldridge Conservation Area. The scheme is an opportunity to provide high quality sustainable housing in the Aldridge area, which will support the economic viability of Aldridge town centre.

### **Relevant Planning History**

BC62615P/C for change of use of stables and cowshed to private dwellings was approved on 05-02-01.

05/1002/FL/E5, Variation of Condition 1 of PA BC62615P/C to extend time for a further five years, granted 08-07-05.

10/0228/TE - Time extension on permission 05/1002/FL/E5: Change of use of existing stables and cowshed to private dwelling and widening of access to site (Original application BC62615P/C)

## **Relevant Planning Policy Summary**

**ALDRIDGE CONSERVATION AREA** - Character Appraisal and Management Plan (November 2009)

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

- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Always seek 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;
- support the transition to a low carbon future in a changing climate... encourage the reuse of existing resources, including conversion of existing buildings
- contribute to conserving and enhancing the natural environment
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable

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

#### *3. Supporting a prosperous rural economy*

28. Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

#### *4. Promoting sustainable transport*

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

#### *6. Delivering a wide choice of high quality homes*

47. To boost significantly the supply of housing, local planning authorities should:

- use their evidence base to assess needs for market and affordable housing in the housing market area,

- identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements

48. Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area

50. To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities,

55. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances

## *7. Requiring good design*

58. High quality development will be expected to include/meet the following criteria:

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

64. Permission should, be refused for development of poor design

## *9. Protecting Green Belt land*

79. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

80. Green Belt serves five purposes:

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

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include:

- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Annex 2: Glossary - **Previously developed land:** Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be

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assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.

#### 11. *Conserving and Enhancing the Natural Environment*

109. The Planning System should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

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

#### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

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

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

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

CSP2: Green Belt boundaries will be maintained and protected from inappropriate development.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

ENV1: Safeguards nature conservation by ensuring development is not permitted where it would harm designated sites including Site of Importance for Nature Conservation. Adequate information must be provided with planning applications to ensure the likely impacts are fully assessed.

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

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

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

TRAN2: Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development including, in particular, access by walking, cycling, public transport and car sharing.

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

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

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

Key references to saved UDP policies are:

3.3 The character and function of the Green Belt (which includes most of Walsall's countryside) will continue to be safeguarded as part of the wider West Midlands Green Belt. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

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

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

The relevant policies are:

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

ENV1: Defines the extent of the Green Belt.

ENV2: Highlights considerations of proposals within or adjacent to the Green Belt, and it includes a presumption against new buildings in the Green Belt, subject to exceptions similar to the approach in the NPPF although the NPPF now takes a more permissive approach to the extension or replacement of existing buildings (not just dwellings) and in respect of limited infilling or partial or complete redevelopment of previously developed sites. In both case this is subject to the impact on the Green Belt. Development is inappropriate if it conflicts with the openness and purposes of the green belt. ENV2(b) states re-use of existing buildings in the Green Belt will be acceptable provided that it does not involve any building extension or associated uses of land around the building that would conflict with the openness and purposes of the Green Belt.

ENV3: Detailed Evaluation of Proposals within the Green Belt - Proposals will be assessed for their impact on;

I. The detailed layout of the site.

II. The siting, design, grouping, height and scale of buildings, structures and associated outdoor equipment.

III. The colour and suitability of building materials, having regard for local styles and materials.

vi. The impact on significant views, viewpoints and topographical features.

IX. Any other relevant considerations identified in GP2.

ENV4: Permits the limited infilling of major developed sites in the Green Belt, subject to certain criteria. It is considered these criteria are consistent with the NPPF, but the NPPF applies this approach to all previously developed sites that are defined as brownfield land.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

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

ENV18: Seeks to ensure protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV32: Seeks the design of developments to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV33: Promotes good landscape design, including in prominent locations and / or where there are features the council requires to be retained or enhanced.

T7: Car Parking

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

T13: Parking Provision

4 bedroom houses and above: 3 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the NPPF with two sets of exceptions. The first relates to the NPPF's acceptance of extension or alteration to or replacement of existing buildings. The second, which is more important in this case, is that the NPPF will allow the limited infilling or the partial or complete redevelopment of previously developed sites (where they are defined as brownfield land) and provided there will not be a greater impact on the openness of the Green Belt and the purpose of including land within it.

### **Supplementary Planning Document (SPD)**

On the basis that relevant Unitary Development Plan policies are consistent with National Planning Policy Framework, the related Supplementary Planning Document(s) will also be consistent provided they are applied in a manner consistent with National Planning Policy Framework policy. The relevant Supplementary Planning Document's are:

### **Designing Walsall SPD**

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

Annexe D: Numerical Guidelines for Residential Development ... identifies matters such as privacy and aspect distances between dwellings and garden dimensions. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours

The following is recommended distances:

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.
- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk))
- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq m of useable space per dwelling where communal provision is provided
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character Provision or retention of boundary walls or fencing at a minimum of 1.8m high for the first 4m from the rear of houses or adjacent to areas of public open space or between other land uses to safeguard the amenity of neighbours

DW1: New development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2: All development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3: Design should respect and enhance local identity;

DW6: New development should contribute to creating a place that has a clear identity;

DW9: 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.

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

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

It is considered in this case that the relevant provisions of Natural Environment Supplementary Planning Document are consistent with the NPPF.

## **Consultations**

**Transportation** – no objections

**Transportation (rights of way)** – no objections

**Local Access Forum** – no objections to use of Right of Way but object to the use of the green belt for housing

**Pollution Control Contaminated Land/Scientific Team** – no objections subject to conditions regarding construction hours

**Natural Environment (Conservation)** – no objections subject to finer details regarding materials and finishes

**Natural Environment (Trees)** – no objections subject to additional tree planting

**Natural Environment (Landscape)** – no objections subject to landscaping scheme

**Natural Environment (Ecology)** – no objections subject to conditions to conserve the local bat populations

**Severn Trent Water** – no objections subject to drainage condition

## **Public Participation Responses**

One letter of representation with the following concerns:

- Access to the property is via a narrow public footpath which is a single track without proper passing points.
- There are visibility problems when exiting the footpath onto Little Aston Road
- There is no turning circle at the end of the track where it meets the metal gates of Aldridge Court Farm.
- In the past there have been problems with vehicles trying to take priority over pedestrians on the footpath and pushing them into the fencing or trees on either side of the footpath.
- Should there be a delivery vehicle and car or commercial vehicle meeting one another, then a lot of reversing will be taking place on what is quite a dark and narrow way, the potential for a serious accident occurring with a pedestrian will be considerably increased with the type of development planned, against that of the original application.
- There will be an increase of traffic due to the type of dwelling being applied for in contrast to that previously.
- Continuous and disturbing reversing warning audible signal from these vehicles.
- With the advent of the Worldwide Web and the public using internet sites to purchase goods, Supermarket deliveries, Amazon, ebay, etc, there will be increase in delivery traffic
- The foot print of the cowshed is somewhat smaller than that of the proposed property.
- The proposed property is a tall two storey construction with a pitched roof on top ... considerably taller than that of the original cowsheds
- Should not have been any taller than the original building.
- Impact on the neighbouring property of the Coach House
- Planning permission for cow shed was complimentary to the farm and its farm yard

- Proposed large two storey building would double the amount of floor space
- Aldridge Court and the Coach House overlooked,
- Building would be located outside of the farm yard into the neighbouring field...impact on the rural landscape...against green belt planning policy.
- Building is out of character with its surroundings
- Be seen from the adjoining footpath that runs down the side of the Golf Course.
- Contamination on the land...Gasometer on the site sited many years on the site of the proposed property and we think that careful examination of the ground should be taken, as there are very great risks from contaminants used in those days, high levels of arsenic just as an example could be uncovered or disturbed.
- The previous application lent itself to the conservation of the farm, especially as it is in both the Aldridge Conservation Area as well as the Green Belt,

### **Determining Issues**

- Impact on the green belt
- Housing Land Supply
- Design, Scale, Access and Layout
- Landscape and Ecology
- Local Finance Considerations

### **Observations**

#### **Impact on the green belt**

The site lies within the West Midlands Green Belt as identified in Walsall's adopted Unitary Development Plan (UDP).

The fundamental aim of National Planning Policy Framework (NPPF) is to prevent urban sprawl by keeping land permanently open which is an essential characteristic of Green Belts and protect against inappropriate development that is harmful to the Green Belt. In this case the provision of a new house in this locality albeit one of an aspirational design, has not been demonstrated sufficiently to outweigh the potential harm it will have on the Green Belt. As such it conflicts with one of the purposes of including land in the green belt namely to assist in safeguarding the countryside from encroachment, to check the unrestricted sprawl of large built-up areas, prevent neighbouring towns merging into one another, and safeguard the countryside from encroachment.

Furthermore, exceptions to inappropriate development as set out in para 89 of the NPPF, only allows limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) and if they would not have a greater impact on the openness of the Green Belt. In this instance the site is not considered to be a brown field site as the land upon which the dwelling is to be sited is not previously developed land as set out in annex 2, therefore para 89 of the NPPF is irrelevant.

The Aldridge Conservation Area - Character Appraisal and Management Plan (November 2009) states that the application site lies to the north of Aldridge Court and is another building within the same Character Area, but it is very privately located up a long drive and is largely hidden from view by high trees and hedgerows. However from the golf club side and the public footpath which runs the full length of the boundary between the two, there will be clear views of the new house. This will appear as a very modern building against the back drop of an existing small low level cluster of well established buildings. Whilst the design of the new house incorporates a large amount of glazing to allow reflections of the surrounding countryside, it has not been demonstrated that the addition of this new building is acceptable and will not outweigh the potential harm the erection of this large detached house would have on the openness and character of the Green Belt to satisfy the aims and objectives of the NPPF, BCCS and policies in the UDP.



Saved policy ENV2 of the Unitary Development Plan, indicates that there is a presumption against the construction of new houses in the Green Belt. Development is also inappropriate if it conflicts with the openness and purposes of the green belt. ENV2(b) states re-use of existing buildings in the Green Belt will be acceptable provided that it does not involve any building extension or associated uses of land around the building that would conflict with the openness and purposes of the Green Belt. The previous consent involved the reuse of the existing outbuildings this was considered to accord with policy ENV2.

However this application does not involve reuse of existing buildings or indeed replacing existing ones it is therefore considered not to be consistent with the NPPF or UDP policy ENV2.

It is accepted that the out buildings (farm buildings) are no longer used for the purpose they were intended, reusing some of these as garages to house motor vehicle could reduce the visual impact on the green belt and improve the Green Belt in visual and environmental terms. The use of the outbuildings should be restricted and therefore conditions imposed that require the use of the stables for garages to be ancillary to the new house.

Policy ENV3 requires a detailed evaluation of proposals within the Green Belt and the impact on the layout of the site, siting, design, grouping, height and scale of buildings, structures and associated outdoor equipment, colour and suitability of building materials, having regard for local styles and materials and impact on significant views, viewpoints and topographical features.

The design of the building is modern and contemporary and in contrast to the existing farmhouse nearby. This is acceptable in terms of its impact on the Aldridge conservation area and to be welcomed however its appearance and impact on the green belt is not acceptable and will appear as a dominant urban feature within the openness of the countryside. It will be clearly visible from viewpoints along the boundary with the golf club (public footpath) against the traditional fabric of farm buildings.

In conclusion, having taken into account all of the above it is considered that on balance it has not been demonstrated that the addition of a new buildings is acceptable and will not outweigh the potential harm the erection of this large detached house would have on the openness and character of the Green Belt to satisfy the aims and objectives of the NPPF, BCCS and policies in the UDP.

### **Housing Land Supply**

There are sufficient sites that already have planning permission in Walsall to meet the housing land requirement in the BCCS until at least 2021 – (7 year supply from now). Small sites that do not yet have planning permission are likely to add to this supply. In relation to the NPPF 5% and 20% buffer margins relating to the supply of new housing, the completions, as compared with the BCCS targets, also show that the Core Strategy targets have been exceeded since 2006, and there is no persistent shortfall in delivery. This means that there is not at present any requirement to find further sites that will be deliverable within the next few years. Potential housing sites to meet the requirement between 2021 and 2026 will be identified through the Sites and Allocations process. The evolving situation will be monitored through annual Strategic Housing Land Availability Assessment (SHLAA) updates.

The NPPF seeks to protect against inappropriate development that is harmful to the Green Belt. The applicant has not provided any evidence to demonstrate the benefits that the Borough will gain from the provision of aspirational housing of a size and type that could not be provided elsewhere in the Borough. This proposed housing is of a type that would and should be developed within the major urban area, rather than the investment going elsewhere, like this site, which is contrary to the purpose of the Green Belt in supporting urban regeneration.

## **Design, Scale, Access and Layout**

*Design and scale* - Subject to the materials and finishes to be used, the design of the proposed house can be supported. The stone banding will provide an architectural order to the building that will be both classic, yet modern. Cast stone is acceptable but the choice of product will be critical.

The main and front elevations have good proportions and the roof works well in delivering the sense of a building that is contemporary, but rooted in traditional vernacular practice.

The roof is flared and kicked out at a lower point down the rafters to accommodate the wider width of this central girth of the building. There is a tradition in this type of roofing and will be further expressed by the use of appropriate materials. In this case it is proposed to use Drednought throughout the roof which also allows the lower/shallower portion of roof to be constructed in the same roof material and will provide continuity throughout the roof.

Two chimneys have been added to the roof which provide interest to the buildings profile.

However, whilst the design is welcomed this has to be judged against the overall impact on the green belt.

*Access* - The proposed access to the site is along a long driveway which serves the existing house at Aldridge Court Farm, this is also a public right of way. There are no proposals to alter this access which is wide and has sufficient room for vehicles to pass by in places. It is considered acceptable to serve the two properties without any detriment to the safety of pedestrians and it is unlikely that the additional one house will generate large amounts of traffic which will impact on pedestrian safety.

*Layout* - The new house is set within a spacious plot of some 600 sq metres excluding the garages. The proposals include converting part of the existing stables for garages whilst retaining the existing barn for use as storage. The nearest property is that of Aldridge Court (nursing home), views of this are limited due to the substantial landscaping and outbuildings along the boundaries.

## **Impact on the character and amenity of Conservation Area**

It is considered that the proposed bespoke design of the new house would relate to and enhance the character and appearance of the Conservation Area. It has been specifically designed with large areas of glazing to reflect views of the open countryside and long sloping roofs will reduce the overall massing of the building. In terms of the conservation area the design and appearance of the house is acceptable in principle.

## **Landscaping and Ecology**

*Trees* - The only trees or shrubs on the site are along the boundaries with the golf club. There will be some loss of Cypress hedge but there are no trees of significance on site and consequently there are no objections subject to the inclusion of new tree planting. If the application is approved, this could soften and help screen the new house from the green belt but this clearly would take some time to mature.

*Landscaping* – Whilst there is an objection in principle to the proposed scheme, it is considered any proposed landscaping will be guided by recommendations which will allow the development to have the maximum ecological benefit. Specific planting and landscaping, the use of native species and wildlife friendly paving will be incorporated within any scheme. New pathways will be formed from paviers of a permeable design, and the new driveway will be formed from gravel rather than tarmac. These should be conditioned accordingly should the proposals be supported.

It is considered that for any scheme to be acceptable is this prominent location, Landscape architectural expertise should be sought at an early stage to develop a detailed landscaping scheme. This work should be undertaken in parallel with other design professions to ensure well thought out building layout, external spaces and design detailing to achieve quality external design.

*Ecology* – The building will be set amongst mature trees, fields and large gardens. It is close to park land and a golf course. Therefore there is sufficient green infrastructure to make the presence of bats in the neighbourhood highly likely. A bat survey has been submitted, its conclusions are accepted. If the scheme were to be accepted in principle, mitigation could be secured subject to conditions

### **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 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 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.

### **Recommendation: Refuse**

1. The proposal represents inappropriate development in the Green Belt. No very special circumstances have been put forward sufficient to outweigh the harm this inappropriate development would cause to the character and openness of the Green Belt. The proposals are considered to represent inappropriate development within the Green Belt which would be out of character with their surroundings and would have an adverse impact on the openness, character and visual amenity of the Green Belt. Furthermore the loss of part of the outbuildings will result in the appearance of the new dwelling being even more dominant and have a materially greater impact than that of the existing buildings and will sit more prominently within the Green Belt to the detriment of the openness and purposes of the Green Belt. The development would further create urban sprawl in a location where it should be restricted in order to provide satisfactory separation between the conurbations and would undermine the regeneration of the urban area. As such the proposed dwellings are contrary to the aims and objectives of the Black Country Core Strategy, in particular sustainability principles 2 and 4, policy CSP2, Objective (d) in paragraph 3.14 of the West Midlands Regional Spatial Strategy; Policy ENV2, ENV3 and ENV4 of Walsall's Unitary Development Plan (2005) and the NPPF paragraphs 87-89.

2. There is a plentiful supply of available housing land in Walsall. Sites with planning permission provide sufficient capacity to meet the Borough's housing land needs well beyond the next 5 years, including the additional NPPF 5% buffer. Other identified potential housing sites provide in excess of a 15 year housing land supply. Therefore there is no requirement to release other sites for housing development in order to meet the housing land requirement in the Black Country Core Strategy until at least 2021. The development of this isolated site in the Green Belt would

undermine the regeneration of the urban area and would be contrary to the Core Strategy, in particular the Vision, Sustainability Principles and Policy CSP2.



## Regeneration Directorate – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 10/04/2014

**Plans list item no: 15.**

**Reason for bringing to committee: In accordance with the Committee resolution on the 13<sup>th</sup> February 2014**

**Application Number:** 14/0245/FL

**Application Type:** Full application

**Applicant:** Mr Satvinder Dhillon

**Proposal:** Replacement 6 Bedroom house and retention of outbuilding.

**Location:** 11 GREENSLADE ROAD, WALSALL, WS5 3QH

**Ward:** Paddock

**Case Officer:** Stuart Crossen

**Telephone Number:** 01922 652608

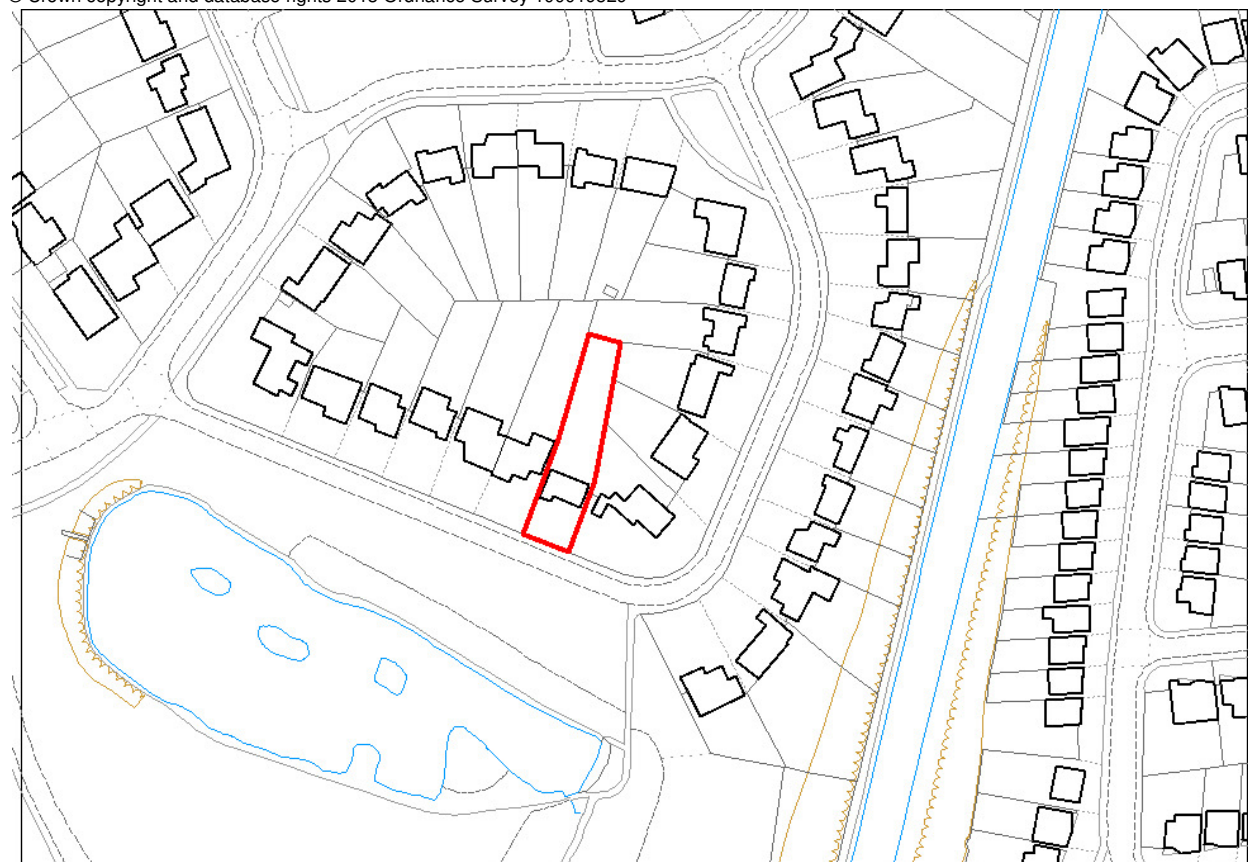
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Michael Robson

**Expired Date:** 29/04/2014

**Recommendation Summary:** Refuse subject to no new material issues being raised on expiry of the neighbour consultation period.

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### **Current Status**

This application follows the Planning Committee resolution at their meeting on the 13<sup>th</sup> February “that the issuing of an Enforcement Notice be delayed for 28 days, to enable the applicant to submit a planning application to be heard by Planning Committee. If no application is issued within 28 days, the Enforcement Notice will be issued.” This application was submitted on the 4<sup>th</sup> March 2014.

### **Application and Site Details**

The application is for a new 6 bedroom house and retention of an existing outbuilding at 11 Greenslade Road. This proposal follows a previous approval 12/1116/FL which was not implemented. Officers consider that the building on site is unauthorised. All that remains of the original house is a small amount of first floor render and a small section of one of the side gable walls.

Since receiving the application Officers have raised concerns about the design which has resulted in the submission of revised plans.

The new house would have a side gable roof, 2 storey front gable feature, ground floor front single storey projection with mono-pitched roof and front gable over a proposed porch. The two storey gable includes a first floor balcony. No side habitable room windows are proposed. The key measurements of the proposal are as follows:

- The front gable would be 1.5 metres further forward than the original front elevation.
- 200mm wider than the original house
- 750mm from the shared boundary to number 9
- The front single storey part would be in line with the proposed gable and where the original garage was
- The main roof would be 7.843 metres high, 43mm higher than the original roof height and 401mm lower than it has been built.
- The two storey part of the house would be 5m deeper than the original house and 200mm wider
- The single storey rear projection would be 5 metres deep from the two storey part and 7.2 metres wide, 3.8 metres from the shared boundary to number 11a

The application property is a detached house which faces an area of urban open space and has a prominent position in the street forward of the neighbouring house, no. 9 Greenslade Road. Greenslade Road increases in height from Greaves Avenue towards the application house.

The original house was a modern 1960's designed detached house with side gable roof with flat roof single storey garage and porch. The roof line along Greenslade varies and provides an increase between dwellings in some cases as the Road increases, this reflects the topography of Greenslade Road and the original designs secured acceptable relationships avoiding any undue dominance from individual properties. At the highest point is number 11a which is a bungalow. The ground level difference between number 11a and the original house at the application site is greater than between the other houses in the same row, which as part of the original design of the estate is considered the likely reason a bungalow was built in this position. The original house also sat further forward of the neighbouring house number 9 than other houses in the same row.

The application also proposes to retain a gable roof outbuilding in the garden which has a door and two windows facing the rear of the proposed house and measures:

5.6 metres deep

4.3 metres wide

3.9 metres high

1.7 metres from the neighbouring boundary at the nearest point.

No. 9 has a two storey rear extension and extends 1.9 metres further back than the original rear elevation of the application house. The rear two storey part of the proposed house would not project rearward of the existing extension at no. 9, but the proposed single storey part would be 2.8 metres rearward. The front elevation of no. 9 has a ground floor front facing lounge window within a single storey flat roof front projection set 3.2 metres back from the first floor side part of the proposal with a first floor bedroom window above; set back a further 0.8 metres. There is a gap between the application house and no. 9 of 2 metres. The side elevation of no. 9 has no windows.

No. 11a is a bungalow which occupies a corner position and has a rear lounge window which faces the side garden boundary with the application house across a separation distance of 16 metres to the proposed rear extension. The lounge window at no. 11a faces an existing single storey garage within the curtilage of 11a. This extension has a pitched roof and is near to the side garden boundary with the application house.

Number 17 Greenslade Road is the nearest house to the outbuilding, the main rear elevation is over 19 metres away from the shared 1.8 metre high boundary fence.

The street has a mixed character of detached houses and bungalows with features which include gable roofs, chimneys and single storey flat roof front extensions.

The rear garden of the application house is approximately 32 metres in depth.

### **Supporting Documents**

A supporting statement has been submitted which provides some background information and justification for the proposal. Notwithstanding the submission of this new house application the applicant and agent maintain in the statement that the original house remains largely intact and that this proposal is a modification of an existing house (a view not supported by officers and contrary to the submitted full application).

### **Relevant Planning History**

**BC17001P** – Erection of dining room, utility extension and bathroom alterations – granted permission subject to conditions 5/2/81.

**11/0469/FL** - Two storey side & rear elevations and increase of roof height. Refused 10/01/12 for the following reasons:

The proposed increase in roof height would amount to a disproportionate addition to the application property and would create a jarring effect that would appear incongruous in the street scene.

The proposed first floor side extension would have an overbearing and unacceptable impact on the adjacent ground and first floor, front, habitable room windows in 9 Greenslade Road because of its excessive length and height in relation to this property.

The combined height and length of the proposed rear two storey extension would have an overbearing and unacceptable impact on the rear lounge window in 11a Greenslade Road.

**12/1116/FL** - New monopitch roof over existing front single storey projection first floor side extension and two storey rear extension. Granted subject to conditions 26/10/12

**12/1668/FL** - Two storey rear extension, first floor side extension, front bay window extension with balcony above. Duo-pitched roofs over existing garage and porch (Amendment to approval 12/1116/FL). Refused 24/05/13 for the following reasons:

The excessive depth of the proposed additional 3.5 metre deep 2 storey extension at the rear which includes a rear facing gable would result in a prominent addition clearly visible from the rear habitable windows and garden areas of numbers 9, 11a and 15, which would have a significant dominant and overbearing impact on the outlook and amenities enjoyed by occupiers of these houses and does not overcome a previous refusal reason.

The proposed Juliet balcony and railings to the front elevation, do not reflect the existing character of this simply designed 1960's house and cumulatively, with the central flat section to the main roof and ground floor hipped roofs on the front elevation, would have a poor visual relationship with the house and be out of character with the area.

An appeal against the above refusal was received by the Planning Inspectorate on 28th August 2013 (**APP/V4630/D/13/2203736**).

The appeal was dismissed on the grounds that "an additional rearward extension at first floor level would increase the bulk and massing of the building. Consequently the new rear extension would increase the building's prominence in the street scene when viewed between the bungalows. Its resultant depth and scale would be incongruous with neighbouring development."

**13/0380/FL** - A retrospective planning application to retain the additional height of the main roof. The planning application was refused at the May 2nd 2013 Planning Committee for the following reasons:

The proposed increase in roof height would amount to a disproportionate addition to the application property and would create a jarring effect that would appear incongruous in the street scene.

The proposed first floor side extension, coupled with the increased roof height, would have an overbearing and unacceptable impact on the adjacent ground and first floor, front habitable room windows in 9 Greenslade Road because of its excessive length and height in relation to this property.

The combined height and length of the proposed rear two storey extension would have an overbearing and unacceptable impact on the rear lounge window in 11a Greenslade Road.

An **Enforcement Report** was considered by the 6th June 2013 Planning Committee. Planning Committee authorised the taking of enforcement action.

The Committee considered it expedient having regard to the development plan and all relevant material considerations to address the unauthorised development of the property through the serving of an Enforcement Notice. The Enforcement Notice was issued on the 30th August 2013 requiring the following: "Reduce the overall height and appearance of the roof to match that approved under 12/1116/FL planning permission."

The Enforcement Notice took effect on 30th September 2013.

An appeal against the Enforcement Notice was received by the Planning Inspectorate on 24th September 2013 (**APP/V4630/C/13/2205840**). The appeal was on ground (a) with the appellant stating that: planning permission should be granted for what is alleged in the Enforcement Notice.

Throughout the planning and subsequent enforcement process, the property owner continued constructing additions to the house, without planning permission and against the advice of planning officers, thus considerably changing the house during that time. Since November 2013, these include; a large single storey rear extension, a single storey front extension with balcony above,



windows added to the side elevation and front porch have been partially completed. The owner has also started constructing front boundary walls.

On the 23rd January 2014 the Planning Inspectorate quashed the enforcement notice considering that the development had been undertaken in a manner, which differed significantly from what was approved and that the whole of the development (not just the altered part) has been undertaken without planning permission. The Planning Inspector was unable to change the description of the breach given the works that had been carried out (and continued to be carried out) and would not allow further comments from the Council and Appellant; to do so would have resulted in injustice being caused.

The owner has continued to construct the house and outbuilding, and officers now consider that all that remains of the original house is a small amount of first floor render and a small section of one of the gable walls. Consequently, the original house can no longer be said to exist. What has been built is a new house without planning permission. The owner has offered to reduce the roof height by approximately 400mm in an attempt to comply with the 12/1116/FL permission. However, officers do not consider this can be done as the 2012 permission applied to the original house, which no longer exists.

An **Enforcement Report** was considered by the 13th February 2014 Planning Committee. Planning Committee authorised the taking of enforcement action.

Committee considered that the issuing of an enforcement notice be delayed for 28 days, to enable the applicant to submit a planning application to be heard by Planning Committee. If no application is received within 28 days, it would be expedient having regard to the development plan and all relevant material considerations to address the unauthorised development of the property through the serving of an Enforcement Notice to remove the house and outbuilding.

The current application **14/0245/FL** was made valid on the 4<sup>th</sup> March 2014, within the 28 days allowed by committee.

### **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*".

**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

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

#### **11: Conserving and Enhancing the Natural Environment**

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

**On planning conditions** the NPPF says:

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

**Decision-taking**

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.

**Regional Strategy (RS)**

The NPPF confirms that the Regional Strategy remains part of the development plan, until / unless it is abolished by order of the Secretary of State.

It is considered that the relevant RS policy is;

QE3: Creating a High Quality Built Environment for All

Creation of high quality built environment through use of architecture, urban design and landscape design which respects local character.

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

**Local**

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

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

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

confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

Policy ENV2 states that all development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country.

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

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

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

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

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

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development but will be particularly significant in the following locations:-
  - Areas with a special character arising from the homogeneity of existing development in the neighbourhood.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
  - The appearance of the proposed development.
  - The height, proportion, scale, and mass of proposed buildings / structures.
  - The materials proposed for buildings, external spaces and means of enclosure.
  - The integration and co-ordination of buildings and external space.
  - Community safety and security.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
  - The effect on the local character of the area.
  - The proposed vehicular and pedestrian circulation patterns.
  - The integration of existing natural and built features of value.
  - The maintenance requirements of the development.

T7: Car Parking

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

T13: Parking Provision

4 bedroom houses and above                      3 spaces per unit

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

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

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

### **Designing Walsall (Feb 2008)**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

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

## **Consultations**

**Transportation** – No objections

**Natural Environment – Ecology** – No objections on ecological grounds

## **Public Participation Responses**

**Four neighbours have objected on the following grounds:**

Overdevelopment and out of character

The proposal is too high

Unable to read the print of the plans and cannot see any difference between the superseded and amended plans - *The plans are to scale and are cleared annotated. The electronic versions can be magnified and the Council provides assistance and access to viewing applications at First Stop Shop.*

Outbuilding looks like a mini bungalow

Drainage issue from increased parking area

Building works and disruption are taking too long - *Building works, associated disruption and the current appearance of the site are temporary and would not be sufficient reason to refuse a planning application.*

Walsall planning committee should be protecting the environment – *Not a determining issue of this application*

The application site looks like a tip-heap

The outbuilding windows directly face and look into the bedroom of number 15 resulting in a loss of privacy.

The unusual roof design is to accommodate another storey.

The new front gable increases the mass of the roof

The roof should be reduced to 7600mm as it was originally

The existing roof is massive, ugly and a blot on the landscape.

The main roof looks awful and the glazed front gable is out of character

The streetscene drawing is not from around the corner between 15 and 17, the proposal does not deal with the Inspector's dismissal of the previous appeal for substantially the same development (*The appealed application 12/1668/FL was to further extend the unauthorised as built development*

*with an additional 2 storey rear extension where this application proposes a single storey rear extension in approximately the same position)*

**A number of objections of a technical nature have been made about the planning application, and these are set out below:**

The application description does not match the drawing or application form description (for a reduced two storey extension) and cannot be determined; the council cannot replace the description of the application entirely. - *The description has been amended to reflect the drawings and is a matter for agreement between the LPA and the Agent; it is not a determining issue of this application.*

The description is wrong in that the development can only be described as replacement when the existing house has been completely removed. - *The LPA does not agree and this is not a determining issue of this application.*

The applicant claims that the extant permission (12/1116/FL) can be implemented, the Council have claimed that the permission had not been implemented – *This is not a determining issue of the application*

The drawings do not confirm demolition; do the parts proposed for retention have no planning status at all? – *The existing building is considered unlawful; however, the design of the proposal could retain part of what has been built.*

A valid decision cannot be made using the form as submitted - *The LPA and Agent have made amendments to the description, both the forms and information received are considered sufficient to make a decision on the proposal.*

The statement does not comply with article 4 of the Town and Country Planning (Development Management Procedure) (Amendment) Order 2013 for a valid Design and Access Statement – *This objection is wrong in law. The 2013 Order withdrew the requirement for Design and Access Statements to be submitted for dwellings, except where in a conservation area.*

The design drawings have numerous errors and the dimensions cannot be achieved and do not meet the National Validation Requirements – *None of the errors are identified in the objection and the LPA considers that the plans are sufficient to determine the application; the reference to the National Validation Requirements is now out of date; the Requirements have been replaced by the National Planning Practice Guidance, which came into force on 7 March 2014*

The drawing claims that the original house remains (“existing”) when it does not. – *The plans illustrate existing (the house prior to modification), as built (the unauthorised building as it is) and proposed.*

The drawings do not match the description notified to interested parties and will not match the Officers recommendation to committee – *The LPA does not agree.*

The date for the submission of a valid application has expired; the Council should return the application and ask it is withdrawn – *The application was made valid on the 4<sup>th</sup> March 2014; the application is valid and can be determined*

**Further Neighbour representations following amended plans received 31/03/14**

2 Neighbours have objected on the following grounds

The proposed gable design results in a loss of light to number 11a and would overpower it to the rear and front.

The roof is still higher than the original roof.  
The width has not been reduced.  
It does not meet the 45 degree rule.

### **Determining Issues**

The previous applications related to extensions to the original house. It is considered that the works that have taken place have been done outside the terms of permission 12/1116/FL and so represent unauthorised development. Furthermore there is so little left of the original house that the current proposals now represent the construction of a completely new house.

The determining issues are therefore whether the house

- Design is appropriate, respecting the character of the area
- Neighbouring amenity is safeguarded
- Parking
- Protected Bat Species are not put at risk

### **Observations**

#### **Design is appropriate, respecting the character of the area**

The design previously approved by the Council (planning permission 12/1116/FL) included a similar flat roof section to the proposed house. However this compromised design reflected the constraints of extending a house. As a new house is now proposed, the opportunity for a more cohesive design is being missed.

The proposed new house represents a contrived and compromised design due to the accumulative impact of the proposed front gable and main side gable roof design resulting in an incongruous and unduly large and dominant house which would reflect little of the proportions of the neighbouring houses, in a prominent location forward of number 9 and near to the highest part of Greenslade Road.

The rear out building cannot be seen from the public realm and would be ancillary to the main house. It is of an appropriate design and scale in this context, sited at the bottom of a rear garden.

#### **Impact on Neighbouring Amenity**

The first floor includes a 500mm setback at the front; this part of the extension is 200mm closer to the boundary of number 9 than the original side elevation and 43mm higher than the original house. The original single storey garage projection breached the 45 degree code. Of the proposed design the first floor part accords with the Council's 45 degree code in relation to the front living room window of number 9, but the single storey part does not. On balance, it is considered that due to the forward projection of the proposed house and the proximity to the boundary with number 9 it would have an overbearing impact on the neighbouring property and street scene.

The rear two storey part of the proposal would not project beyond the existing two storey rear extension at number 9. The single storey part would be 1.5 metres deeper than the additional two storey rear extension proposed in the refused application 12/1668/FL which although dismissed by the Inspector on design grounds was not considered by the Inspector to be harmful due to its size and positioning on the living conditions of residents of Nos. 9, 11a or 15 Greenslade Road. The single storey part of the proposal would be 16 metres from number 11a and would project less than 3 metres from the rear of number 9 and is considered would not result in undue loss of light or an overbearing impact to neighbours amenity.

Number 17 Greenslade Road is the nearest house to the outbuilding over 19 metres away. The height of the outbuilding and distance between the outbuilding and neighbouring houses is sufficient to ensure there would be no significant impact on light or an overbearing impact. No side or rear elevation windows are proposed and there would be no significant potential for overlooking.

**Parking**

The application site has sufficient space to park three cars in accordance with the Council's parking standards and raises no objection from Transportation Officers.

**Impact on protected Species**

The development proposed is for a new house, the changes which have already been made have certainly destroyed any bat roost present in the roof of the property. The application is retrospective and the Ecology Officer considers that a bat survey is not required.

**Recommendation: Refuse subject to no new material issues being raised on expiry of the neighbour consultation period.**

The proposed new house represents a contrived and compromised design due to the accumulative impact of the proposed front gable and main side gable roof design with the large flat section and would result in an incongruous and unduly large and dominant house which would reflect little of the proportions of the neighbouring houses, in a prominent location forward of number 9 and near to the highest part of Greenslade Road. As a result there would be significant harm to the character of the area and street scene. The development would therefore be contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58 and 64, the Black Country Joint Core Strategy policy ENV2 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall.