



## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 2<sup>nd</sup> December 2010

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### Contents Sheet

Item No	Page No	Application Number	Site Address	Proposal	Recommendation
1	1	10/0610/OL	Land To The South Of Reedswood Way, Walsall	Outline application (all Matters Reserved) for Residential Development (Resubmission of 09/0092/OL) also affecting Public Footpath WAL44	Refuse
2	17	10/1253/FL	Land At Heathfield Lane West/Moxley Road,Darlaston	Rewording of conditions attached to planning permission 08/0394/FL to allow commencement of construction of roads to southern part of site.	Grant Permission Subject to Conditions
3	29	09/0333/FL	10,11 & 12 Pinfold Street,Walsall	Retention of single storey and two storey rear extensions and also the retention of the change of use to a house of multiple occupation comprising 14 bedrooms, lounge and kitchen.	Grant Permission Subject to Conditions
4	37	10/1131/TE	George Carter Pressings,Clothier Street,Willenhall,Walsall	Time extension of planning approval 07/1156/FL/W6: Demolition of existing buildings and erection of 22 houses and apartments.	Grant Permission Subject to Conditions and a Planning Obligation

5	43	10/1201/FL	294 Harden Road (Former Swan & Cues P.H.),Harden Road, Walsall	Proposed 50 bedroom care home for the elderly.	Grant Permission Subject to Conditions
6	55	10/1166/FL	The Eagle Public House,Cresswell	Residential apartment block comprising of 17 X 1 Bedroom flats	Grant Permission Subject to Conditions and a Planning Obligation
7	68	10/1008/FL	Former Royal Naval Club,120 Elmore Green Road,Bloxwich,	Demolition of former royal naval club; erection of 10 no. flats with associated works.	Delegate to the Head of Planning and Building Control to grant subject to conditions and completion of a S106, providing no representations on new planning grounds are received on the expiry of the unknown ownership of land notice in the press.
8	81	10/1345/FL	Cole Of Bilston, Great Bridge Road, Bilston	Amendment to condition of planning permission 10/0294/FL to allow for different cladding materials to certain	Grant Permission Subject to Conditions
9	85	10/1301/OL	Land Adjacent 15 Goscote Road, Walsall	Outline: For the erection of a single dwellinghouse and associated works, access & layout only for consideration.	Grant Permission Subject to Conditions
10	95	10/1393/FL	103 High Road, Willenhall	Change of use from a one-room shop and outside storage of touring caravans and camper vans to vehicle sales, with associated reception/office and hard standing for the display and parking vehicles and retention of	Grant Permission Subject to Conditions

				3m high palisade fencing to the rear and erection of new fencing to the front and side of the property and creation of a private amenity area and allocation of parking spaces for two existing flats.	
11	103	09/1329/FL	Three Crowns P.H., Sutton Road, Walsall	Conversion of Three Crowns public house into a dwelling & construction of 4 no. detached dwellings.	Refuse
12	118	10/1096/FL	Mill Green Farm, 724 Chester Road, Aldridge, Walsall, WS9 0LR	Erection of 5 houses with associated works, demolition of existing B1 Light Industrial, B2-General Industrial and B8-Storage and Distribution buildings	Grant Subject to Conditions Subject to Referral to Government Office
13	135	10/1424/FL	Former Beacon View Childrens Home, Little Aston Road, Walsall,	Amendment to permission 10/0866/FL for enlarged house on plot 1	Grant Permission Subject to Conditions
14	145	08/1863/LE	Railswood Nurseries, Railswood Drive, Pelsall,	Certificate of Lawfulness for existing use for the repair, refurbishment and storage of tractors, agricultural implements and equipment and parts, and sales of the above and retention of 10 buildings on site, and a greenhouse and polytunnel	Grant Lawful Existing Use
15	153	10/1110/FL	Tanglewood, Bourne Vale, Aldridge, Walsall	Single storey rear extension and front porch extension	Grant Permission Subject to Conditions
16	159	10/1278/FL	10 St. Davids Place, Bloxwich, Walsall	Conservatory to rear	Grant Permission Subject to Conditions
17	165	10/1025/FL	Land R/O 19 Middleton	New 4 bedroom dwelling plus parking	Refuse

			Road, Sutton Coldfield	and associated landscaping	
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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 02/12/2010*

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

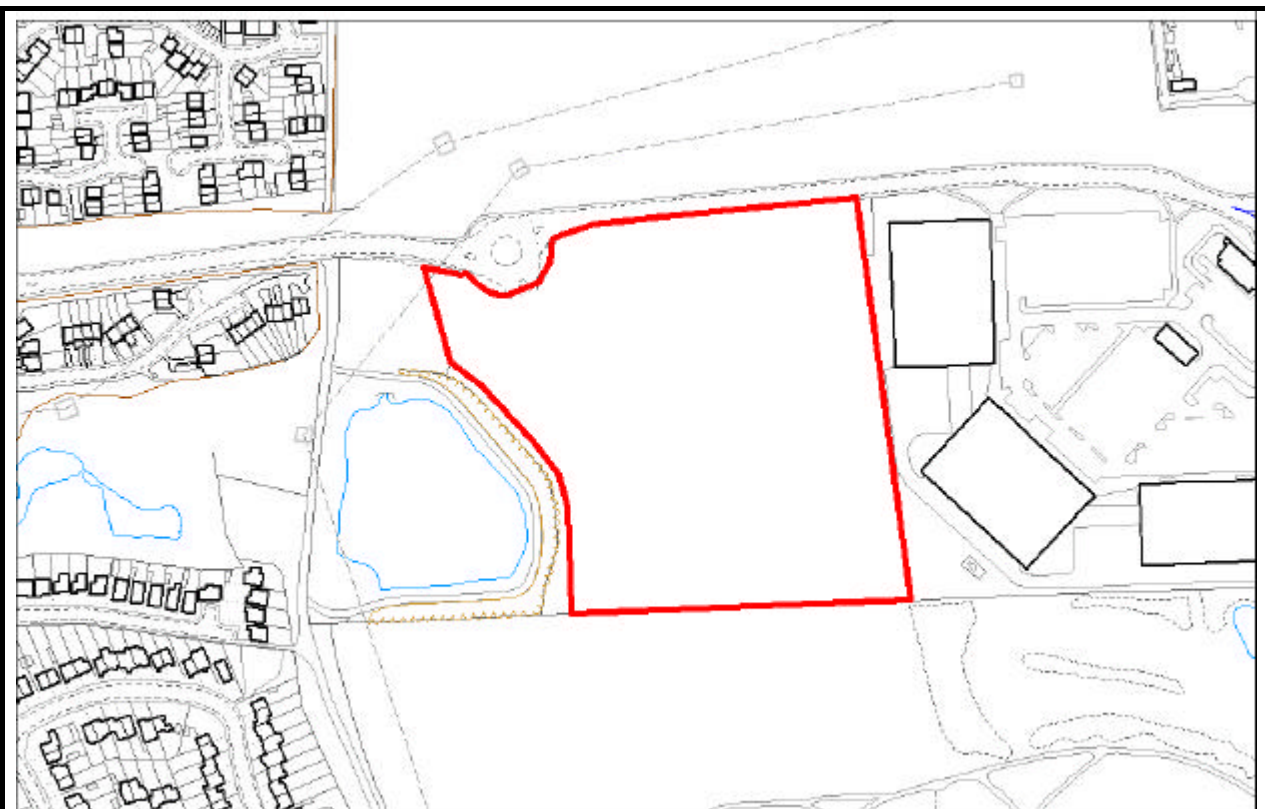
**Application Number:** 10/0610/OL  
**Application Type:** Outline Application

**Applicant:** Parkhill Estates Ltd  
**Proposal:** Outline application (all Matters Reserved) for Residential Development (Resubmission of 09/0092/OL) also affecting Public Footpath WAL44  
**Ward:** Birchills Leamore

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652403  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**  
**Location:** LAND TO THE SOUTH OF REEDSWOOD WAY, WALSALL, WS2 8XA

**Expired Date:** 13/08/2010

**Recommendation Summary: Refuse**



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### **Application and Site Details**

This application is in outline for the development of the site for residential use. All matters are reserved and no quantum of development is proposed.

The application is supported by an indicative layout plan and the supporting Planning Statement suggests 140 dwellings could be accommodated on the site. The site is approximately 4.34 hectares in size. Therefore the proposed density on this basis would be 32dph.

The development is located to the rear of Reedswood Retail Park, and runs along Reedswood Way to access already capable from the existing roundabout junction. The land is currently vacant with no distinguishing features within the application site. There are a number of significant trees to the southern boundary of the application site with a border of Fleetwood Park.

The application is supported by the following documents:

### **Design and access statement**

This supports the application highlighting design principles of the proposed principles of residential development and how constraints have informed the site.

### **Employment land assessment**

The applicant seeks to demonstrate in this supporting statement that there is sufficient policy support and land availability contained within the Borough that the site is a suitable location for housing development and is unsuitable for employment uses. The applicant claims that the employment land review submitted as part of the black country joint core strategy provides adequate employment land for the needs of the Borough and indeed that there is an excess of employment land.

The applicant also seeks to demonstrate that the employment land should not be considered as "best quality" as defined and allocated within the current unitary development plan. The principal arguments being that the site does not meet the five key principal issues of strategic best quality employment land, these being

- a. Being easily accessible by a choice of means of transport,
- b. Have good accessibility for freight, including rail where possible,
- c. Have a relatively good local environment,
- d. Offer a range of opportunities in terms of location, size and market sector
- e. Be free of constraints to development which can not be readily overcome

The applicant claims that the proximity to residential development would be a significant detractor that any potential industrial occupiers of the site and that it would be necessary to impose significant restrictions and require remediation works to enable the site to be used for industrial purposes and other employment uses such an approach would be consistent with policy JP8.

The applicant also refers to evident decline in manufacturing in the Black Country, with low the enquiry levels from manufacturing companies, those manufacturers seeking premises were generally indigenous companies seeking to rationalise into smaller more efficient space. The applicant refers to the number of employment opportunities along motorway junctions and the Black Country Route as more viable employment opportunities.

Supporting evidence relating to Regeneration Corridor 7 of the Joint Core Strategy is also suggested to support the applicant's case.

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The applicant concludes the planning policy and advice requires assessment of whether there is a realistic possibility of the site being developed for employment uses. Although the site is located as a high quality employment site through the UDP, it does not in reality represent developable employment land and should therefore not be considered as part of the employment land portfolio. The applicant concludes therefore that favourable consideration should be given to the current residential development proposal to ensure its beneficial use.

Further a **Transportation Assessment, Flood Risk Assessment, Noise Assessment, Air Quality Assessment and Ground Investigation Reports** have also been received and an **Ecological Assessment** has also been provided which deal with technical and constraints that can be found on the site.

### **Relevant Planning History**

The site is within the Reedswood Project, a 'flagship' mixed use scheme under the City Challenge initiative commenced some 17 years ago. Application reference BC25178P established the outline planning permission for the site.

### **UDP Inspectors Report**

Whilst not a planning application it is important element of planning history to consider as Parkhill Estates objected to the UDP, taking the view that the application site should be designated as residential use rather than Best Quality Employment. Paragraphs 4.10.2 and 4.10.3 are relevant here.

In paragraph 4.10.2 the Inspector noted that the land is defined as Best Quality Site under Policy JP6 and listed as such in Policy JP1. The current definition of core employment uses includes B2 and B8 in addition to B1(b) and B1(c).

4.10.3 states that the Inspector has no reason to doubt that regional housing targets will not be met. There was however an agreed scarcity of good quality employment sites. On the evidence before the Inspector at the Inquiry, the Inspector was not convinced that the site had been given a high level of marketing exposure nor that a scheme was unviable. As such the Inspector found no convincing reason to delete this Best Quality site from JP1.

### **Relevant Planning Policy Summary**

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

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

GP1: Supports the sustainable location of development.

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

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

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

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

JP1: Site is identified as a site of Best Quality Employment Land

JP6: Sites of best quality will be retained for employment use.

4.4 and JP5 – seeks to safeguard core employment land for employment uses

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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.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

ENV36: seeks public art contributions to development

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

6.3 and H3: encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved and there is no overriding need for the land to be retained for employment or any other use.

H4 set out the Council's policy to deliver affordable housing in the Borough

H9: Housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, however higher densities are encouraged in locations close to town and district centres and in locations with good accessibility to a choice of means of transport.

7.1: Seeks to promote an efficient highway network;

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.

T12: seeks to achieve satisfactory access to public transport facilities and that residential development should not be more than 400m to a bus stop.

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

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

Flats with communal parking - 1.5 spaces per unit.

LC1: seeks to retain and enhance existing urban open spaces and readdress any deficiencies in the provision or accessibility of these. 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.

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

## **Supplementary Planning Documents (SPDs)**

### **Designing Walsall SPD**

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

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

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

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



DW5 Ease of movement- create places that are easily connected, safe to move through;  
DW6 – Legibility - new development should contribute to creating a place that has a clear identity;  
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;  
DBW 10 – new development should make a positive contribution to creating a sustainable environment.  
The SPD also amplifies guidance on how public art contributions will be sought from development.

### **Natural Environment SPD**

Policies N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees. Protection is proposed for protected species, and important wildlife, flora and fauna habitats. Discussed in further detail later in this report.

### **Affordable Housing SPD**

Details the need for affordable housing in terms of the Borough's requirements and how this should be brought forward in developer contributions. The document should be read in conjunction with the Council's Adopted Housing Needs Study

### **Urban Open Space SPD**

Amplifies the Council's policy for open space provision in the Borough and the calculation method for developer contributions

### **Education SPD**

Amplifies the Council's policy for education provision in the Borough and the calculation method for developer contributions

### **Healthcare SPD**

Amplifies the Council's policy for healthcare provision in the Borough and the calculation method for developer contributions.

### **Walsall Local Development Framework**

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

The Black Country Joint Core Strategy (JCS) has completed its consultation and the Inspector's Report is now public. The policies reflect and update the Unitary Development Plan policies. Relevant policies are:

CSP1 – sets out the targets for sustainable regeneration of the Black Country.

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.

HOU1, HOU2, HOU3, HOU5 – sets out policies on housing development including density and seeking of planning obligations.

EMP1, EMP2, EMP3 and EMP4 set out the approach to maintaining a sufficient employment,

DEL2 sets out considerations in managing the balance between employment land and housing

TRAN1 Sets the priorities for the development of the transport network and promoting sustainable transport modes.

TRAN2 requires development proposals to manage transport impacts of new development

TRAN5 Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV 1, ENV 2 and ENV 3 set out the criteria for nature conservation, the historic environment and design quality.

The site is located in Regeneration Corridor 7 and is shown as Employment.

The Core Strategy is supported by an evidence base of the Employment Land Review and Strategic Housing Land Availability Assessment (SHLAA) (prepared by Roger Tym) as well as Employment Assessment prepared by GVA Grimley (2009). The final version of the Employment Land Review (prepared by Roger Tym) has now been published which updates the Employment Assessment.

### **Regional Planning Policy**

Members should note that the revocation of Regional Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSSs, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this timetable is outlined in the Localism Bill and DCLG Business Plan. Therefore, the legal position (under Section 38(6) of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

Key policies are outlined below:

Policies UR1 and UR1A indicate that urban renaissance will require an integrated approach to improving the urban environment, housing choice, access to jobs, transport efficiency, the distinctiveness of centres, and service delivery. To tackle these issues holistically requires integrating land-use decisions with other activities (such as education, health, community safety, leisure and environmental services) and joint working with others, including residential and business communities.

Policy UR1B, states

*A) Within the growth corridors the Black Country Joint Core Strategy and Local Development Documents will define the Employment Land Investment Corridors [the application site is located in one of these areas] shown on the revised spatial strategy diagram.*

*B. Within the growth corridors and the Employment Land Investment Corridors, local authorities through the Joint Core Strategy and LDDs will:*

*(i) identify and protect those sites most suitable for employment purposes to ensure the provision of subregional employment sites (10ha - 20 ha) and a portfolio of employment land,*

*(ii) identify sites, including through the transfer of employment land, for housing and mixed uses to ensure that the housing requirements in policy CF3 are met,*

*(iii) work towards the balanced development of both uses, and*

*(iv) produce water cycle strategies to ensure the quantity and quality of surface and ground water produced by developments does not exceed the capacity of supply and treatment infrastructure.*

Policies CF1, CF4 and CF5 seek to ensure that residential development is of a high standard and delivers affordable housing that meets local needs.

Policy PA1 (part A in particular) directs that Economic growth should, wherever possible, be focused on the Major Urban Areas (MUAs), with an emphasis on creating greater opportunities for development and support for existing economic activities within agreed regeneration areas. Policy PA2ii) also directs that in order to encourage urban renaissance and help reverse long-standing trends of decentralisation of economic activity and population and to encourage the regeneration of economies, policies and programmes of local authorities, AWM, local economic partnerships and other agencies should focus investment within the Regeneration Zones of the North Black Country and South Staffs (Future Foundations with this area being identified as an "Employment Land Investment Corridor".

Policy PA6 part C and D are also important C. As part of the review of development plans local planning authorities should review all existing employment sites within their area to establish their continued suitability for employment development. This assessment should take account of:

- i) the physical suitability of the use of the land for employment purposes;
- ii) a realistic assessment of the market attractiveness of the site for employment purposes, irrespective of the attractiveness of the land for alternative, higher-value uses;
- iii) whether the site is or can be served by high-quality public transport; and
- iv) the likely level of employment land required over the plan period.

D. Where the above review establishes that existing employment sites have no realistic prospect of development under current market conditions in their current physical state within the plan period, careful consideration should be given to:

- i) what remedial action/infrastructure works will be required to justify the retention of the site within the portfolio; and
- ii) identification/re-allocation of the site for an alternative use or uses.

QE1, QE2, QE3, QE7, QE8 and QE10 seek to ensure high quality, sustainable design taking account of any natural environment interests and ensuring the development takes account of local surroundings and its context.

EN2 encourages proposals for the use of renewable energy resources, including biomass, onshore wind power, active solar systems, small scale hydro-electricity schemes and energy from waste combustion and landfill gas.

T2, T3, T4, T5 and T12 seeks to reduce the need to travel and promote sustainable modes of transport, have appropriate regard to car parking and transport movement and seek contributions to identified public transport projects from developers.

### **National Planning Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the

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opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Applications for residential on employment land should be given favourable consideration, subject to criteria. PPS3 also indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. This includes high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPS4: Seeks to promote and strengthen town centres and meet the needs of modern business and industry.

PPS9 sets out planning policies on protection of biodiversity and geological conservation through the planning system. This should be read in conjunction with the associated Best Practice Guidance and Circular 06/2005 (Biodiversity and Geological Conservation -statutory obligations and their impact within the planning system) which requires survey work for protected species, if required, to be undertaken before planning permission is granted (paragraph 99).

PPS12 guides on Local Spatial Planning. PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

PPS23 and PPS24 consider the requirements of development to take account of pollution, contamination and noise.

PPS25 seeks to ensure that appropriate safeguards from flooding are incorporated into new development. The use of Sustainable Drainage Systems and other methods reduce rainwater runoff are encouraged.

Circular 02/99 (Environmental Impact Assessments), 07/99 (Departures and Development Plans), are of relevance to the application. Circular 05/2005 (Planning Obligations) and the draft Policy Document for Planning Obligations are of relevance with regard to the appropriate level of planning contributions that will be sought.

### **Consultations**

**Transportation** – No objection subject to conditions and informative notes.

**Highways Agency** – No objection

### **Pollution Control**

**Scientific Team** – No objection to this application in principle. A noise survey has been undertaken by Atkins reference '2009/June/12 Reedswood Way Noise Assessment Final' that indicates mitigation measures will be required to address noise arising from the adjoining road and commercial development. Suggests conditions be added to any permission granted.

**Contaminated Land Team** – No objection subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the former Walsall Power Station. Conditions to address these concerns have been provided.

**Environment Agency** - Object because there is insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable.

There are three strands to this objection. These are that:

1. The level of risk posed by this proposal is unacceptable.
2. The application fails to provide assurance that the risks of pollution are understood, as a desk study, conceptual model and assessment of risk have not been provided. PPS23 takes a precautionary approach. It requires a proper assessment whenever there might be a risk.
3. Under PPS23, the application should not be determined until information is provided to the satisfaction of the Local Planning Authority that the risk to controlled waters has been fully understood and can be addressed through appropriate measures. This is not currently the case.

**Economic Regeneration/Think Walsall Business Support Team** - Strongly Object as the Black Country suffers from a severe shortage of vacant high quality industrial sites and accordingly their loss to other uses should be avoided. The land at Reedswood Way remains an integral part of the Borough's high quality employment land offer and its loss to housing, or any other use, other than that described in Policy JP6, would only serve to devalue the industrial land offer of the Borough and could constrain further economic development.

Local authorities across the region are collectively experiencing increasing levels of concern regarding the long-term impacts of the economic slowdown on land and property issues. This includes the potential for the closure of major manufacturing and industrial sites which will lead to additional pressures to release employment land resulting in an overall loss of employment land.

Support and engagement with Walsall companies by the Councils Business Support Team has revealed the significant challenges faced by businesses in the Borough due to a lack of good quality employment land. Inadvertently, this is hampering Walsall's ability to retain large key employers and attract viable inward investment opportunities.

The loss of this site to housing could result in the loss of between 229-630 future jobs depending on the type of industry that would otherwise have been developed on the site.

Notably within the last 12 months, Walsall's Business Support Team has received 6 significant inward investment inquiries. These have involved requests for suitable employment sites ranging from 10 - 20 acres. Evidently, if realised, such inward investment has the potential for significant job creation within the Borough.

**Development and Delivery Team** – Object - The application is on a site that is designated in the Unitary Development Plan as a Best Quality employment site (site E21). Policy JP6 states that such sites will be safeguarded for core employment.

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These sites represent the best current opportunities in the Borough for high quality industrial or warehouse developments.

The site falls within the boundary of the proposed Birchills Strategic Regeneration Framework (SRF) study area. The SRF study will focus on housing-led regeneration in the area and making the most of the town centre's revitalisation for local residents, whilst also considering the long-term sustainability of some of the employment areas in the Birchills area.

The outcome of the SRF, which will feed into the LDF, should be awaited.

**Fire Service** – Objects to the application as the dead end cul-de sacs are in excess of 180m from the entrance to the proposed development.

**WM Police** – No objection however there is no mention of crime and security in the Design and Access Statement and If adequate crime prevention is not included in the explanation of the design principals applied to the amount, layout, scale, landscaping appearance and context of the development, this may hinder the application as crime is a potential adverse economic, social and environmental impact of development.

**Land Drainage** – No objection – however the surface water from the site should be discharged into the Severn Trent system, and then into the adjacent pond to prevent unnecessary pollution of the pond.

**Natural England** - no objection

#### **Natural Environment Team**

**Ecology Officer** - No objection in principle however, concerned that the measures proposed by the applicant's ecologist cannot be implemented if a development layout of the density of the indicative layout provided is approved. Therefore a decision should be deferred until this issue is resolved. The measures proposed are proportional to the development proposed and in accordance with UDP policy. It is important that development does not encroach too close to the mature tree belt along the boundary with Reedswood Park.

**Tree Officer** – No objection however there are significant tree related issues in terms of the indicative site layout

**Centro** – No objection however would seek development contributions towards the enhancement of public transport in the area, notably the 5Ws scheme.

**Walsall Children Services – Serco** - the level of surplus places is below 10% for the primary sector. We would therefore look for a contribution towards provision for only the primary sector. The contribution calculation is sensitive to the type and mix of dwellings to be built, as this is not detailed at this time, the level of S106 infrastructure contributions sought cannot be quantified.

**National Grid** - no objections to as there is no apparatus in the immediate vicinity that will be affected by the proposed development

**Seven Trent** – no objections subject to conditions.

## **Public Participation Responses**

One letter of support has been received commenting that any development would look better than the current unkempt nature of the site.

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

## **Determining Issues**

- Best Quality and Core Employment Policies
- UDP and JCS Inspector's Reports and the applicant's Employment Land Assessment
- The Employment Land Supply
- The potential contribution of housing land towards meeting housing needs
- JCS Regeneration Corridor 7 – Birchills and Canalside Communities.
- Indicative Site Layout
- Environment Agency Objection

## **Observations**

### **Best Quality and Core Employment Policies**

The central issue to this proposal is that the application site is subject to Policy JP6, not Policy JP5 as the applicants assert in their Employment Land Assessment.

The policy seeks to protect the Borough's best employment land, the site is identified within the policy and the policy states that the site will be safeguarded for core employment uses. Development of these sites will be expected to achieve a high quality of design and landscaping.

Paragraph 4.35 of the UDP continues that these sites represent the best current opportunities in the Borough for high quality industrial or warehouse developments, by virtue of their size, accessibility or environment. Such opportunities are scarce, so the policy seeks to avoid their loss to other uses. To help maintain the supply of best quality sites in the future, windfall sites which present similar or better opportunities will be treated in the same manner. There is no requirement for best quality sites to be in core employment areas, although in practice they do usually coincide.

The applicant's basis is that the site should not be designated as Best Quality Land. Officers disagree with this assessment. It is clearly of reasonable size, relatively unconstrained in terms of neighbouring uses, and constraints and relationship to nearby residents could be mitigated.

As such, there are fundamental differences between Core Employment Land (JP5), which is a quantum of employment land of a variety of size and quality and defined by its cumulative value, and Best Quality Land (JP6) which is of value in itself as a standalone site of strategic importance to the Borough. The applicant failed at the UDP Inquiry to alter the designation from Best Quality Land and as such the allocation remains salient.

The comments from Strategic Policy and Economic Regeneration identify the importance of keeping this site in employment uses.

Therefore, the presumption is to retain the site in employment use unless there is a material consideration that outweighs this retention. The applicant's case to justify the Departure has been set out but is not seen as correct or conclusive.

## **UDP and JCS Inspector's Reports and the applicant's Employment Land Assessment**

Officers have strong regard to both the UDP Inspector's report into this site (in the case of the UDP) and overall Employment Land provision (JCS) documents, which both provide significant warnings over the loss of strategic employment sites, such as the application site.

The applicant seeks to demonstrate that this employment land should not be considered as "best quality" as defined and allocated within the current unitary development plan. The principal arguments being that the site does not meet the five key principal issues of strategic best quality employment land

The applicant claims that the proximity to residential development would be a significant detractor that any potential industrial occupiers of the site and that it would be necessary to impose significant restrictions and require remediation works to enable the site to be used for industrial purposes and other employment uses such an approach would be consistent with policy JP8.

The applicant advanced the same arguments at the examination of the Unitary Development Plan in 2004. The Inspector then disagreed with the applicant's claims and Officers maintain this position.

It is noted that TK Maxx, who opened a significant strategic unit on Green Lane, considered that the area was "well located for access to the Motorway Network with Junction 10 of the M6 only 2.4 kms (1.5 miles) to the south and the M6 Toll, accessed at T7 via the A34, 8kms (5 miles) to the north". Further, in their supporting information it is highlighted that the route to the M6(J10) would pass this application site.

The applicant also refers to the evident decline in manufacturing in the Black Country, with low enquiry levels from manufacturing companies. Evidence from the Council's Economic Regeneration/Think Walsall Business Support and Regeneration Teams highlight the importance and potential that this site offers for employment led regeneration, in essence disputing the arguments.

It is noted that no evidence of marketing of the site, a key test of the UDP Inspector's conclusions, has taken place on the site or has been submitted in support of the application. The site, in Officers view, remains viable for employment uses.

Whilst it is acknowledged that the applicant concludes that favourable consideration should be given to the current residential development proposal to ensure its beneficial use, Officers fundamentally disagree with this position and highlight the adverse impact not only on this site but other employment sites that would result if this site was redesignated for housing land.

## **The Employment Land Supply**

The applicant claims that the employment land review submitted as part of the JCS provides adequate employment land for the needs of the Borough and indeed that there is an excess of employment land. Officers fundamentally disagree with this assessment.

GVA Grimley Assessment, SHLAA and Employment Land Review as part of the Joint Core Strategy evidence base highlighted that the required development path for the Black Country economy is based on a restructuring towards service sector, office

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based activities and emphasising the comparative advantage that the location has in relation to logistics. The GVA assessment also highlighted the need for a cautious approach to the release of employment land.

The GVA Grimley review also states that Walsall will have a deficit in employment land by 2026. Walsall's overall deficit would be at best 6 -9ha at 2026 but after the sensitivity analysis is applied – the worst case scenario - this could rise to between - 36 and -62ha.

Members should also note that the Black Country supply is a part of the Joint Core Strategy process and including the calculation of the industrial land supply means that Walsall and Wolverhampton will have to help meet the overall Black Country supply. This deficit could be between 289ha and 400ha.

In this regard the evidence base urges a cautious approach towards the release of employment land and this is consistent with the robust protection of Core Employment Areas.

The Council has also now published its Employment Land Review, updating the GVA Report, and this is available on the website. Roger Tym & Partners, the authors of the ELR consider that the site should be retained as it could provide for potential high quality employment development. They point out that Walsall has very few readily available sites for industrial investment of any size. The largest site that does not have major ground contamination or infrastructure constraints is in fact the Reedswood Way site. Roger Tym also comment that:

'indeed, if we consider Walsall's top ten sites in terms of size, six have poor or severe ground conditions, and a seventh is composed of land that was part of the works that bequeathed poor ground conditions to another of the six. Two more have constrained access. That leaves only one that is in good condition – Reedswood Way. But the owner is not marketing it for industry and is seeking housing (Roger Tym advise that the site should be retained). If the Reedswood Way site is lost to housing, this leaves the largest readily available site as North of Maybrook Road at only 2.3ha ...'

Roger Tym comment further that:

'There is a real danger that Walsall will run out of reasonably sized readily available sites for industry, so that even the low take up rates observed over the past few years cannot be sustained in the future. Since the Boprough's economy has not diversified into high-end services (as opposed to those dependent on local consumer expenditure) it continues to rely on industry and related land uses. These sectors could increasingly miss out on the investment to sustain it, and walsall could experience an outflow as (industry) leave(s) the Borough to find less congested premises.'

In Officers and Evidence the view is that this site represents Walsall's current best single strategic site for employment development. If this is lost to housing, it will render the remaining site portfolio more unattractive to inward investors at a time when Walsall needs to do all it can to provide portfolio of good quality land to meet the requirements of investors.

The proposals must fail in this regard, its loss to housing would have significant adverse implications for employment land provision and hinder economic regeneration.

### **JCS Regeneration Corridor 7 – Birchills and Canalside Communities.**

As the Joint Core Strategy (JCS) moves towards adoption the weight of the objectives and policies contained within the JCS gather weight. It is likely that the Joint Core Strategy will be adopted shortly after the consideration of this report. Therefore the policies contained within Regeneration Corridor 7 have weight.

Whilst diagrammatic, the Key diagram for Regeneration Corridor 7 can be easily interpreted as showing the site as employment designation. The housing land component refers to the long term aspirations to the south of the site with the former Caparo works and Birchills SRF programme being the areas designated to bring forward housing led regeneration.

Whilst work has commenced on the Land Allocation document, it is not at a stage to warrant considering in any form to consider reallocation of this site further at this stage. The Council's Strategic Housing Land Availability Assessment (SHLAA) and Employment Land Review (ELR) call for the continued use of the site as Employment Use.

As such the Regeneration Corridor does not offer support for the applicant's proposals for housing.

### **Indicative Site Layout**

The indicative site layout does not represent an acceptable form of development with issues of ecology, fire service, crime prevention and high quality residential environments not adequately considered.

Whilst the comments of the ecology officer are noted the issues and constraints identified would not necessarily lead to a reduction in the amount of development, merely a better use of the site and higher quality environments.

### **Environment Agency Objection**

The Environment Agency have objected to the proposals on potential for ground contamination and the lack of evidence supplied by the applicant. Further supporting evidence was received on 2<sup>nd</sup> November 2010. The Agency have been invited to comment further. At this stage therefore the application contains a reason for refusal on this basis however it is anticipated that the further information will remove this reason.

### **Recommendation: Refuse**

1. The proposals would result in the loss of Best Quality Employment land and would significantly adversely affect the supply of employment land and employment investment opportunities within the Borough. As such the proposals would be contrary to saved policies of Walsall Unitary Development Plan, in particular GP1, GP2, ENV14, JP1, JP6; Policies CSP1, EMP1, EMP2, EMP3, EMP4, DEL2, Regeneration Corridor 7 of the Black Country Joint Core Strategy; Policies UR1, UR1A, UR1B, PA1 (in particular Part A), PA2 ii) and PA6 C and D of West Midlands Regional Strategy; national guidance contained in Planning Policy Statements 1 and 4; and supporting evidence within the Council's Employment Land Review.

2. The applicant has failed to undertake an adequate marketing exercise or demonstrate that the site cannot be brought forward for employment uses. The proposals would be contrary to saved policies of Walsall Unitary Development Plan, in particular GP1, GP2, ENV14, JP1, JP6; Policies CSP1, EMP1, EMP2, EMP3, EMP4, DEL2, Regeneration Corridor 7 of the Black Country Joint Core Strategy; Policies UR1, UR1A, UR1B, PA1 (in particular Part A), PA2 ii) and PA6 C and D of West Midlands Regional Strategy; national guidance contained in Planning Policy Statements 1 and 4; and supporting evidence within the Council's Employment Land Review.

3. The proposals would fail to provide assurance that the risks of pollution are understood, as a desk study, conceptual model and assessment of risk have not been provided. PPS23 takes a precautionary approach. It requires a proper assessment whenever there might be a risk, not only where the risk is known. As such the proposals are contrary to Saved Policies GP2, ENV10, ENV40 of Walsall Unitary Development Plan and guidance set out in PPS23.

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

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

**Application Number:** 10/1253/FL

**Application Type:** Full application

**Applicant:** Navassa Investments Limited

**Proposal:** Rewording of conditions attached to planning permission 08/0394/FL to allow commencement of construction of roads to southern part of site.

**Ward:** Darlaston South

**Case Officer:** Marilyn Kowalski

**Telephone Number:** 01922 652492

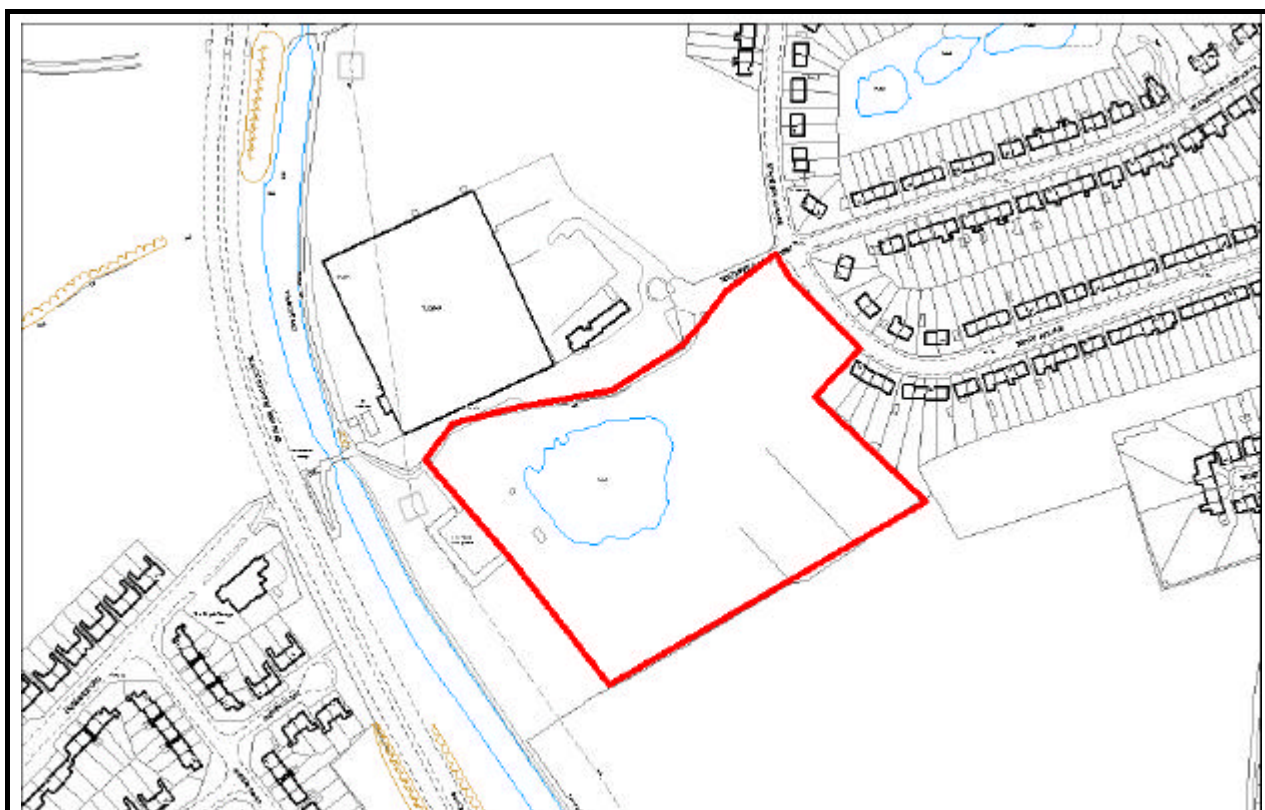
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** LPC Living

**Location:** LAND AT HEATHFIELD LANE  
WEST/MOXLEY  
ROAD, DARLASTON, WS10 8QR

**Expired Date:** 21/12/2010

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



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## **Application and Site Details**

This is a planning application for the rewording of several conditions attached to planning permission 08/0394/FL for residential development for 304 units.

The site comprises

- a factory with office units and associated rough unused ground to the north
- to the south of the factory is undulating rough grass land with hedges and a hollow containing Wards Pool
- to the west, is Stanbury Avenue via a cul-de-sac portion of Heathfield Lane West
- to the east is the tow path of the Walsall Canal, and the Black Country New Road beyond
- to the north is another road frontage, to Herberts Park Road
- Moxley Tip lies to the south of the site (granted planning permission for the provision of some residential development and other uses).

The amendments to the conditions are necessary to allow work to commence on the construction of the roads in the southern part of the site at the earliest opportunity.

*It is expected that a different developer will be making a new full planning application for a revised housing scheme, for approximately one third of the original site area but keeping to the approved road layout.*

The conditions concerned are as follows:-

- 2) boundary treatment
- 4) drainage
- 11) landscaping scheme
- 17) facing materials
- 19) surfacing
- 24) barrier to the south of the main square
- 28) crime prevention measures
- 29) external lighting
- 3) In addition the developer has asked that condition 3 (levels) be amended to have the words “unless otherwise agreed in writing” added.
- 23) entrance barriers for area leading from canal bridge and other end of the bridle path.

The conditions 2, 4, 11, 17, 19, 24, 28 and 29 all contain the timing clause “no development shall be carried out until details of ..... “

Essentially the site owners want to amend the wording of the conditions to allow for the roads to be laid before details of these matters have to be submitted. They are therefore suggesting that the wording be amended to “No property construction shall be commenced until details of.....” an additional phrase is also requested to be added to the end of each of the conditions “unless otherwise agreed in writing by the Local Planning Authority” on the basis that this would add greater flexibility to the timing of the submissions.

## **Relevant Planning History**

BCW661 OUTLINE: Residential Development Grant Subject to Conditions 23<sup>rd</sup>  
March 1998

05/2498/ND/W1 Environmental Assessment Screening Opinion for residential, active and passive recreation and public house. Environmental Assessment not required 7<sup>th</sup> February 2006

07/2465/FL/W2 Demolition of existing building and erection of 321 houses and apartments, revised access, amenity areas, parking and associated work Refused 30<sup>th</sup> January 2008

08/0394/FL Demolition of existing buildings and erection of 304 houses and apartments, revised access, amenity areas, parking and associated works. (Resubmission of 07/2465/FL/W2). Grant subject to conditions 23<sup>rd</sup> October 2008.

Site adjoining (Moxley Tip)

BCW 609 Outline: formal & informal recreation use, pub & housing plus reclamation strategy Grant Subject to Conditions 6<sup>th</sup> April 2000

04/0070/FL/M1 & 05/0598/FL/M1 (renewal applications for BCW609)

02/2122/FL-OL/M1 Reclamation strategy (detail) to secure development for informal recreational use and housing (outline) Grant subject to conditions 4<sup>th</sup> December 2007.

05/2498/ND/W1 Environmental Assessment Screening Opinion for residential, active and passive recreation and public house Environmental Assessment not required 7<sup>th</sup> February 2006

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

**Saved policies of Walsall Unitary Development Plan**

SPS 2.1 and 2.2 define the overall strategy of the plan. The aims of sustainable development, urban regeneration, & environmental improvement are identified. GP1 - Development will be guided by principles of sustainability, minimising need to travel by car, maximising re-use of vacant land and buildings without prejudice of beneficial use of adjoining land or buildings.

GP2 - states that the Council 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.

GP7 Development should have regard for "designing out crime"

3.16 development will be considered in relation to its setting, and will require a high quality of built and landscape design.

8.42 The Council will urge developers to consider from the earliest design stages the relationship of their proposals with canals so that optimum use can be made of their visual and recreational potential. The design of development adjacent to canals should consider the opportunity to incorporate elements of canal side vernacular architecture.

ENV18 Development schemes should, help improve the environment of the Borough whilst not allowing development that has an adverse impact on woodland, trees and hedgerows unless the desirability of the development significantly outweighs the ecological or amenity value of.

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ENV19 Habitat and Species Protection

ENV21: Sites of Local Importance for Nature Conservation

ENV23: Nature conservation and new development

ENV24: Wildlife corridors

ENV32: Design and Development Proposals.

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

ENV33: Landscape design

Policy H10 is about layout, design and dwelling mix of housing, This states that the Council will expect the design of residential developments to create a high quality living environment, well-integrated with surrounding land uses and local character, and in accordance with the principles of good design, provide adequate open space, or improvements to existing open space, provide an appropriate mix of housing types, sizes, and tenures with a variety of design, facilitate the efficient provision of public transport services, and maximise pedestrian and cyclist access to local amenities. All proposals for residential development will also be considered against the more detailed standards and guidelines set out in the Council's Supplementary Planning Guidance for residential design.

## **Supplementary Planning Documents**

### **Designing Walsall SPD**

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;

DBW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW3 – all new development must be designed to respect and enhance local identity

DBW4- Well defined streets with a continuity of built form are important.

DBW6 – new development should contribute to creating a place that has a clear identity

DBW9 new development must seek to ensure it creates places with attractive environmental quality

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

### **Natural Environment SPD**

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

Protection is proposed for protected animals, plants etc.

### **Urban Open Space SPD**

Sets out the thresholds and contributions sought towards urban open space from residential developments.

### **Healthcare SPD**

Sets out the thresholds and contributions sought towards healthcare from residential developments.

### **Education SPD**

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Sets out the thresholds and contributions sought towards education from residential developments.

### **Affordable Housing SPD**

Sets out the thresholds, tenure, mix and type of affordable housing sought from residential developments.

### **Walsall Local Development Framework Black Country Joint Core Strategy**

Moving towards adoption. Key policies are:

CSP4: Place Making - The environmental transformation of the Black Country is one of the fundamental principles of the renaissance agenda. 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.

ENV2: All proposals should aim to sustain and reinforce special character and conserve the historic aspects of the following locally distinctive elements of the Black Country

ENV 3 Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits by demonstrating that the following aspects of design Design and Access Statements reflecting their particular Black Country and local context:

1. Implementation of the principles of “By Design” to ensure the provision of a high quality network of streets, buildings and spaces;
2. Implementation of the principles of “Manual for Streets” to ensure urban streets and spaces are designed to provide a high quality public realm and an attractive, safe and permeable movement network;
3. Use of the Building for Life criteria for new housing developments, to demonstrate a commitment to strive for the highest possible design standards, good place making and sustainable development, given local circumstances;
4. Meeting Code for Sustainable Homes Level 3 or above for residential development and BREEAM Very Good or above for other development, or the national requirement at the time of submitting the proposal for planning permission, to demonstrate a commitment to achieving high quality sustainable design;
5. Consideration of crime prevention measures and Secured By Design principles.

### **Regional Spatial Strategy**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSSs, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a ‘material consideration’ in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall’s UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

### **National policy**

PPS1 on delivering sustainable development and good design.

PPS 3: Encourages reuse of previously-developed land for housing.

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## **Consultations**

**Transportation** – No objection

**Pollution Control – (Contaminated land)** No specific requirements.

**Pollution Control - scientific team** No objection

**Natural Environment Landscape** - No objections in principle to the splitting of the construction of the infrastructure from the construction of housing providing there is not a risk of a more adverse impact on the local environment, and no objection to the rewording of conditions (4, 11, 29) Therefore there needs to be consideration of the details of both stages through planning conditions and they have to dovetail. There is also a concern that the site might be completely cleared before the roads are put in place and that there could be a considerable time lapse before the housing is built. It is therefore considered that the existing hedges and grasslands should be left until it is certain that they cannot be retained within any modified housing development that may come forward. There is also concern that open highway drains will trap amphibians moving across the site.

**Planning Policy** - No objection

**Environment Agency** – No objection

**Serco** – Contribution of £548,809.90p required towards local secondary school places.

**Police Architectural Liaison Officer** - No objections.

**Sport England** - No objection

**Urban Design** - No objection

**Natural England** - Condition 4 drainage – The proposed surface water drainage attenuation within Wards Pool is considered to be an element or technique of sustainable drainage systems, this, combined with petrol interceptors this is satisfactory.

Condition 11 landscaping – It is important to have agreed, at least in principle, what the landscaping provision will be prior to the construction of properties. The design and implementation of a satisfactory landscaping scheme will be dependent upon:

- 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.*

Condition 29 lighting – The applicant has stated that it is not their intention to light either the site or the site roads prior to the occupation of housing. However, the requirement for a temporary lighting scheme around the site construction compound may still cause adverse impacts on wildlife and local residents. It is suggested that this concern could be mitigated by simply ensuring that any temporary lighting is shielded and angled so to avoid these impacts. This can be addressed through the remediation strategy or other similar plan or strategy conditioned to the application.

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**Sandwell MBC – No objection**

**Wolverhampton MBC - No objection**

**British Waterways Board** – The proposed variations to conditions are generally considered acceptable. In regard to condition 11 this condition specifically refers to site preparation. As protected species and/or Japanese Knotweed may be present on the site which may be affected by the construction of roads details should be provided prior to commencement of the phases of the development closest to the canal. Therefore, based on the additional information provided by the applicant, BW considers that this condition should be varied to refer to the submission of this information prior to the commencement of the phases of the development adjacent to the canal.

### **Representations**

One letter has been received objecting to the application on the basis of fears that the pool will be inaccessible (*a letter has been sent in response to this explaining that the planning permission will ensure that the pool will remain accessible*).

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

### **Determining Issues**

- amendment of the conditions to enable works on the roads to commence
- other matters concerning landscaping
- Matters concerning the Bridleway.
- Other issues

### **Observations**

#### **Amendment of the conditions to enable works on the roads to commence**

Where relevant the conditions are quoted in full with amendments in bold.

In relation to conditions 2, 17, 19, 24, and 28, there are no objections to the substitution of the words:-

*“No property construction shall be commenced until details of.....”*

instead of:-

*“no development shall be carried out until details of ..... “*

nor the addition of the wording :-

*“unless otherwise agreed in writing by the Local Planning Authority”*

These conditions are about:-

- 2) boundary treatment
- 17) facing materials
- 19) surfacing
- 24) barrier to the south of the main square
- 28) crime prevention measures

The developer has stated that it is their intention to submit two sets of details that will address condition 3 (levels) and 4 (drainage) prior to commencement of road works.

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Firstly, schematic levels across the whole site along with a schematic drainage scheme would be submitted, then prior to starting the built development, the level of engineering detail would be increased to provide exacting engineering drawings for approval. The level of detail implied by the word 'schematic' is not clear, but providing sufficient detail is submitted to properly define the levels of roads and buildings this phased approach is acceptable, and it is felt that this is a satisfactory way to handle site levels. At this stage therefore to allow for flexibility in what is needed to be submitted, it is proposed to alter the condition by adding the words "unless otherwise agreed in writing by the Local Planning Authority" as follows:-

- 3. Unless otherwise agreed in writing by the Local Planning Authority no development shall be carried out until** details of existing and proposed levels of the entire site, accessway and floor levels have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land, and any drainage or other works necessary to facilitate this development.
- 4. Unless otherwise agreed in writing by the Local Planning Authority no development in any phase, shall be carried out until** full drainage details **for that phase**, (which shall include details of surface water sewers and their diversion where necessary), incorporating sustainable drainage principles, have been submitted to and approved in writing by the Local Planning, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

Picking up on the comments from the landscape officer, British Waterways and Natural England Some precaution is necessary to avoid this impact. The conditions have been reworded accordingly.

#### **Other matters concerning landscaping**

Regarding condition 11) (landscaping scheme). The developer has asked for this condition to be varied to allow preliminary site enabling and remediation works to commence. Natural England and British Waterways Board have raised issues. Therefore condition 11 is amended, and an extra condition is recommended to deal with this and the ecological issues raised by the landscape officer.

- 11. No property construction shall be commenced** until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The landscaping 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; trees species/sizes and locations;
  - v. Arrangements to be made for the disposal of surface water;
  - vi. Hard landscaping works;The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority. Apart from being attractive visually, the proposed planting shall be consistent with providing a good variety of species to encourage biodiversity and maintain the functions of the

site as a wildlife corridor, and shall include details of increased planting to the hedge along the boundary with Moxley Tip, to close the existing gaps.

**As protected species and/or Japanese Knotweed may be present on the site, which may be affected by the construction of roads, no development shall be carried out on the road construction until details of, (along with measures to deal with such) any protected species and/or Japanese Knotweed have been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented before commencement of the roads or unless otherwise agreed in writing by the Local Planning Authority.**

Extra condition:-

**11A Unless otherwise agreed in writing, before the commencement of development on the roads, details of the structural works that relate to condition 11 shall have been submitted to and approved in writing by the Local Planning Authority, the details required under this condition will relate to levels, drainage, clearance/ protection of existing features and the submission of an environmental method statement which shall include details of precautions to ensure that amphibians moving across the site do not become trapped in open highway drains and any necessary details of ensuring that any temporary lighting is shielded and angled so to avoid these impacts.. The details shall be implemented before commencement of road works and retained for the duration of the works.**

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

Regarding condition 29) (external lighting). The developer has stated that it is not their intention to light either the site or the roads prior to the occupation of housing. However they have stated that there may be a requirement for a temporary lighting scheme around the site construction compound, but this is not likely to be needed until April 2011 at which time it is anticipated that the compound will only be in use between the hours of 7.30am – 5.30pm. Natural England still consider that lighting could cause adverse impacts to wildlife and local residents, and suggest that any temporary lighting is shielded and angled so to avoid these impacts. It is felt that these concerns can be best dealt with through the environmental submission required by the additional condition 11A

It is therefore recommended that condition 29 be amended as requested by the developer.

as follows:-

**29. No property construction shall be commenced** until details of external lighting to car parking areas has been submitted to and approved in writing by the Local Authority. Installation of lighting on the site shall accord with the recommendations issued by the Institution of Lighting Engineers for the reduction of light pollution, **unless otherwise agreed in writing by the Local Planning Authority**

#### **Matters concerning the Bridleway**

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Bridle path 1 Darlaston, runs across the centre of the site from the end of Heathfield Lane West across the open space next to the pool, over the canal and Black Country Route, then on to Hughes Road. Although not part of this application, it is relevant to this application as the route is now to be extinguished to allow development to go ahead. This being the case there will still need to be a submission under condition 23 of the original permission (entrance barriers for area leading from canal bridge and other end of the bridle path) as the layout of the site still means that this will be a natural place to cross the canal bridge it is therefore recommended that this condition remains unaltered.

23. No development shall be commenced until details of entrance barriers (for example a horse step over next to a chicane, which would accommodate pedestrians, cyclists and horse riders, but act as a deterrent to motorbikes) for the area leading from the canal bridge, and the other end of the bridle path, as shown on drawing number 07-089/02D

*Reason:* In the interests of highway safety.

### **Other issues**

Serco have commented that a contribution towards education is required. This is not applicable as this application is only to reword the timing for the submission of details. S106 contributions were dealt with through an agreement as part of the original application, and will be addressed again when a new application comes forward.

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

Amend conditions

- 2) boundary treatment
- 17) facing materials
- 19) surfacing
- 24) barrier to the south of the main square
- 28) crime prevention measures

to read:-

“No property construction shall be commenced until details of.....”

instead of:-

“no development shall be carried out until details of ..... “

with the addition of the wording :-

“unless otherwise agreed in writing by the Local Planning Authority”

Amend condition 3 to read:-

3. Unless otherwise agreed in writing by the Local Planning Authority no development shall be carried out until details of existing and proposed levels of the entire site, accessway and floor levels have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land, and any drainage or other works necessary to facilitate this development.

Amend condition 4 to read:-

4. Unless otherwise agreed in writing by the Local Planning Authority no development in any phase, shall be carried out until full drainage details for that phase, (which shall include details of surface water sewers and their diversion where necessary), incorporating sustainable drainage principles, have been submitted to and approved in writing by the Local Planning, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

Amend condition 11 to read:-

11. No property construction shall be commenced until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The landscaping 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; trees species/sizes and locations;
  - v. Arrangements to be made for the disposal of surface water;
  - vi. Hard landscaping works;

The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority. Apart from being attractive visually, the proposed planting shall be consistent with providing a good variety of species to encourage biodiversity and maintain the functions of the site as a wildlife corridor, and shall include details of increased planting to the hedge along the boundary with Moxley Tip, to close the existing gaps.

As protected species and/or Japanese Knotweed may be present on the site, which may be affected by the construction of roads, no development shall be carried out on the road construction until details of, (along with measures to deal with such) any protected species and/or Japanese Knotweed have been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented before commencement of the roads or unless otherwise agreed in writing by the Local Planning Authority.

Add an extra condition:-

- 11A Unless otherwise agreed in writing, before the commencement of development on the roads, details of the structural works that relate to condition 11 shall have been submitted to and approved in writing by the Local Planning Authority, the details required under this condition will relate to levels, drainage, clearance/ protection of existing features and the submission of an environmental method statement which shall include details of precautions to ensure that amphibians moving across the site do not become trapped in open highway drains and any necessary details of ensuring that any temporary lighting is shielded and angled so to avoid these impacts.. The details shall be implemented before commencement of road works and retained for the duration of the works.

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

Amend condition 23 to read:-

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23. No property construction shall be commenced until details of entrance barriers (for example a horse step over next to a chicane, which would accommodate pedestrians, cyclists and horse riders, but act as a deterrent to motorbikes) for the area leading from the canal bridge, and the other end of the footpath.

Amend condition 29 to read:-

29. No property construction shall be commenced until details of external lighting to car parking areas has been submitted to and approved in writing by the Local Authority. Installation of lighting on the site shall accord with the recommendations issued by the Institution of Lighting Engineers for the reduction of light pollution, unless otherwise agreed in writing by the Local Planning Authority
-





Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

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

**Application Number:** 09/0333/FL

**Application Type:** Full application

**Applicant:** Junction 9 Properties

**Proposal:** Retention of single storey and two storey rear extensions and also the retention of the change of use to a house of multiple occupation comprising 14 bedrooms, lounge and kitchen.

**Ward:** Darlaston South

**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652403

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

**Agent:** Mr David Onions

**Location:** 10,11 & 12 PINFOLD STREET, WALSALL, WS10 8UN

**Expired Date:** 03/06/2009

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



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### **Current Status**

Members deferred this application at 9<sup>th</sup> September 2010 meeting to consider the implications on the wider regeneration objectives and opportunity for more comprehensive development.

The application has been presented to Project Reference Group on 16<sup>th</sup> November 2010.

The PRG comment that they do not support the proposals for the following reasons:

- Consider that granting permission for this application would adversely affect the comprehensive regeneration of the wider Darlaston Centre as identified in the Darlaston Strategic Regeneration Framework
- There is concern that permission would adversely affect the long term redevelopment of the Pinfold Street block, identified as a town centre residential development, identified at UDP Policy DA5.3
- The group wholeheartedly disagree with the retrospective nature of this application as an unacceptable approach in gaining planning permission which would further compound a precedent disregarding the purpose and protocol of the planning process.

Officers have been liaising with Strategic Regeneration Framework colleagues throughout this application and both groups are fully aware of the aims and objectives of the Project Reference Group and the UDP and note their comments.

The present strategy identifies the site as retained existing use, with some form of shop front improvement scheme to be implemented. As the development is to the rear of the shops, it has little effect upon any proposals for such an improvement scheme. The proposals are residential in accordance with the aims of Development Plan policy.

The wider project to acquire property by Compulsory Purchase Orders has been abandoned due to the financial climate and estimated costs to the Council (at some £3m) and as such is considered to be unsustainable.

As such it is the view of officers that the opportunity for more comprehensive development can not be pursued at this time. Equally, this application would not prevent comprehensive regeneration if this was pursued at a later date in a more favourable economic climate.

In addition a revised plan has been submitted to the Council showing a revised landscaping scheme. This is considered acceptable in principle to officers but requires further detail of species and materials as well as details of cycle stores and bin stores to be submitted. The proposed condition is therefore amended accordingly.

As such, having regard to the report and recommendation of the 9<sup>th</sup> September 2010, officers recommend that planning permission be granted. The remainder of the report is unchanged.

### **Application and Site Details**

The application is for the retention of two storey and single storey rear extensions and the conversion of the 3 premises of 10, 11 and 12 Pinfold Street into 14 one-bedroom bedsits and a small communal area in the single storey extension. The

proposals would retain the existing shops on the Pinfold Street frontage of the buildings.

The applicant states that the extensions and conversion were completed in February 2007 however have produced no evidence to support this claim.

There is an existing courtyard area to the rear measuring approximately 50sqm which is the storage area for the residents plus an additional area, currently filled with building materials and inert waste from the construction process which is fenced off and also in the ownership of the applicant.

The applicant has submitted a statement in support of the application. The applicant notes that the proposals are in Darlaston Town Centre and that the proposals are well situated in relation to the public transport and the ASDA superstore. It is noted that there are other extensions of similar size and scale and the predominant character is Victorian two storey buildings with a mix of uses, predominantly commercial on the ground floor and residential above.

The applicant advises that the properties are let on a private rental basis to individuals in need of low cost accommodation.

### **Relevant Planning History**

BC57838P - Demolition of existing buildings & erection of 12 houses and 8 flats for general needs and a Young Parents Scheme, comprising of 10 flats with communal facilities & all associated external works – Withdrawn 2001.

#### **11 Pinfold Street**

07/1213/FL/H3 – Formation of habitable room in roof space with rear dormer - Granted August 2008

### **Relevant Planning Policy Summary**

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

#### **Saved Policies of Walsall's Unitary Development Plan (UDP) 2005**

GP1: Supports the sustainable location of development.

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

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

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

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.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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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.

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

H9: Housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, however higher densities are encouraged in locations close to town and district centres and in locations with good accessibility to a choice of means of transport.

7.1: Seeks to promote an efficient highway network;

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

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

S8 – considers the appropriateness of housing in town centres.

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

### **Designing Walsall SPD**

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

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

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

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

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

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

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

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

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

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document

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taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted.

### **Regional Strategy for the West Midlands**

The Regional Strategy has been revoked by the Secretary of State in a Parliamentary Statement of 6 July 2010. It has therefore ceased to be planning policy. The work done for the strategy (and for the various partial revisions in the West Midlands) may provide relevant material considerations. In such cases the relevant reference(s) will be in terms of 'observations' rather than as policy.

### **National Policy**

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

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Applications for residential on employment land should be given favourable consideration, subject to criteria. PPS3 also indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. This includes high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

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

### **Consultations**

**Transportation** – No objection

**Pollution Control (Scientific Team)** – No objection

**Pollution Control Contaminated Land Team** – No objection

**Fire Service** – No objection, satisfactory for fire access

**Housing Standards** – No objection in principle however detailed discussions have been ongoing with regard to minor breaches (such as drainage connections and fire control) of the Housing Act Legislation (Category 2). This should prevent the need for enforcement under section 234 of the Housing Act 2004 and Statutory Instrument 724 'The Houses in Multiple Occupation (Management)(England) Regulations 2009'.

### **Public Participation Responses**

None

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### **Determining Issues**

- The principle of the use
- The design and visual impact of the extensions
- Amenities of existing occupiers
- Car parking provision

### **Observations**

#### **The principle of the use**

The legislation has altered during the course of the planning application through amendments to the use classes order and regulations relating to Houses of Multiple Occupation.

Officers, through Housing Strategy, have been in detailed discussions with the applicant with regard to this site and the applicant's overall property holdings and the minor issues that require improvement.

The purpose of the amendments to legislation is to resolve differences between Planning and Housing Acts and to ensure the standards of Housing Act requirements are brought into design standards for planning purposes.

The principle of the use is not discouraged and is supported with the need to locate low cost accommodation close to public transport and facilities.

Overall the proposals are supported in principle.

#### **The design and visual impact of the extensions**

The extensions are similar in size and scale to extensions built to neighbouring properties. The extensions to the rear are rebuilt extensions of previous poor quality single and two storey extensions with only a small portion as entirely new additions. Nevertheless the entire element of the two storey and single storey extension to the rear are the subject of this application.

The proposals are difficult to see from any public vantage points and extensions to neighbouring properties would also shield the proposals from the private amenity areas and windows of neighbouring properties.

The design, whilst flat roofed and bulkier than Victorian-style extensions and flat roofed in order to accommodate the dwelling units and keep the height of the roof down, are finished in a manner that would be in keeping with the surrounding area and the existing property.

Overall, whilst improvements could be made and the design is not of high quality there is no objection to the extensions.

#### **Amenities of existing occupiers**

The comments of housing standard officers are noted in particular with regard to the ongoing relationship with the applicant. It is noted that the properties in the rear extensions are significantly smaller than the converted parts of the building, however no objection is raised to the size of the units by Housing Standards.

The separation between flats in the rear extensions is relatively small and the properties on the ground floor have a degree of intervisibility, however, residents

appear to be content with the relationship and this seems to build a sense of community with other residents.

At the application site the internal courtyard area is 6mts by 9.5m (total 51sqm) of 'private amenity space'. There is an additional area to the rear of the courtyard that is currently in the ownership of the applicant that is not in use and is filled with building materials. Including this area beyond the fence would create 113.5sqm. The presence of the materials significantly lessens the quality of the development and could lead to environmental issues. The area should therefore be cleared and incorporated into the landscaping and amenity space for the flats. Officers judge that the alternative of further building in this area would not be appropriate.

Whilst the proposals do not meet the standards progressed within Designing Walsall SPD, in district centre locations, a lesser amount of amenity space may be acceptable, where suburban standards could not be expected, and in this case the arrangement of space is well enclosed, overlooked and usable.

Overall, whilst not of excellent quality, refusal of the proposals cannot be substantiated in this respect.

### **Car parking provision**

It is noted that highways officers raise no objection to the proposals despite the absence of car parking. This recommendation has been made taking into account two recent Planning Inspectorate decisions on similar nearby proposals, which have dismissed the previous Highway Authority objections on the lack of car parking.

In both cases the Inspector has upheld the appellant's justification for the provision of no car parking based on a research document on residential car parking and the type of housing not automatically requiring parking provision.

The location of the proposed use within the town centre and opposite ASDA is noted. The proposals would have strong links to public transport and Darlaston District Centre which militate against the need for car parking.

Officers consider the proposals to be acceptable in terms of car parking in this instance.

### **Summary of Reasons for Granting Planning Permission**

The application site is located on previously developed land within Darlaston Town Centre, close to public transport and facilities.

The extensions to the rear are rebuilt extensions of previous poor quality single and two storey extensions with only a small portion as entirely new additions. The proposals are difficult to see from any public vantage points and extensions to neighbouring properties would also shield the proposals. The design, is also considered acceptable.

The location of the proposed use within the town centre and opposite ASDA would have strong links to public transport and Darlaston District Centre which militate against the need for car parking.

As such, having considered all consultation and public participation responses and the material planning considerations, the proposed development is considered to comply with the Development Plan, in particular policies GP1, GP2, GP4, GP7, T1, T2, T8, T9, T13, ENV10, ENV13, ENV32, ENV33, H3, H9, and H10 of Walsall Unitary Development Plan, March 2005; Adopted Designing Walsall Supplementary Planning Document, and on balance, having taken into account all material planning considerations, the proposal is acceptable.

**Recommendation: Grant Permission Subject to Conditions**

1. Within 3 months of this permission details of landscaping for the area designated 'amenity space' on Plan 09/11/01 (Dated July 2009) and details of the proposed bin and cycle stores shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing the works shall be completed within 6 months of the scheme being agreed.

*Reason:* In order to safeguard the amenities of residents of 10, 11 and 12 Pinfold Street and to ensure satisfactory development of the application site.

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

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

**Application Number:** 10/1131/TE  
**Application Type:** Extend Time Limit

**Applicant:** Fortel Flooring Limited  
**Proposal:** Time extension of planning approval 07/1156/FL/W6: Demolition of existing buildings and erection of 22 houses and apartments.

**Ward:** Willenhall South

**Case Officer:** Jan Scrivens  
**Telephone Number:** 01922 652436  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**  
**Location:** GEORGE CARTER PRESSINGS, CLOTHIER STREET, WILLENHALL, WALSALL, WV13 1BG  
**Expired Date:** 15/12/2010

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



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## **Application and Site Details**

This application seeks to extend the time limit for the implementation of planning permission 07/1156/FL/W6 which was approved on 12.9.07

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.

Eight of the houses would face Wednesfield Road and Clothier Street with a two storey flat block on the corner. The remainder of the houses would face onto a central cul-de-sac off Clothier Street. 45 allocated parking spaces would be provided, predominantly within the curtilage of each dwelling.

Gardens for the houses are generally narrow and 12m or more in length. The four flats would have a shared amenity area of 60 square metres. The density of the development would be 50 dwellings per hectare. The original application included a Design and Access Statement setting out the context of the development.

07/1156/FL/W6 was approved following the completion of a planning obligation which secured a financial contribution towards education and open space.

## **Relevant Planning History**

07/1156/FL/W6 Demolition of existing building and erection of 22 houses and apartments. Granted subject to conditions 12.9.07

## **Relevant Planning Policy Summary**

### **Saved Policies of Unitary Development Plan (UDP)**

2.2 lists key strategic themes which will be used to evaluate development proposals, including creating, sustaining and enhancing a high quality natural and built environment.

GP1 promotes the sustainable location of development

GP2 and 3.6 state that the Council will not permit development which would have an adverse effect on the environment

GP3 relies on planning obligations to secure off-site mitigating measures

GP7 requires proposals to have regard to the objective of designing out crime

ENV32 requires development to take account of its context and surroundings

ENV33 requires development to be supported by details of layout and landscape

ENV40 relate to the provision of drainage

JP7 relates to the retention of employment sites for housing

6.3 requires housing to have good accessibility and to be well related to facilities

H3 supports the provision of housing through the re-use of windfall sites

H9 housing densities in the range of 30-50 dwellings per hectare are recommended

H10 new development should create a high quality living environment

7.1 seeks to promote an efficient highway network

8.8 allows new residential development where there is adequate school capacity or where it can be provided. The Council will require a financial contribution towards the costs of provision.

T7 and T13 set out advisory the car parking levels

LC1 requires financial contributions towards the provision or improvement of urban open space

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## **Supplementary Planning Documents**

### **Designing Walsall (SPD) (February 2008)**

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

DBW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW3 – all new development must be designed to respect and enhance local identity

DBW6 – new development should contribute to creating a place that has a clear identity

DBW9 new development must seek to ensure it creates places with attractive environmental quality

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

### **Urban Open Space (SPD) (April 2006)**

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.

### **Education (SPD) (February 2007)**

Requires a contribution towards local education facilities on residential developments of 10 units or above.

### **Affordable Housing (SPD) (July 2005)**

At the time of the previous application the threshold for affordable housing was set at 25 dwellings. This has been revised downwards and the provision of affordable housing in new developments now relates to sites of at least 1 hectare or 15 dwellings.

### **Walsall Local Development Framework Black Country Joint Core Strategy**

Moving towards adoption. Key policies are:

CSP4: Place Making - The environmental transformation of the Black Country is one of the fundamental principles of the renaissance agenda. 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.

ENV2: All proposals should aim to sustain and reinforce special character and conserve the historic aspects of the following locally distinctive elements of the Black Country

ENV 3 Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits by demonstrating that the following aspects of design Design and Access Statements reflecting their particular Black Country and local context:

1. Implementation of the principles of "By Design" to ensure the provision of a high quality network of streets, buildings and spaces;

2. Implementation of the principles of "Manual for Streets" to ensure urban streets and spaces are designed to provide a high quality public realm and an attractive, safe and permeable movement network;
3. Use of the Building for Life criteria for new housing developments, to demonstrate a commitment to strive for the highest possible design standards, good place making and sustainable development, given local circumstances;
4. Meeting Code for Sustainable Homes Level 3 or above for residential development and BREEAM Very Good or above for other development, or the national requirement at the time of submitting the proposal for planning permission, to demonstrate a commitment to achieving high quality sustainable design;
5. Consideration of crime prevention measures and Secured By Design principles.

### **Regional Strategy for the West Midlands**

The Regional Strategy was revoked by the Secretary of State in a Parliamentary Statement of 6 July 2010 but this has been reversed in a recent High Court decision.

The Government considers that its proposed abolition should be a material planning consideration, although its abolition will require primary legislation and is likely to take at least a year. The West Midlands RSS is therefore part of the statutory development plan, with the saved policies of the UDP and decisions should be made in accordance with it unless material considerations dictate otherwise.

### **National Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system.

PPS3 Housing supports the re-use of previously developed sites for housing

PPG13 Transport encourages a decrease in the use of the private car through the sustainable location of development

PPS23 Planning and Pollution Control and PPS 24 Planning and Noise seek to ensure a satisfactory residential environment for new residential development

### **Consultations**

**Transportation:** No objection

**Pollution Control Contaminated Land Team:** No objection. Recommends conditions requiring a site investigation/remediation.

**Pollution Control Scientific Team:** No objection. Recommends conditions regarding noise mitigation.

**Crime Prevention Design Officer:** No objection.

**National Grid:** No objection

**Education Walsall:** No objection. A financial contribution towards education is required.

### **Representations**

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None

### **Determining Issues**

Whether there has been any change of policy or circumstance since the original approval which would prevent the approval of an extension of time to implement it.

### **Observations**

The policies and documents which have been adopted or progressed since the determination of 07/1156/FL/W6 all support the principle of residential development on the site. There have been changes to the threshold for affordable housing which means that this is now a requirement of the development.

Since this is a new planning application it would be appropriate for the affordable housing requirement to be incorporated into a new Section 106 obligation together with requirements for open space and education contributions.

Subject to the completion of this obligation there are no changes in policy or circumstance since the original approval which would prevent the approval of an extension of time to implement it. Three years is considered to be a reasonable extension of time. The other conditions imposed on 07/1156/FL/W6 remain.

### **Summary of Reasons for Granting Planning Permission**

This application relates to the extension of time to implement an existing planning permission reference 07/1156/FL/W6 on the site. It is considered that an additional three years would be reasonable. The Development Plan continues to be supportive of the proposal and there has been no materials change in circumstance which would create a reason not to extend the permission. The approval of this application would be in accordance with policies 2.2, GP1, GP2, GP3, GP7, 3.6, GP7, ENV32, ENV33, ENV40, JP7, 6.3, H3, H9, H10, 7.1, 8.8, T7, T13, and LC1 of Walsall's adopted Unitary Development Plan and adopted Supplementary Planning Documents relating to Urban Open Space, Education and Designing Walsall.

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

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

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

**Note for Applicant: The remaining conditions of 07/1156/FL/W6 still apply.**

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

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

**Application Number:** 10/1201/FL

**Application Type:** Full application

**Applicant:** Ideal Care Homes

**Proposal:** Proposed 50 bedroom care home  
for the elderly.

**Ward:** Blakenall

**Case Officer:** Alison Deakin

**Telephone Number:** 01922 652487

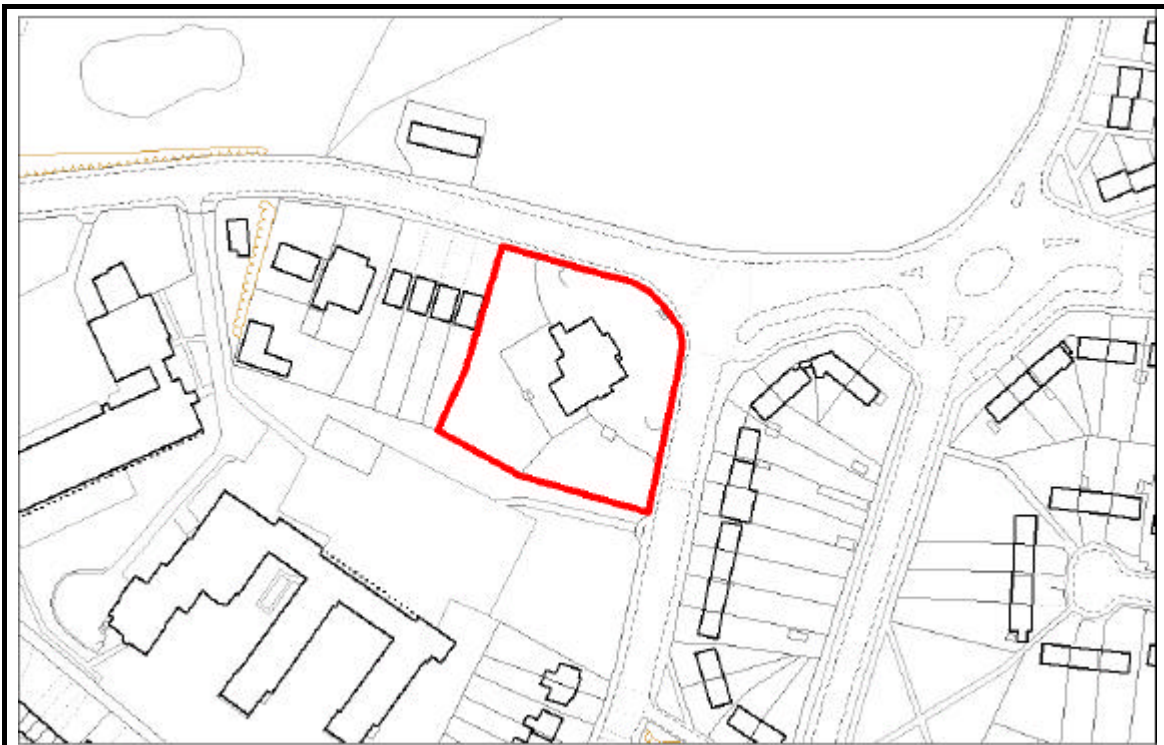
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** LNT Construction

**Location:** 294 HARDEN ROAD (FORMER  
SWAN & CUES P.H.), HARDEN ROAD,  
WALSALL, WS3 1RQ

**Expired Date:** 17/12/2010

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



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### **Application and Site Details**

The proposal is for erection of a 50 bedroom care home for the elderly on the site of the former Swan & Cues Public House. The public house was demolished following the grant of planning permission for erection of 24 dwellings in 2006. The proposed care home building wraps around the junction of Harden Road and Coal Pool Lane and is three storeys high. Vehicular access is off Coal Pool Lane with parking for 14 vehicles at the rear of the building. There is a detached bin store adjacent to the southern end of the care home building and garden store, meter cabinets and cycle storage at the rear of the parking area.

The building is set back 9.8m from Harden Road and 10.8m from Coal Pool Lane. The wings are 14.2m deep at their widest point but the centre of the building is deeper at 19.8m as this includes the communal lounge/dining room areas. The en-suite bedrooms are located on either side of a central corridor. There are also communal lounge areas located in an extension on the northern end of the building. The building is brick and render with gable features and a hipped roof. There are full height glazed panels at the front corner.

The plans indicate new tree planting around the perimeter of the site in front of the building and retention of trees along the western and southern boundaries. The existing brick wall around the front of the site is retained with new 1800mm high railings on top to enclose the front amenity space.

The site has the remains of the public house foundations and car parking areas and is presently fenced off for security purposes and is a higher ground level than the adjacent highways. There is a tract of land to the rear of the site which is presently overgrown and contains a number of significant trees. There was formerly a group of 12 Poplar trees on this land covered by a Tree Preservation Order (16/1977). These were felled without prior consent and a successful prosecution for these illegal works has resulted in a substantial fine to the offender (this was not the current applicant). Beyond the southern boundary of the site are Edgar Stammers Primary School playing fields which are at a higher ground level than the application site. There are residential properties in Coal Pool Lane and Harden Road opposite and adjoining the site which are terraced, semi-detached and detached houses.

A Design & Access Statement, Landscape Statement & Lighting Statement, Planning Statement, Arboricultural Report, Sustainability & Energy Statement, Transport Statement & Travel Plan and Phase 1 Geo-Environmental Site Assessment have been submitted in support of the proposals.

The Design & Access Statement concludes that the proposals will have a positive impact on the area by redeveloping a cleared site and offer a community facility beneficial to the area that will fulfil a local care need and create jobs. The statement considers that the scale and design is sympathetic to the area.

The Landscape Statement explains that the layout provides landscaped amenity space around the building that provides visual amenity for residents and new tree planting is proposed.

The Lighting Statement explains that appropriate lighting is an integral part of the design to create a safe environment.



The Planning Statement explains that the site is previously developed brownfield site in an urban location and how the proposals therefore accord with national and local policy.

The Arboricultural Report states the remaining Poplar trees are not suitable for long term retention and some trees are recommended for removal for arboricultural reasons. All works near to trees should be carried out with care in accordance with an arboricultural method statement.

The Sustainability & Energy Statement discusses the site layout, design and materials, energy and renewable energy proposals, biodiversity and community involvement.

The Transport Statement explains that the proposal result in a decrease in trip generation compared to the previous public house and consequently a reduction in the traffic impact on the surrounding highway network. The level of parking has been determined by the applicant's experience of operating similar sites elsewhere and despite the low level is sufficient for their needs. The site is in a sustainable location and a Travel Plan is provided.

The Travel Plan objectives are to minimise the number of car journeys from the site, reduce reliance on the private car by raising awareness of alternative modes of transport, promote walking, cycling, public transport and car sharing and achieve a modal shift in the manner of travel.

The Phase 1 Geo-Environmental Site Assessment concludes that there is no significant contaminated land associated with the site but recommends that geotechnical investigations are completed to determine foundation design and drainage characteristics.

### **Relevant Planning History**

06/1345/OL/E11 – Outline: Erection of 24 dwellings – Granted subject to conditions and a S106 Agreement – November 2006. The obligations within the Agreement are for commuted sums towards secondary school education, urban open space and mitigation for loss of 12 trees covered by a TPO.

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

### **Saved policies of Walsall Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

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

ENV17, ENV18, 3.64: encourages new planting as part of landscape design and seeks to protect existing trees and hedgerows.

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

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted, particularly in locations such as visually prominent sites. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

Regeneration, Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG

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

ENV40: Proposals for development will be encouraged to incorporate measures for conservation of water resources such as the use of water efficient devices, the on site recycling of water (including grey water systems).

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

H5: Promotes provision of housing for people with special needs including the elderly.

H6: Nursing Homes and homes for the elderly will normally be appropriate in residential areas. Private space should be available for residents away from parking areas. Restrictions on the number of bed spaces may be imposed.

T7: All development should satisfy the car parking standards set out in Policy T13.

T13: car parking standards

4 bedroom houses and above 3 spaces per unit

## **Supplementary Planning Documents**

### **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.

DW1: New development should seek to simultaneously meet environmental, economic and community needs without compromising the needs of future generations

DW3: All new development must be designed to respect and enhance local identity

DW4: Attractive spaces within new development should be defined or enclosed by buildings, structures and/or landscape

DW6: New development should contribute to creating a place that has a clear image and identity and is easy to understand

DW8: New development should contribute to creating flexible and adaptable places that can easily change over time

DW9: New development must seek to ensure it creates places with attractive environmental quality. A contribution towards public art is required.

DW10: New development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment

Annexe E: 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.

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

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.

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted.

### **Regional Strategy for the West Midlands**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSS's, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

### **National Policy**

PPS1: Emphasises the need to reject poor design and the need for sustainable development.

PPS3: Promotes sustainable development the need for well designed new housing developments. Consideration of design and layout must be formed by the wider context.

PPS9: Seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology and contribute to rural renewal and urban renaissance.

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

### **Consultations**

**Transportation** – No objections. Policy T13 requires a maximum of 17 spaces plus 10% disabled bays for a Residential Care home. The proposals show 12 spaces plus 2 disabled bays, 5 spaces below the maximum requirement. However, the level of proposed parking is justified within the Transport Statement which explains there is likely to be a decrease in overall trip generation and flows compared to the former public house use.

The Transport Statement also provides information on staff numbers and the number of staff expected at the site at any one time is 14 but it explains that no restrictions on visiting times will help in reducing peak traffic movements.

A Staff Travel Plan has been provided that will aim to reduce reliance on the motor vehicle by providing targets and incentives for using alternative sustainable modes of travel.

Given this information the proposed development will not have a significant impact on the local highway network.

**Pollution Control (Contaminated Land)** – No objections.

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**Pollution Control (Scientific Team)** - No objections but recommend a condition to safeguard the amenity of surrounding occupiers during construction and demolition phases and later, from noise that may arise from air conditioning and building ventilation plant etc.

**Environmental Health** – No objections in principle but recommend a condition in relation to odour control.

**Ecology** – No objections subject to provision of a landscaping scheme. The existing hedges are of value to wildlife and should be retained and enhanced. Some tree planting should also be implemented to compensate for previous illegal loss of protected trees.

**Arboricultural Officer** – No objections. Whilst there is some tree loss to accommodate the proposals the majority of the more significant trees on site are shown to be retained.

**Urban Design** – No objections in principle to the building or elevation design. However, the amenity space for residents is lacking in terms of space and quality/usability. The bin store is also in a visually prominent location. The developer should make provision for public art and a condition would be required to secure this.

**Police Architectural Liaison Officer** – No objections.

**Fire Service** – No objections.

**Severn Trent Water** – No objections subject to provision of drainage details.

### **Public Participation Responses**

One objection has been received which is summarised as follows:

- Is there adequate off-street parking?
- The road is already congested as it is near a school
- Parking outside properties causes inconvenience

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

### **Determining Issues**

- Principle of Care Home Use
- Layout and Design
- Relationship with trees
- Relationship with neighbouring properties
- Access and Parking
- Public Art provision

### **Observations**

#### **Principle of Care Home Use**

Planning permission for redevelopment of the site for residential purposes was granted in 2006. The loss of the pub as a community facility and the principle of a residential development is therefore already established. Policies H5 and H6 of the UDP promote provision of housing for people with special needs including the elderly and state these uses will normally be appropriate in residential areas. The principle of

developing a care home in this established residential area is therefore in accordance with planning policy and is acceptable.

### **Layout and Design**

The proposal is for a building that faces both roads providing surveillance of the public realm and giving the opportunity for residents to take advantage of views of the open space opposite in Harden Road. The scale of the building is considered appropriate given that this is a landmark site marking the junction of two roads and the feature glazed panel at the junction will enhance the corner.

The public and private space is clearly defined by the proposed railings and a secure parking area and limited private amenity space located at the rear of the building. The introduction of landscaping and tree planting in front of the building will also enhance the setting of the building and provide visual amenity for residents. As these enclosed landscaped areas are above the level of the adjacent road they will provide some additional private amenity space. The residents will also gain benefit from being so close to the open space opposite and there is a pedestrian crossing on Harden Road to gain access to this space.

Given the orientation of the building there will be good sunlight throughout the day to different parts of the building that will benefit the occupiers. The communal lounges are located at the corner of the building which is also benefits from good daylight.

The position of the building is set back from the boundary, respects the position of adjacent dwellings on Harden Road and gives breathing space between the building and the footway. Despite being three storeys high the scale and massing of the building are considered appropriate. The bin store has been repositioned so that it appears as if attached to the building and details of its design can be secured through condition.

### **Relationship with trees**

The proposed building retains at least a 3.4m separation to the western boundary of the site where there is a group of existing trees. There are also retained trees within a landscaped strip along the southern and western boundaries. Although some trees are to be removed adjacent to the western boundary to accommodate parking spaces these would not be visible from the street scene as they are behind the proposed building. The inclusion of new tree planting in front of the building will provide some compensation for the loss of trees at the rear.

The loss of 12 protected trees previously on the site has already been the subject of action against the offender by successful prosecution. It is considered that the current applicant has shown how compensatory tree planting can be accommodated on site to mitigate for the loss of those trees. The earlier permission for residential development was made at the time when the trees had just been felled and a S106 Agreement was completed to ensure compensatory planting. However, as there has been a successful prosecution there is no longer a need for a S106 Agreement to secure a commuted sum for compensatory planting.

### **Relationship with neighbouring properties**

The position of the building respects separation distances to dwellings opposite in Coal Pool Lane which are 30m away. Despite being positioned 7.2m in front of the dwelling at 292 Harden Road there is an 8.4m gap between the buildings and the position of the care home will not contravene the 45 degree code so does not adversely affect the outlook or privacy of this neighbouring property.

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The car park at the rear of the building is in broadly the same location as the former pub beer garden but is considered to create fewer disturbances to neighbours as the care home will result in less traffic. There is also a buffer of landscaping and trees over 5m in depth proposed around the rear perimeter of the site that will protect neighbours outlook and privacy.

### **Access and Parking**

There are 12 car parking spaces proposed plus 2 disabled bays and provision for an ambulance/ drop off zone. Although this is 5 spaces below the maximum requirement recommended in policy T13 the level of proposed parking has been justified within the Transport Statement and this is not disputed by Transportation. The proposals will result in a decrease in trip generation and flows compared to the former public house use. A Staff Travel Plan has also been provided to encourage alternative modes of travel. The parking is therefore considered adequate to serve the needs of the proposals. The proposed development will not have a significant detrimental impact on the local highway network.

Despite objections about parking congestion near the school and outside residential properties the developer has demonstrated that there will be adequate parking on site to serve the needs of the development and so there should be no need for visitors or staff to park on the road. Nevertheless existing parking restrictions will be maintained.

The proposals require relocation of a traffic calming road hump in Coal Pool Lane near to the proposed new access. This should be at the developer's expense and a condition is recommended to secure this.

There are clear pedestrian routes around the edges of the building and paths to the parking area which ensure pedestrian safety.

### **Public Art Provision**

Under the requirements of policies GP3 and ENV34 of the UDP and DW9 of SPD: Designing Walsall a contribution is required towards provision of public art. However, provision of public art in this instance is to be secured through planning condition.

### **Summary of Reasons for Granting Planning Permission**

The principle of redevelopment for residential purposes is established by the earlier permission and as a care home is residential in character and is also acceptable.

The design and position of the building respects the surrounding housing and maintains privacy and outlook for neighbouring properties. There is separation to retained trees around the perimeter of the site and despite removal of some trees there is compensatory planting in front of the building. The 12 protected trees previously felled have previously been dealt with by a successfully prosecution hence there is no longer a need to secure a commuted sum for replacement planting.

Parking is below the recommended standard but the applicant has demonstrated that it is adequate to serve the needs and the Travel Plan provided will encourage staff to use alternative modes of travel. As fewer trips are envisaged there will be no significant effect on the highway network or on-street parking in the vicinity.

Public Art provision can be secured by condition.

In light of the above the proposals are considered to accord with the aims of saved policies GP1, GP2, GP7, 2.2, 3.6, 3.7, 3.16, 3.64, 3.116, 3.117, ENV17, ENV18, env23, ENV32, ENV33, ENV40, 6.3, H3, H5, H6, H10, T7 and T13 of Walsall Unitary Development Plan and Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment.

**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 works hereby approved shall only be carried out in accordance with details contained within the following approved plans and specifications except insofar as may be otherwise required by other conditions to which the permission is subject;

- Location Plan (WS3 1RQ-A-01) received 8/9/10
- Site Plan (WS3 1RQ-A-03B) received 22/11/10
- Floor Plans (WS3 1RQ-A-04) received 8/9/10
- Elevations (WS3 1RQ-A-12) received 8/9/10
- Topographical Survey (WS3 1RQ-A-02) received 8/9/10
- Site Sections (WS3 1RQ-A-06) received 8/9/10
- Site Sections (WS3 1RQ-BESP-A-01)
- Street Scene (WS3 1RQ-A-13) received 8/9/10
- Provisional Landscaping (WS3 1RQ-A-11) received 8/9/10
- Arboricultural Report prepared by JCA Limited (9725/AW) received 8/9/10
- Design & Access Statement prepared by LNT Construction received 8/9/10
- Landscaping Statement & Lighting Statement prepared by LNT Construction Limited received 8/9/10
- Planning Statement prepared by LNT Construction Ltd received 8/9/10
- Ideal Care Homes Guide received 8/9/10
- Sustainability & Energy Statement prepared by LNT Construction received 8/9/10
- Transport Statement & Travel Plan prepared by LNT Construction received 8/9/10
- Phase 1 Geo-Environmental Site Assessment prepared by REC received 8/9/10
- Drainage & Water Report received 8/9/10

*Reason:* In order to define the permission and ensure the satisfactory development of the application site.

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

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

4. Development shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details before the development is first brought in to use and retained thereafter.

*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.

5. No development shall be carried out until full details of the proposed boundary treatment of the site including the new railings have been approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

*Reason:* To ensure the satisfactory appearance of the development and to safeguard the amenities of occupants of nearby properties.

6. Prior to the commencement of the development full details of the design of the bin store shown on drawing WS3 1RQ-A-03B shall be submitted to and approved in writing by the local planning authority and retained in accordance with the agreed details thereafter.

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

7. No development shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development and to safeguard the amenities of occupants of nearby properties.

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

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

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

9. No development shall be carried out until a plan indicating the design and location of protective guards or fencing to protect all trees or hedges to be retained has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before any site preparation, or construction work is undertaken and shall be retained until the development is finished and all other equipment and installations have been removed from the site, the protection area shall be kept clear of all contractors' materials and machinery at all times.

*Reason:* To safeguard the trees and trees with protection orders on the site.



10. Prior to the development first coming into use, all vehicle manoeuvring and parking areas shall be fully consolidated, hardsurfaced and drained and the parking bays and hatched zones shall be clearly demarcated on the ground. These areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory completion and operation of the development.

11. Prior to the development first coming into use, the existing redundant footway crossings in Coalpool Lane and Harden Road shall be reinstated back to full kerb height to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

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

12. Prior to the commencement of the development, full engineering details of the repositioning of the existing speed humps in Coal Pool Lane, including any necessary alterations to the existing parking restrictions and road markings, shall be submitted for approval in writing by the Local Planning Authority. The approved works shall be fully implemented prior to the development first coming into use. Any amendments to the existing Traffic Regulation Orders required as a result of any alterations to the existing parking restrictions on Coal Pool Lane as a consequence of the development, shall be confirmed and implemented prior to the development coming into operation.

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

13. Prior to the development first coming into use, full details of the proposed cycle storage facility shall be submitted to the Local Planning Authority for approval in writing. The approved details shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory completion and operation of the development and to encourage the use of sustainable modes of travel.

14. Prior to the commencement of the development a suitable odour control specification which is in accordance with the Department of Environment Food and Rural Affairs (DEFRA) Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems, shall be submitted to the Local Planning Authority for approval. This shall include details of the design and position of the equipment, and the discharge stack shall discharge the extracted air not less than 1 metre above the roof ridge. The approved details shall be maintained and serviced in accordance with the manufacturer's instructions to ensure the performance levels are always achieved.

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

15. Within 6 months of the grant of planning permission, a public art statement shall be submitted that demonstrates the following:

- A description of the relationship between the Public Art Statement and the Local Authorities' public art policies and/or strategies

- Details of the appointed artist(s) contribution to defining the development's Masterplan at inception stage
- Description(s) of work that will be realised through the collaboration between the appointed artist, other artists, architects and/or other design professionals, including public art consultant(s)
- Timescales for the development and implementation of all the public art
- Details of ownership, maintenance and de-commissioning of public art
- Budgets relating to all of the above criteria

The artwork shall be carried out in accordance with the public art statement.

*Reason:* To comply with policy ENV34 of the UDP and Policy DW9 of Designing Walsall SPD.

16. No external lighting or floodlight shall be installed at the premises without the prior written approval of the Local Planning Authority.

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

17. Plant, machinery or equipment used for the purpose of providing building 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 protect the amenities of surrounding properties.

18. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 16.00 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:* In the interests of adjacent residential occupiers.

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

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

**Application Number:** 10/1166/FL

**Application Type:** Full application

**Applicant:** SEP Properties

**Proposal:** Residential apartment block  
comprising of 17 X 1 Bedroom flats

**Ward:** Bloxwich West

**Case Officer:** Alison Deakin

**Telephone Number:** 01922 652487

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

**Agent:** Paul Lees Designs

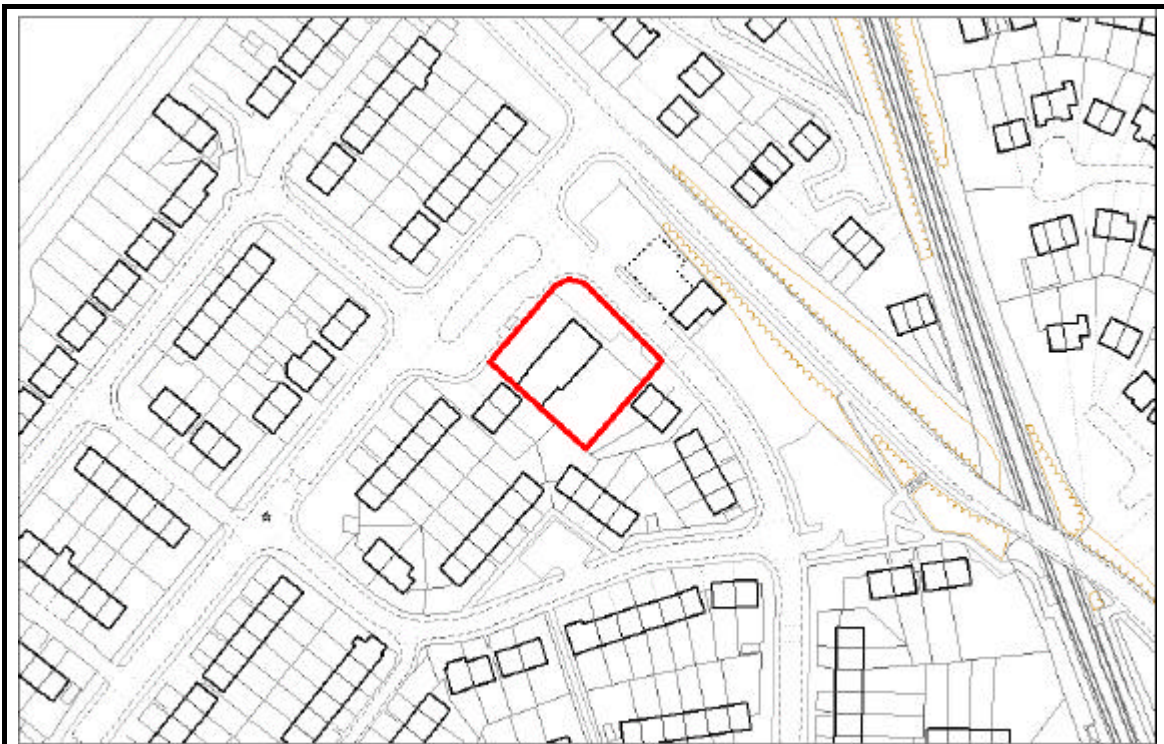
**Location:** The Eagle Public

House, Cresswell

Crescent, Bloxwich, Walsall, WS3 2TS

**Expired Date:** 17/12/2010

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



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to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

### **Application and Site Details**

The proposal is to demolish the existing public house and erect an apartment block of 17 x 1 bed flats with 13 parking spaces (including 2 disabled spaces) in front of the building and shared private amenity space at the rear. The proposed apartment block extends along Tintern Crescent and Cresswell Crescent and is in three segments adjoined by staircase lobbies. Cycle storage is available within each of the lobbies and a separate motorcycle store is located adjacent to the eastern boundary of the site. Deciduous trees are proposed along both frontages and at the corner of the site interspersed between parking spaces.

The proposed building is three storeys high of modern design with a combination of flat and shallow mono-pitch roofs 9m high. The elevations are render and brick with glazed panels to the lobbies. The Tintern Crescent elevation is 28.6m long and the Cresswell Crescent elevation 27.4m long. The maximum depth of the block is 10.1m.

The premises are located at the junction of Cresswell Crescent and Tintern Crescent and front a separate access road off Cresswell Crescent that is also as a bus terminus. The surrounding area is residential in character comprising two storey housing with the exception of a petrol filling station with shop opposite in Tintern Crescent. The existing public house is predominantly two storeys with single storey extensions at the side and rear. Car parking is available to the front and side of the building and a beer garden at the rear.

The site area is 1258 sqm (0.12 hectares) which equates to a residential density of 141 dwellings per hectare.

The Design and Access Statement advises the proposal is to make available low cost rented social accommodation. It acknowledges that the scale of the building is increased compared to the public house but it is set away from the boundaries and there are three storey buildings in the locality. The external thresholds provide level access and despite there being no lift to the upper floors ambulant disabled access stairways will be provided throughout the building. The Statement also describes measures to achieve energy conservation.

### **Relevant Planning History**

10/0339/OL – Outline: Residential apartment block (all matters reserved) – Withdrawn August 2010. This had an indicative layout of 18 x 1 bed flats in a perimeter block with 17 car parking spaces in front of the building and amenity space at the rear.

09/0928/OL - Outline: Erection of 3 storey building comprising 5 no. retail units at ground floor and 14 no. 1 bed flats at first and second floors – access, appearance, layout and scale to be considered – Refused 22/12/09 for 7 reasons broadly relating to the following: - (1) no evidence to justify loss of public house (2) no evidence to demonstrate a local need for shops in out-of-centre location (3) failure to achieve high quality design – over-dominant building, poor elevations, lack of surveillance (4) lack of amenity space for flats and poor residential environment (5) inadequate off-street parking and conflict with bus stop (6) lack of transport statement (7) lack of provision for urban open space

BC61275P – Erection of 2 semi-detached dwellings and alterations to existing car park – Granted subject to conditions July 2000. This is the pair of houses at 69/71 Tintern Crescent which were built on part of the car park at The Eagle.

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

**Saved policies of Walsall Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

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

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

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

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

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

3.16, GP7, ENV32, H10 & 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. 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.

ENV34: Requires provision of public art to enhance the quality of the public realm

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

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

H4: Seeks provision of affordable homes. The Council will normally negotiate with developers for 25% of total dwellings to be affordable homes on sites suitable for such provision.

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

7.1: Seeks to promote an efficient highway network;

T4: Stringent traffic calming measures will be used to deter through traffic and reduce traffic speeds and ensure the environment and safety of these streets is protected.

T11: Residential development should be within walking distance of a range of facilities.

T12: Residential development should be within 400m of a bus stop.

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

Flats with communal parking: 1.5 spaces per unit

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

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: Proposals involving loss of community facilities, including public houses, will only be permitted if it can be demonstrated that there are existing facilities in an

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equally or more convenient location, a replacement facility could be provided, there is no longer a need for the facility or it would not be possible to retain the facility because it is not financially viable.

### **Supplementary Planning Documents**

#### **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.

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 to respect and enhance local identity;

DW4: Attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

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.

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

#### **Supplementary Planning Document for Urban Open Spaces**

Identifies the requisite local standards and contributions that developers will be required to make towards provision and improvement of open spaces.

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

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

#### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted.

#### **Regional Strategy for the West Midlands**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSS's, including the West Midlands RSS, have been reinstated as of 10

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November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

### **National Policy**

PPS1: Emphasises the need to reject poor design and the need for sustainable development.

PPS 3: Encourages reuse of previously-developed land for housing. The planning system should deliver well-designed housing built to a high standard and in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure. Paragraph 59 states density is a measure of the number of dwellings which can be accommodated on a site or in an area. The density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. If done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.

PPG13: Seeks to minimise the use of the car by the sustainable location of development.

### **Consultations**

**Transportation** – No objections. The parking requirement for flats is based upon 1.5 spaces for flats with communal parking which equates to a maximum requirement for 26 spaces. The proposal has 13 spaces including 2 disabled spaces which is 65% provision. However, taking into account the following factors the level of parking is considered acceptable;

- the proposed flats are 1 bed and hence are likely to be marketed to lower car ownership groups,
- there is a bus stop directly outside the site with frequent services to the town and district centre,
- the site is located within 750m walking distance of the local centre in accordance with Policy T11 and within 300m from Bloxwich North railway station in accordance with Policy T12,
- secure cycle and motor cycle storage is provided,
- the site is in a predominantly residential area with traffic calming measures in place and no parking restrictions,

**Pollution Control (Scientific Team)** – No objections.

**Pollution Control (Contaminated Land)** – No objections subject to a desk study and site reconnaissance being carried out to identify potential for contaminants and/or ground gases likely to be present on site. Should these be identified a ground contamination and site investigation should be carried out to identify risks to future occupants or structure on the site. Conditions are recommended to address these concerns.

**Environmental Health** – No objections.

**Landscape** – No objections. The planting could be vulnerable to damage from vehicles and pedestrian trampling as there is no boundary fencing shown.

**Housing Strategy** – The preference is for 2 bed flats as the Housing Needs and Demand Study Update (2007) states that “commitments for 1 bed owner-occupier properties in Walsall exceeded the shortfall”. As the development is over the 15 unit threshold 4 affordable social rented units should be provided. As the developer claims the units will all be affordable they must demonstrate that the units are affordable within the meaning of the PPS3 definition as follows:

Affordable housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. It should meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices. It should also include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

**Urban Design** – No objections. However, provision for public art is required which can be secured through condition.

**Police Architectural Liaison Officer** – No objections. The cycle and motorcycle storage areas and gates should be of robust construction, internal mountings should be fixed to the ground and gates should be at least 1.8m high to prevent acting as a climbing aid.

**Walsall Children’s Services – Serco** – No objections. The development is for 1 bed flats hence there is no requirement for provision of a contribution towards education.

**Fire Service** – No objections.

**Centro** – No objections. The site is served by the 301 bus which operates a 6 minute frequency. The proposals should ensure they do not adversely affect the bus shelter or adjacent bus terminus.

**Severn Trent Water** – No objections subject to provision of details of drainage.

### **Public Participation Responses**

One letter of objection has been received which is summarised as follows: -

- Three storey building is too high and overlooks houses and gardens in Cleeve Road
- A two storey building would be more appropriate
- Loss of daylight/sunlight
- Overshadowing
- Loss of outlook/view
- Overlooking/loss of privacy
- Design, visual appearance of the buildings out of keeping with the surrounding properties

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



## **Determining Issues**

- Principle of development
- Layout and design
- Relationship with surrounding occupiers
- Access and parking
- Provision for Urban Open Space, Affordable Housing & Public Art

## **Observations**

### **Principle of development**

The proposal offers the opportunity to make better use of urban land, efficient use of the existing infrastructure and reclaim a derelict site in accordance with policies GP1 and ENV14. On this basis proposed redevelopment of this derelict site is considered acceptable in principle.

The proposal would result in the loss of the existing public house as a community facility. However, it is currently closed, is becoming vandalised and no objections have been received regarding the loss of the public house. Despite the fact that no evidence has been provided by the applicant to demonstrate how the terms of policy LC8 have been met it is considered that there is no prospect of the public house returning to a valid use and the redevelopment of the site will offer a benefit to the regeneration of this part of the borough.

### **Layout and design**

The position of the building wraps around the highway junction broadly in line with the position of adjoining houses in Cresswell Crescent and Tintern Crescent, 6m from the back of footway. The parking provision in front of the building is convenient and well observed by the residents of the flats. The increased level of activity at the site will improve surveillance of the street. Although the landscape officer considers the trees may be vulnerable to trampling if not protected by fencing there are generous spaces for the trees to grow away from pedestrian pathways or vehicle parking and it is considered that inclusion of fencing would be too imposing at this junction.

The layout clearly defines public and private space as shared private amenity space is located at the rear of the building with gated access for residents. This is a usable lawned area with pathways and a central feature yet to be determined. Evergreen trees are proposed to the rear boundary plus a 2m high close boarded fence around the perimeter. The amenity space is approximately 350m<sup>2</sup> which equates to 20.5m<sup>2</sup> per flat as recommended in SPD: Designing Walsall. The separate building for motorcycle parking is located against the eastern boundary but is positioned behind an 800mm brick wall with 1000mm railings on top and a gate so is secure.

The objector considers the design and visual appearance of the building is out of keeping with the surrounding properties and that a two storey building would be more appropriate. However, paragraph 59 of PPS3 states the density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. If done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.

The proposal is for a modern building design to reflect current building design yet the scale and massing is considered appropriate in the surrounding context. On balance it is considered that the three storey building does not adversely affect the character

of the surrounding area and offers the opportunity to make more efficient use of derelict land in the urban area.

### **Relationship with surrounding occupiers**

There is a maximum height difference of 1.2m between the new three storey building and adjacent houses at 71 Tintern Crescent and 162 Cresswell Crescent. However, there is a gap of over 5m between the building and 71 Tintern Crescent and 3.6m between the two-storey part of the building and 162 Cresswell Crescent. The height of the building, although three storeys is a comparable height to surrounding housing and meets all the separation distances so should not appear over-dominant from surrounding houses.

There is 24m between the apartment block and rear elevation of the nearest property 8 Cleeve Road at the rear. There is 34m between the building and gable wall of 10 Cleeve Road at the rear and 35m between the front elevation and properties opposite in Cresswell Crescent. These separation distances comply with Council policy and in the circumstances the development has no adverse impact upon loss of daylight, overshadowing, or loss of privacy. Loss of a view over greater distances is not a material consideration.

The position of the building does not breach the 45 degree line from nearest residential properties and so the development will not be prominent in the outlook from surrounding properties.

### **Access and parking**

There are 13 parking spaces shown in front of the building including 2 disabled parking spaces. Each parking space is of sufficient size and is convenient for use by the occupiers as they are immediately adjacent to the access. Although policy T13 requires 26 spaces and the proposal only achieves 65% of this there are other factors which it is considered outweigh this shortfall. The flats are only 1 bed and likely to be marketed to lower car ownership groups, the site is close to the local centre, bus stop and railway station, secure cycle storage and motorcycle storage is included to encourage alternative means of travel and there are no parking restriction in the area so limited on-street parking would be available. There is also a public car park to the south-east of the site in Tintern Crescent.

On balance the level of parking is considered appropriate given that the scheme is in a sustainable location and there is alternative opportunity for travel.

The position of the parking on Cresswell Crescent utilises the existing dropped kerbs that are currently used for the pub car park. In the circumstances the relationship to the adjacent bus stop is no different and the proposals will not adversely affect this.

### **Provision for Urban Open Space, Affordable Housing & Public Art**

Under the requirements of policies GP3, LC1 and H4 of the UDP and Supplementary Planning Documents on Urban Open Space and Affordable Housing the development would attract the need for a S106 Agreement to cover Urban Open Space (contribution of £11,645.00) and Affordable Housing (25% on site provision – 4 units) in accordance with the thresholds and criteria specified in the relevant supplementary planning documents.

The developer has been advised of these requirements and has agreed to enter into a S106 Agreement for urban open space provision. However, the developer is

proposing to become a social landlord to provide four of the apartments at below market rents as affordable housing.

Under the requirements of policies GP3 and ENV34 of the UDP and DW9 of SPD: Designing Walsall a contribution is required towards provision of public art. However, provision of public art in this instance is to be secured through planning condition.

### **Summary of Reasons for Granting Planning Permission**

The principle of redevelopment of the site for residential purposes makes better use of urban land and reclaims a derelict site to the benefit of the area. The loss of the vacant public house which has been subject to vandalism and has little prospect of returning to a valid use is accepted as it will offer benefits to the regeneration of the area.

The layout and design of the proposals are acceptable as the building addresses both streets; there is clearly defined public and private space and convenient parking provided in front of the building and sufficient amenity space for residents. Despite the modern appearance of the building and three storey height the scale and massing are appropriate and do not compromise the quality of the local environment.

There is no adverse impact upon neighbour's amenity as there is adequate separation between houses and the buildings are of comparable height. For these reasons there is no adverse effect on daylight, overshadowing, loss of privacy or outlook for surrounding neighbours.

Although there is only 65% parking provision the site is in a sustainable location close to the local railway station and there is cycle and motorcycle parking storage to encourage alternative means of travel. The apartments are only one bed units and unlikely to be occupied by large households. There is no adverse effect upon the bus stop and parking utilises existing drop kerbs.

The developer has agreed to enter into a S106 Agreement to ensure provision of urban open space and is seeking to become a registered social landlord to ensure provision of 4 affordable units in perpetuity at the site. Public Art is to be secured through an appropriate condition.

In light of the above the proposals are considered to accord with the aims of policies GP1, GP2, GP3, GP4, GP7, 2.2, 3.6, 3.7, 3.16, 3.116, 3.117, ENV14, ENV18, ENV32, ENV33, ENV34, ENV40, 6.3, H3, H4, H9, H10, 7.1, T4, T11, T12, T13, 8.8, LC1 and LC8 of Walsall Unitary Development Plan and Supplementary Planning Documents for Affordable Housing, Urban Open Space and Designing Walsall.

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

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

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

2. The works hereby approved shall only be carried out in accordance with details contained within the following approved plans and specifications except insofar as may be otherwise required by other conditions to which the permission is subject;

- Location Plan (10.035.01) received 01/09/10
- Block Plan (10.035.02) received 01/09/10
- Proposed Ground Floor Plan (10.035.03) received 01/09/10
- Proposed 1<sup>st</sup> & 2<sup>nd</sup> Floor Plans (10.035.04) received 01/09/10
- Proposed Roof Plans (10.035.05) received 01/09/10
- Outer Elevations (10.035.06) received 01/09/10
- Inner Elevations (10.035.07) received 01/09/10
- Site Sections (10.035.08) received 17/09/10
- Design & Access Statement prepared by SEP Properties Ltd (ref:10027 dated: 15.11.2010) received 15/11/10

*Reason:* In order to define the permission and ensure the satisfactory development of the application site.

3. 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 development shall be completed with the approved details and retained as such.

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

4. No built development shall be carried out until samples of facing materials to be used in external walls and roofs of the development and the surrounding garden walls and other structures and boundary treatments (including details of the gates), has been submitted to and approved in writing by the Local Planning Authority.

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

5. 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.

6. The development hereby permitted shall not be brought into use until the accesses, turning area's and parking facilities shown on the approved plan have been consolidated, surfaced, drained, and otherwise constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* To ensure the satisfactory development of the site and ensure highway safety

7. Prior to the first occupation of the development, the new footway crossings shall be installed, to a specification to be first agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements. There shall be sections of full height kerbs between the blocks of parking bays in Tintern Crescent to ensure there is adequate segregation for pedestrians.

*Reason:* To ensure the safe and satisfactory completion and operation of the development and in the interests of highway safety.

8. Prior to the first occupation of the development full details of the species of tree planting and landscaping shall be submitted to and approved in writing by the Local Planning Authority and thereafter retained in accordance with the agreed details

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unless the Local Planning Authority agrees in writing to any variation. 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.

9. Within 6 months of the grant of planning permission, a public art statement shall be submitted that demonstrates the following:

- A description of the relationship between the Public Art Statement and the Local Authorities' public art policies and/or strategies
- Details of the appointed artist(s) contribution to defining the development's Masterplan at inception stage
- Description(s) of work that will be realised through the collaboration between the appointed artist, other artists, architects and/or other design professionals, including public art consultant(s)
- Timescales for the development and implementation of all the public art
- Details of ownership, maintenance and de-commissioning of public art
- Budgets relating to all of the above criteria

The artwork shall be carried out in accordance with the public art statement.

*Reason:* To comply with policy ENV34 of the UDP and Policy DW9 of Designing Walsall SPD.

10. 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 16.00 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 taken to 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 amenity of occupiers of premises within the vicinity.

#### **Notes for Applicant regarding 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.

**CL4:** *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.*

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

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

**Application Number:** 10/1008/FL

**Application Type:** Full application

**Applicant:** Fastglobe (Mastics) Ltd

**Proposal:** Demolition of former royal naval club; erection of 10 no. flats with associated works.

**Ward:** Bloxwich West

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652429

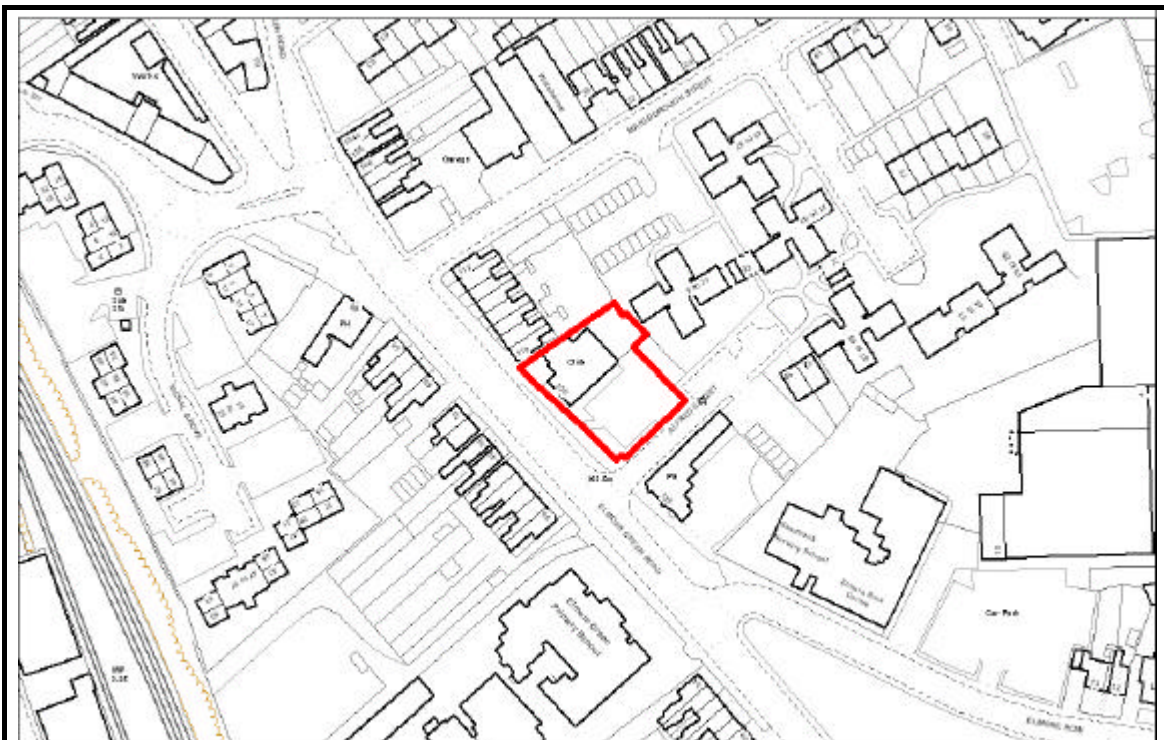
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** CT Planning Limited

**Location:** FORMER ROYAL NAVAL CLUB, 120 ELMORE GREEN ROAD, BLOXWICH, WS3 2HS

**Expired Date:** 10/12/2010

**Recommendation Summary:** Delegate to the Head of Planning and Building Control to grant subject to conditions and completion of a S106, providing no representations on new planning grounds are received on the expiry of the unknown ownership of land notice in the press.



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### **Application and Site Details**

The site is situated on the north eastern side of Elmore Green Road (B4210) a busy district distributor route, on the corner of Alfred Street. The site is currently occupied by a semi derelict detached two storey building (former Royal Naval Club) and an open car park to the side. Two BT equipment cabinets are situated at the back of footpath on Elmore Green Road adjacent to the existing open car park.

The site sits approximately 200m to the west of the Bloxwich district centre and just outside the Elmore Green Conservation Area.

Immediately to the north are traditional two storey terraced houses, to the east (rear) three storey 1970's flats off Alfred Street, to the west on the opposite side of Elmore Green Road more two storey terraced houses with Elmore Green primary school to the south west. To the south on the opposite corner of Alfred Street is the Thatched Tavern public house with a nursery school beyond. The immediate area comprises a variety of ages, design and type of property.

The application proposes the demolition of the existing building and erection of 10 x 2 bed dual aspect apartments within a single two storey block fronting Elmore Green Road and turning the corner into Alfred Street.

The building would be of a traditional design incorporating a pitched slate roof, bay windows, door and window detailing and red facing bricks.

Ten parking spaces would be provided to the rear utilising the existing vehicle access off Alfred Street and 210 sqm of shared amenity space would be provided to the rear. Pedestrian access would be provided to both the street, and the rear parking /amenity space.

The applicant has submitted the following documents in support of the application:

- Design and Access Statement  
Provides an analysis of the amount/density, the layout, scale, external appearance, access and landscaping.
- Planning Statement  
Provides an analysis of the site and its location, local planning policy and planning considerations on character and appearance, living conditions and parking.
- Report on Existing Noise Climate  
The report finds that the boundary of the site to Elmore Green Road would fall within PPG24 Noise Exposure Category C and levels to the rear of the site are expected to fall within Category B. The report recommends that all bedrooms that overlook Elmore Green Road be fitted with windows with minimum manufacturers rating of Rw36. All remaining habitable windows should have a minimum manufacturing rating of Rw33. All habitable rooms be provided with means of background ventilation.

The site area of 0.1 ha would provide a density for the proposed development of 100 dwellings per hectare.

The site includes a small area of unregistered land therefore the applicant has submitted an unknown ownership certificate (certificate D) and a notice in the press. The notice expires on 16<sup>th</sup> December 2010, hence the recommendation to delegate to the Head of Planning and Building Control.

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The proposals would require a Section 106 Agreement to secure financial contributions towards both Education and Public Open Space in order to comply with policy, which the applicant has agreed to.

### **Relevant Planning History**

Various applications for extensions to the naval club and for illuminated signage to the building.

### **Relevant Planning Policy Summary**

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

### **Saved Policies of Walsall's Unitary Development Plan (2005)**

Policy 2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement.

GP1: The Sustainable Location of Development

Relates to sustainable development, the location of facilities where they are accessible to everyone and minimise the need to travel.

GP2: Environmental Protection and Policy 3.6

Requires new development to contribute to the improvement of the environment.

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

GP3: Planning Obligations

Used to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by the development.

GP7: Community Safety

Proposals are expected to have regard for the objectives to designing out crime.

Policy 3.114 good design can discourage crime and increase safety as well as accommodating the access requirements of all sections of the community.

Policy 3.115 the design of buildings and structures together with landscape design have a major role to play in the creation of an environment which is distinctive and creates a sense of place.

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

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved.

H9: Minimum Densities

Indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, but significantly higher densities exceeding 50 dwellings per hectare will be encouraged if close to local centres.

H10: Layout, Design and Dwelling Mix

Requires a high quality living environment to be created, well integrated with surrounding land uses and local character.

Policy 6.3, housing should be in locations that have good accessibility and are well related to local facilities, such as town, district and local centres.

ENV14: Development of Derelict and Previously-Developed Land and Policy 3.9

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

ENV29: Conservation Areas

Development should preserve or enhance the character and appearance of a conservation area in terms of impact of any new buildings on the townscape and landscape features, scale,

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massing, siting, layout, design and choice of materials and anticipated levels of traffic and parking as a result of the development.

ENV32: Design and Development Proposals and Policy 3.16.

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

ENV33: Landscape Design

Good landscape design is an integral part of urban design and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

LC1(d): Urban Open Space

Residential developments will be required to make a financial contribution to enable the provision of new or improved urban open spaces.

Policy 8.8 indicates that residential developments will only be permitted where adequate school capacity exists or can be provided. The Council will require developers to make a contribution to the costs of providing these facilities.

T7 – Car Parking

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

T13: Parking Provision

Flats with communal parking 1.5 spaces per unit

### **Designing Walsall (SPD) (Feb 2008)**

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

The following are the relevant policies;

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 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 and Policy DW9 refer to Public Art. A contribution is required for non-residential developments over 1,000sqm and the policy provides details of the requirements, the commissioning process, maintenance etc.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls.

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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.

### **Urban Open Space (SPD) (April 2006)**

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.

### **Education (SPD) (February 2007)**

Requires a contribution towards local education facilities on residential developments of 10 units or above.

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted.

### **Regional Strategy for the West Midlands**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSSs, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

### **National Policy**

PPS1: Delivering Sustainable Development, emphasis is given to the need to reject poor design and the need for sustainable development.

PPS 3: Housing, the objective of the revised guidance is to:

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

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

PPG24: Planning and Noise, states that noise characteristics and levels can vary substantially according to their source and the type of activity involved.

## **Consultations**

**Transportation** – No objections subject to conditions to ensure refuse storage and secure cycle storage are provided. Policy T13 would require a maximum provision of 15 parking spaces (150%), the proposals include 10 spaces (including 1 disabled space) (100%). This is a sustainable location only 200m from Bloxwich district centre where good bus routes exist and the site is close to Bloxwich railway station, the level of parking is therefore considered appropriate. The car park would utilise an existing access to the existing car park off Alfred Street which is considered acceptable.

**Pollution Control – Scientific Team** – no objections subject to condition to control the hours of working on site.

**Contaminated Land Team** – no objections subject to conditions to ensure a desk study and site reconnaissance is carried out to identify the potential for contaminants and/or ground gases likely to be present on the site. Should any contaminants be identified then a ground contamination survey and site investigation should be carried out.

**Fire Officer** – Satisfactory access for fire appliance.

**Walsall Children's Services - SERCO** – The level of surplus places in local secondary schools is below 10%, therefore a contribution towards secondary school provision is required of £12,466.57.

**Landscape Officer** – No objections subject to condition to ensure submission of full soft and hard landscaping details, including species, numbers, size boundary treatment and paving.

**West Midlands Police** - no objections. Encourage Secure By Design accreditation to ensure minimum security standards are installed from the outset.

**Severn Trent Water** – no objections subject to condition to ensure suitable drainage.

**Urban Design and Conservation** – no objections subject to conditions to ensure appropriate materials and detailing. The site is adjacent to the Elmore Green Conservation Area. The design of the proposals is in keeping with the character and appearance of the conservation area and would make a positive contribution to it. The building would provide an attractive building along the street frontage and would enclose the street.

**Environmental Health** – no objections. Only 4 complaints regarding noise have been logged in the last 10 years. Whilst there is potential for disturbance from the pub on the opposite corner of Alfred Street, any issues would be the subject of routine noise nuisance enforcement.

## **Public Participation Responses**

None.

## **Determining Issues**

- The principle of residential development.
- The design and layout of the proposals
- Impact on surrounding occupiers and the Conservation Area

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- Access and parking arrangements
- Provision of Education and Urban Open Space

## **Observations**

### **Principle of residential development**

The application site is previously developed land containing a semi derelict building and would therefore satisfy the objectives of saved policies 3.9 and ENV14 of the UDP which encourage the reclamation and development of derelict and previously developed land. Saved policy H3 further encourages the provision of additional housing through the reuse of previously developed windfall sites and PPS 3 – Housing, encourages development of brownfield sites for residential purposes.

The site is in a predominantly residential area, close to Bloxwich district centre, with bus routes and a station in close proximity and is therefore in a sustainable location. Residential development on the site is therefore appropriate.

The proposal would provide a density of 100 dwellings per hectare which is above the 30-50 dwellings per hectare suggested in saved policy H9 (a) as suitable for most sites, but PPS 3 no longer requires Local Authorities to meet the density within this range and a higher density may be appropriate providing the quality of the local environment is not compromised. The site is well served by a local bus route and Bloxwich station and is located only 200m from Bloxwich District Centre where higher densities exceeding 50 dwellings per hectare are encouraged in saved policy H9 (c) i and PPS 3. The proposal would make efficient use of the land and would impact on the quality of the local environment.

### **Design and Layout.**

The proposals would provide a single two storey block that would address both Elmore Green Road and Alfred Street, with entrance doors to both the frontages and the rear. The building would be set close to the back of pavement and would reflect the character of the area and adjacent residential properties which comprise a block of traditional terraced houses set close to back of pavement behind low boundary walls.

The design picks up on key design characteristics of the surrounding buildings and in particular the adjacent conservation area, including: traditional features such as bay windows, window and door cills and headers, window shape and sizing, dwarf walls and railings to the frontage. The vertical emphasis provided by the window design follows the rhythm of the terraced housing adjacent.

210sqm of communal amenity space would be provided to the rear separated from the car parking area by a 2m high wall. This would allow 21sqm per flat meeting the 20sqm requirement of Appendix E of Designing Walsall. A paved access route to the rear of the block would provide good pedestrian access for all to both the parking area and amenity space and both areas would be overlooked from the rear of the flats.

Due to the traffic noise from the busy Elmore Green Road the noise report submitted recommends the provision of double glazing to mitigate this noise, in line with Building Regulations requirements.

Whilst the location of the two utility equipment cabinets at back of pavement is unfortunate, the scheme has been designed to ensure that the cabinets are not directly outside a window and do not obstruct any entrance to the building.

### **Impact on surrounding occupiers and the Conservation Area**

The proposed building would fully comply with separation distances contained within Appendix E of Designing Walsall in relation to the existing three storey flats to the rear and comply with the 45 degree code in relation to No 119 Elmore Green Road. The proposed building depth would be significantly less than the existing club building currently on site. The proposals would therefore have no adverse impact on the amenities of the surrounding residential occupiers.

The existing building is in poor structural condition due to vandalism and is of no particular architectural merit. The loss of this building would have no adverse impact on the character or appearance of the conservation area.

Whilst the site sits outside the Elmore Green Conservation Area it is visible from it and this has been taken into consideration in the design and layout of the site.

Whilst the building would provide a significantly larger frontage to Elmore Green Road than the existing building it would respect the street pattern, address the street corner well and remove an open car park from the general street scene.

The design of the building respects the character and appearance of the surrounding buildings and would have no adverse impact on the character and appearance of the adjacent conservation area.

### **Access and Parking Arrangements**

The proposals would utilise an existing well established vehicle access off Alfred Street to the existing open car park on the corner to provide a single access to the proposed parking area.

The parking area would provide 10 spaces (including 1 disabled space), 100% provision. Whilst this is below the 150% maximum provision required by saved policy T13 the level of parking is considered acceptable. The site is located in a sustainable location, only 200m from Bloxwich district centre, with good bus routes, a railway station within walking distance and secure cycle storage provision within the development. T13 provides a maximum provision.

### **Provision of Education and Urban Open Space**

#### **Education**

The level of surplus places in local secondary schools is below 10% therefore a contribution of £12,466.57 is required towards secondary school provision within the local area, in line with Policy 8.8 of the UDP.

#### **Urban Open Space**

An Urban Open Space contribution of £13,700.00 is required to comply with the Urban Open Space SPD policy and Policy LC1(d) of the UDP.

The applicant has agreed these figures and are actively engaged in the process for the completion of a S106 Agreement.

## **Summary of Reasons for Granting Planning Permission**

The proposals provide a high quality design and layout, which would address both Elmore Green Road and Alfred Street well. The design includes key features and characteristics from the surrounding properties and the adjacent conservation area and traditional materials will be used.

The proposals meet the separation distances and amenity space requirements of Appendix E of Designing Walsall and comply with the 45 degree code. The proposals would have no adverse impact on the amenities of the surrounding occupiers.

The level of parking whilst falling below the maximum guidance within policy T13 is considered appropriate in this highly sustainable location.

Whilst the site sits outside the Elmore Green conservation area it is visible from it and this has been taken into consideration in the design and layout of the site. The design of the building respects the character and appearance of the surrounding buildings and would have no adverse impact on the character and appearance of the adjacent conservation area.

The applicant has indicated that they are willing to enter into an agreement to ensure financial contributions towards Education and Urban Open Space.

The proposed development is considered to comply with the relevant policies of the development plan, in particular saved policies 2.1, 2.2, 3.16, GP1, GP2, GP3, GP7, 3.114, 3.115, ENV14, ENV29, ENV32, ENV33, H3, H9, H10, LC1(d), 8.8, T7 and T13 of Walsall's Unitary Development Plan (2005) and Supplementary Planning Document: Designing Walsall (2008), Supplementary Planning Document: Urban Open Space (2006) and Supplementary Planning Document: Education (2007).

**Recommendation: Delegate to the Head of Planning and Building Control to grant subject to conditions and completion of a S106, providing no representations on new planning grounds are received on the expiry of the unknown ownership of land notice in the press.**

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. Prior to the commencement of any built development on site samples of all facing, roofing and surfacing materials including the headers and cills and door detailing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details.

*Reason:* To ensure the facing and roofing materials harmonise with those in the vicinity and adjacent Elmore Green Conservation Area.

3. Prior to the commencement of any built development on site full details including a section drawing to show the door and window headers, cills and detailing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed using the approved details.



*Reason:* To ensure that the design and detailing on the building harmonise with those in the vicinity and adjacent Elmore Green Conservation Area.

4. No development shall commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained as such.

*Reason:* To ensure the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

5. No built development shall commence on the site until details of all boundary treatment for the site, including railings to the front elevation to Elmore Green Road, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of any part of the premises.

*Reason:* In the interests of securing the development and to safeguard the visual amenity of the area.

6. The development shall be constructed in accordance with the Code of Sustainable Homes Level 3 relating to energy efficiency / CO<sub>2</sub>, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

*Reason:* In order to provide high performance sustainable homes and protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and saved policy GP2 of the Walsall Unitary Development Plan.

7. Prior to the commencement of any built development on site full details of a landscaping scheme shall be submitted to and approved by the Local Planning Authority. The scheme shall include both hard and soft landscaping, showing species, numbers and size of all trees and shrubs, details of turf/seed as well as topsoil depths/specifications, staking details of any proposed trees, paving materials and all boundary treatment. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

8. No demolition, engineering or construction 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 0700 to 1800 weekdays and 0800 to 1400 hours 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 Years Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

9. 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.

10. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may be otherwise required by conditions: -

3574.99 - Location submitted 26<sup>th</sup> July 2010

2506/01A – Proposed Ground Floor Plan submitted on 12<sup>th</sup> November 2010

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2506/02 – Proposed First Floor & Roof Plan submitted 26<sup>th</sup> July 2010  
2560/03A – Proposed Elevations submitted 12<sup>th</sup> November 2010  
2560/04 – Proposed Block Plan submitted 26<sup>th</sup> July 2010  
10/057/01 – Detailed Property Survey submitted 10<sup>th</sup> September 2010  
Design and Access Statement submitted 11<sup>th</sup> August 2010  
Planning Statement submitted 26<sup>th</sup> July 2010  
Report on Existing Noise Climate by Hoare Lea Acoustics submitted 26<sup>th</sup> July 2010

*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).

## **Notes to 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.

**CL4**

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.

**West Midlands Police**

You are encouraged to design and build to achieve Secured by Design accreditation, for more details and advice please contact Mark Ledo, Crime Reduction Officer & Crime Prevention Design Advisor, Walsall Partnerships Team, Walsall Police Station. Tel 01922 439103 email [ledo\\_1892@west-midlands.pnn.police.uk](mailto:ledo_1892@west-midlands.pnn.police.uk)

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

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

**Application Number:** 10/1345/FL

**Application Type:** Full application

**Applicant:** Leekes Ltd

**Proposal:** Amendment to condition of planning permission 10/0294/FL to allow for different cladding materials to certain elevations.

**Ward:** Darlaston South

**Case Officer:** Marilyn Kowalski

**Telephone Number:** 01922 652492

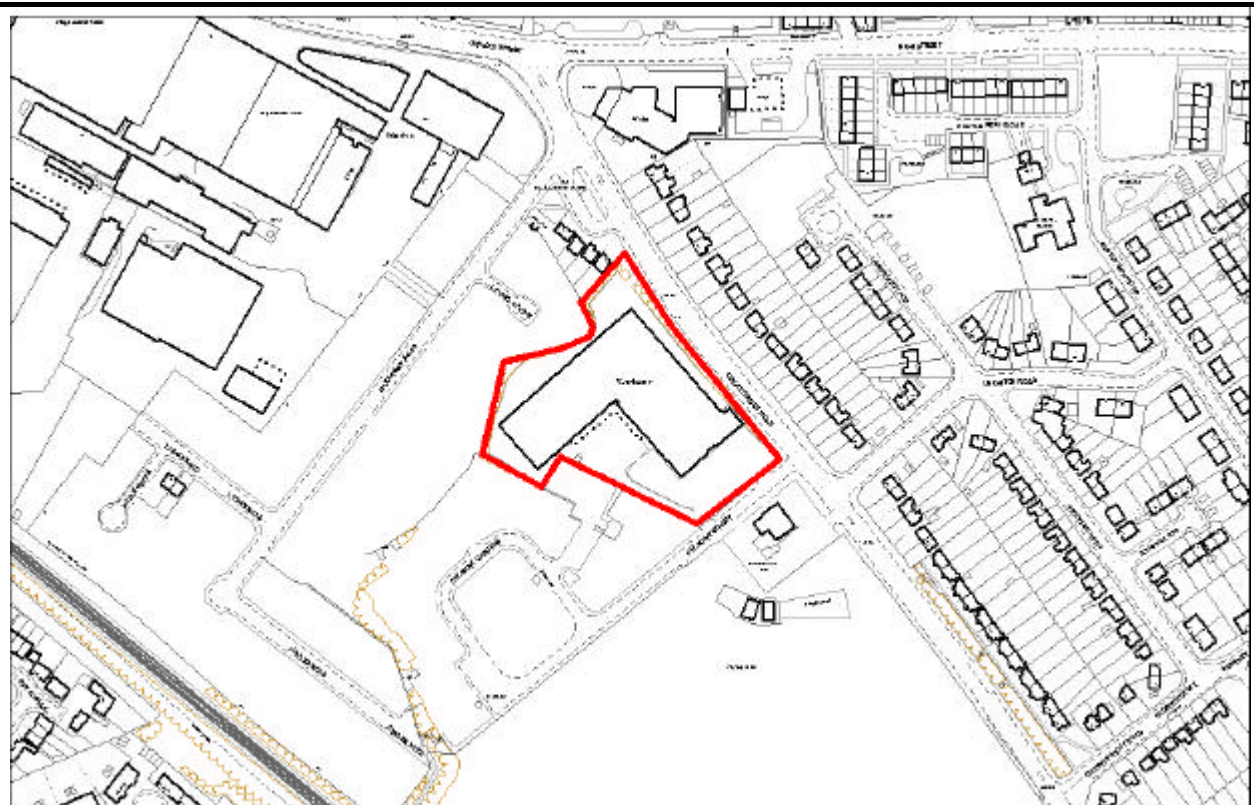
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:**

**Location:** COLE OF BILSTON, GREAT BRIDGE ROAD, BILSTON, WV14 8LB

**Expired Date:** 03/12/2010

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



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### **Application and Site Details**

The application relates to the variation in Condition 15 of planning permission 10/0294/FL to amend the external appearance of the building. The previous application was approved by committee on the 29<sup>th</sup> of July 2010. The condition stated that:

*“The building shall be clad in facing materials as Illustrated on drawing no.10/21/021 dated 12/5/2010 and drawing no.10/21/009 Revised 12/5/2010 dated 23/02/2010.”*

The applicant's have changed their choice of materials and have submitted revised plans to show those revised materials. The application is retrospective.

### **Relevant Planning History**

10/0294/FL - Extension to store to form new entrance and alterations to car park – Granted 29/07/2010

10/0255/LE Certificate of Lawful Existing Use as a retail store, Grant Certificate of Lawful Existing Use or Development 30/04/2010

There have been a number of planning and advert applications on this site over the years for small extensions and adverts, the more relevant applications are:-

BC4017 Extension to warehouse, granted 1976

BC3580 Office and Showroom extension for retail granted 1976

BB12961 Erection of 2 storey warehouse and office block, showroom, and car parking granted 1979

BC17282 Modification to landscape scheme and forecourt layout, granted 1981.

BC46200P New store entrance, granted 16<sup>th</sup> July 1996

BC58126P Erection Of 1 No. Illuminated Poster Hoarding, Cole Of Bilston Ltd, Great Bridge Road, Bilston, West Midlands Refuse Advertisement Consent 13/12/2001

BC53616P 1 No. Upgrade Of Existing Fascia Sign At Cole Of Bilston Ltd, Great Bridge Road, Bilston, Approve Advert 5 Years 24/02/1999

### **Relevant Planning Policy Summary**

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

### **Saved policies of Walsall's Unitary Development Plan 2005**

2.1 and 2.2 aims of the Plan include sustainable development, urban regeneration and environmental improvement, high quality natural and built environment, including a high standard of design

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

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

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

ENV32 Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted, this is particularly important on a visually prominent site, areas with a special character arising from the existing development in the neighbourhood. It sets guidelines with which to assess the quality of design.

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

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

S7 Out-of-Centre and Edge-of-Centre Developments

T7 (b) All development should satisfy the car parking standards set out.

(e) All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T13. General parking standards for shops other than food: 1 car park space per 20 sq.m. of gross floorspace. At least 1 bike stand for every 20 car park spaces, and absolute minimum of 2 bike stands Taxi facilities.

### **Regional Planning Policy**

Members should note that the revocation of Regional Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSSs, including the West Midlands RSS, have been reinstated as of 10 November 2010.

The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions.

Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory Development Plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

It is the view of officers that none of the items on this agenda raises any issues in terms of conformity with the RSS.

### **National Policy**

PPS1: Emphasises the need to reject poor design and the need for sustainable development.

PPS4 Planning for sustainable economic growth: Local Planning Authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscape, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all.

### **Consultations**

**Transportation** – No objection

**Pollution Control**

**Scientific Team** – No objection

**Contaminated Land Team** – No objection

**Built Environment Team** – No objection

**Network Rail – No objection**

**WM Police – No objection**

### **Public Participation Responses**

None

### **Determining Issues**

- Alteration to the appearance of the proposals

### **Observations**

#### **Alteration to the appearance of the proposals and wording of the condition**

It was felt under the previous planning permission that the cladding of the building and general refurbishment works proposed were an improvement to the external appearance of the building which was previously poor with weathered fibre cement sheeting, and the new cladding was considered to be an improvement the appearance of the building and the area.

The proposed external appearance would continue to be an improvement to the previous external appearance of the building and no objections have been received to this amendment. As the application is retrospective it is not seen as necessary to reword the condition. It is therefore proposed that the condition be removed from the permission.

### **Summary of Reasons for Granting Planning Permission**

The application is for the amendment to Condition 15 of planning permission reference 10/0294/FL. The proposed layout and alterations to the building remain the same in detail with alternative materials being used as cladding systems.

The proposals alterations to the choice of materials will not materially affect the external appearance of the building and would continue to represent an improvement to the external appearance.

As such the proposals, having considered all relevant material considerations and consultation responses are in accordance with saved policies of Walsall Unitary Development Plan, in particular, GP1, GP2, and ENV32, and is acceptable.

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

**Condition 15 of planning permission reference 10/0294/FL is removed.**

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

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

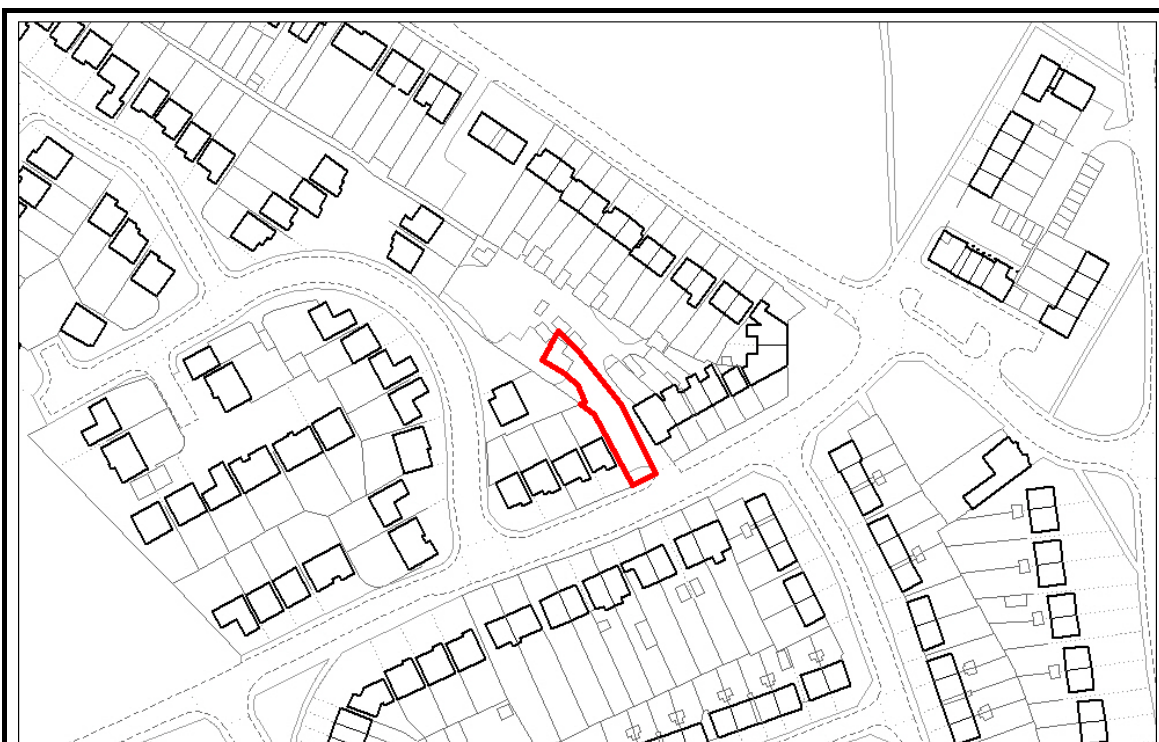
**Application Number:** 10/1301/OL  
**Application Type:** Outline Application

**Applicant:** Mr TS Bariana  
**Proposal:** Outline: For the erection of a single dwellinghouse and associated works, access & layout only for consideration.  
**Ward:** Pelsall

**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652429  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** CT Planning Limited  
**Location:** LAND ADJACENT 15  
GOSCOTE ROAD, WALSALL, WS3 4LE

**Expired Date:** 14/12/2010

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



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### **Application and Site Details**

The site is situated on the northern side of Goscote Road and is currently vacant land set between Nos 15 and 19 Goscote Road, with an access drive to land at the rear adjacent. The land on the frontage appears as landscaped garden land, although now overgrown and the land to the rear currently has a wooden double garage which is in poor condition.

Nos 7 – 15 Goscote Road are a block of terraced houses. No 15 has an existing two storey side extension, adjacent to the existing vehicle access drive. Nos 19-25 Goscote Road are modern detached houses, built as part of the redevelopment of land to the west and north west of the site. Semi detached houses are located on the opposite side of Goscote Road.

The land to the rear of the site provides access to garages at the rear of houses in Allens Lane (to the north east of the site) and Goscote Road.

This outline application proposes the erection of a detached dwelling with garage set to the rear, with access and layout for consideration and all other matters reserved for future determination.

The amended site layout submitted shows a detached dwelling following the building line of the existing houses at 15 and 19 (adjacent either side).

The footprint of the building is shown as 5m wide with entries either side, and 8m in depth. The existing vehicle access drive would remain between the site and the side elevation of No 15. The layout shows a detached building set to the rear in place of the existing garage, which would provide a new garage and parking space for both the new dwelling and No 15.

The applicant has submitted the following documents in support of the application:

- Design and Access Statement  
Discusses the land use, amount of development, layout, scale, external appearance, living conditions, access and landscaping.
- Planning Statement  
Describes the site and proposals and provides an analysis of both local and national planning policy, and provides an analysis of the key planning principles of the proposals, ie character and appearance of the area, living conditions and parking.

Site area 0.04 hectare would provide a density of 25 dwellings per hectare.

### **Relevant Planning History**

BC62939P, outline application for residential dwelling. Refused by Committee 01-06-2001 against officer recommendation.

Reason for refusal: the site could not provide satisfactory amenity, parking and access provision.

15 Goscote Road

BC17263P, erection of porch, utility room and hall extension with bedroom and bathroom over, granted subject to conditions 01-10-1986.

Land to the rear of the site

Various applications for residential development 1998 – 2006 most recent:

Regeneration, Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG

Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452,

Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

06/0680/FL/E9, erection of 2 x 4 bed detached houses and detached garages, granted subject to conditions 25-07-2006. (not implemented and now expired).

### **Relevant Planning Policy Summary**

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

#### **Saved Policies of Walsall's Unitary Development Plan (2005)**

2.1 and 2.2 state that creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design is a key consideration.

##### **GP2: Environmental Protection**

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

3.6 seeks environmental improvement resulting from development.

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

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

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

##### **H10: Layout, Design and Dwelling Mix**

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

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

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

##### **ENV32: Design and Development Proposals.**

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Detailed criteria are listed for consideration when assessing the quality of design of any development proposal including:- the appearance, materials, height, proportion, scale and mass of the proposed buildings, the visual relationship of the proposal with adjacent areas, the street and the character of the surrounding neighbourhood, the effect on the local character of the area.

##### **T7 – Car Parking**

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

##### **T13: Parking Provision**

1, 2 and 3 bed houses 2 spaces per unit

#### **Supplementary Planning Document “Designing Walsall” (February 2008)**

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

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.

Regeneration, Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG

Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452,

Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

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.  
DW6 – Legibility - new development should contribute to creating a place that has a clear identity  
DW9 –High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality  
DW 10 –Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

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

### **Regional Policy**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSSs, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

### **National Policy**

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

PPS 3: Housing, the objective of the revised guidance is to:

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

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

### **Consultations**

**Transportation** – No objections. The proposals would utilise an existing shared unadopted vehicle access drive, to land at the rear, which is generally used for access to garages and parking. The access to the highway has adequate visibility which should not be affected by the proposals. The proposed garage and parking to the rear would comply with the provisions of T13.

**Pollution Control – Scientific Team** - No objections subject to condition to restrict hours of working on site.

**Contaminated Land Team** – No objections subject to conditions to ensure investigation and remediation of any localised ground contamination and ground gas issues associated with the former commercial use of the site.

**Fire Officer** – No objections.

**Environmental Health** – No objections.

**Landscape Officer** – No objections subject to conditions to ensure details of planting and boundary treatment are submitted for approval.

**Tree Officer** – No objections.

**Drainage** – No objections.

**West Midlands Police** – No objections.

### **Public Participation**

Eight objections received, including Councillor Longhi in support of the resident's objections.

Objections:

- Access to right of way to the rear of houses will be compromised
- Already an existing extension to No 15, built without permission
- Applicant has no claim to the land
- Previous refusal for a house on the site, refused as insufficient room.
- Encroachment onto the existing driveway, reducing the width of the drive, which is required for residents access for deliveries and emergency vehicles
- Applicant has placed obstacles in the way of the access drive land owner and users.
- Plans inaccurate
- What would the associated building be used for?
- Land within the redline not all in applicant's ownership.

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

### **Determining Issues**

- Principle of the use
- Layout and access
- Impact on the street scene and surrounding residential occupiers

### **Observations**

#### **Principle of the Use**

The site comprises vacant land between existing houses within a residential area of a variety of types, styles and ages of property. Saved policy H3 of the UDP encourages the use of windfall sites for residential development.

Objectors have raised land ownership as an issue, concerned that the applicant does not own all the land within the site boundary. Whilst the applicant considers that they do own the land for clarity Certificate B has been completed and Notice has been served on the land owner, which is all that is required for a planning application. Whether the applicant has right of access over any land would define whether or not any planning approval could be implemented, but it is not a consideration as to whether planning consent can be granted.

### **Layout**

The proposed layout shows a detached property with entries either side situated on the street frontage of the site, following the existing building line of Nos 15 and 19 Goscote Road. An ancillary building is shown to the rear, which would provide a garage for both the new house and No 15 Goscote Road.

The width of the new property at 5m would be less than the width of No 19 (6.9m) and No 15 (7.6m as approved and extended) but it would be very similar to the terraced houses at 7, 9 and 11 Goscote Road and the semi detached houses on the opposite side of the road. The area already has properties of varying sizes, styles and ages and it is considered that the proposed property would fit with the existing character of the immediate area.

The layout shows a rear amenity space of approx 86sqm which would comply with the area guidance within appendix E of Designing Walsall which requires 68sqm. Whilst the length of the rear garden (11.5m) would fall slightly short of the 12m required by Appendix E the garden length would be the same as the adjoining properties and characteristic of the area. An appropriate level of amenity would therefore be provided and the proposals overcome the previous reason for refusal relating to amenity (BC62939P).

### **Access**

The proposals show no vehicle access to the frontage of the property but shows a new garage and parking spaces to the rear for the new house and No 15 Goscote Road, in place of the existing double wooden garage, utilising the existing vehicle access drive between the site and No 15.

The proposals would not reduce the width of the existing access drive and would not constrain any future development of the land to the rear or access for existing users of the driveway for access to garages etc.

Transportation have raised no objections to the proposed access and parking arrangements and the proposals therefore overcome the previous reason for refusal relating to access and parking (BC62939P).

Objectors have stated that the submitted plans are inaccurate, but not indicated why. The plans have been checked against the Council's mapping system and on site and appear to accurately show the size of the site in relation to the adjoining land and access drive.

### **Impact on the Street Scene and Surrounding Occupiers**

The proposals would have no adverse impact on the amenities of the surrounding residential occupiers and would comply with the separation distance requirements of Appendix E of Designing Walsall and would provide a satisfactory residential environment of the future residents.

The existing vehicle access adjacent to the site and used by local residents for access to garages etc would be retained and be unaffected by the proposals and would remain available for use by those who have right of access.

The proposals would remove an existing overgrown vacant site within the residential street by providing a residential property that would continue the frontage and fit well with the general character of the area. It is considered that the proposals would improve the general street scene.

### **Summary of Reasons for Granting Planning Permission**

The principle of residential development on the site is considered appropriate as the site is previously developed land in an existing residential area. The layout and access details submitted are considered appropriate, they would fit with the surrounding pattern of development and would have no adverse impact on the character and appearance of the general street scene. The proposals would not constrain the future development of the land to the rear and would not impact on the existing users of the unadopted access drive adjacent to the site.

The proposals would have no adverse impact on the amenities of the surrounding occupiers and the layout would provide satisfactory amenity space, access and parking arrangements in compliance with policy.

Within the application Certificate B and Notice under Article 11 of the Town and Country Planning (Development Management Procedure ) (England) Order 2010 have been served on the land owners, in accordance with procedures and deals with land ownership issues.

The proposals would accord with the aims and objectives of the development plan, in particular policies 2.1, 2.2, GP2, 3.6, 3.16, H3, H10, ENV32, T7 and T13 of Walsall's Unitary Development Plan (March 2005) and Supplementary Planning Document: Designing Walsall (2008).

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

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) The scale
- B) The external appearance
- C) The landscaping of the site

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

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

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

5. 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 development shall be completed with the approved details and retained as such.

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

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

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

7. The dwelling shall achieve a Code Level Three in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme), unless otherwise agreed in writing by the Local Planning Authority. No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level Three has been achieved.

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

8. No demolition, engineering or construction 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 0700 to 1800 weekdays and 0800 to 1400 hours 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 amenity of occupiers of premises within the vicinity.

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

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

10. This permission relates to: Amended Location plan 3443/99A and amended site layout plan 3443/4A submitted on 12<sup>th</sup> October 2010 and Design and Access Statement and Planning Statement submitted on 29<sup>th</sup> September 2010.

*Reason:* In order to define the permission.

### **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,

Regeneration, Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG

Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452,

Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

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.

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

**Reason for bringing to committee: Requires delicate judgement**

**Application Number:** 10/1393/FL

**Application Type:** Full application

**Applicant:** Clarke Property Landlords

**Proposal:** Change of use from a one-room shop and outside storage of touring caravans and camper vans to vehicle sales, with associated reception/office and hard standing for the display and parking vehicles and retention of 3m high palisade fencing to the rear and erection of new fencing to the front and side of the property and creation of a private amenity area and allocation of parking spaces for two existing flats.

**Ward:** Short Heath

**Case Officer:** Marilyn Kowalski

**Telephone Number:** 01922 652492

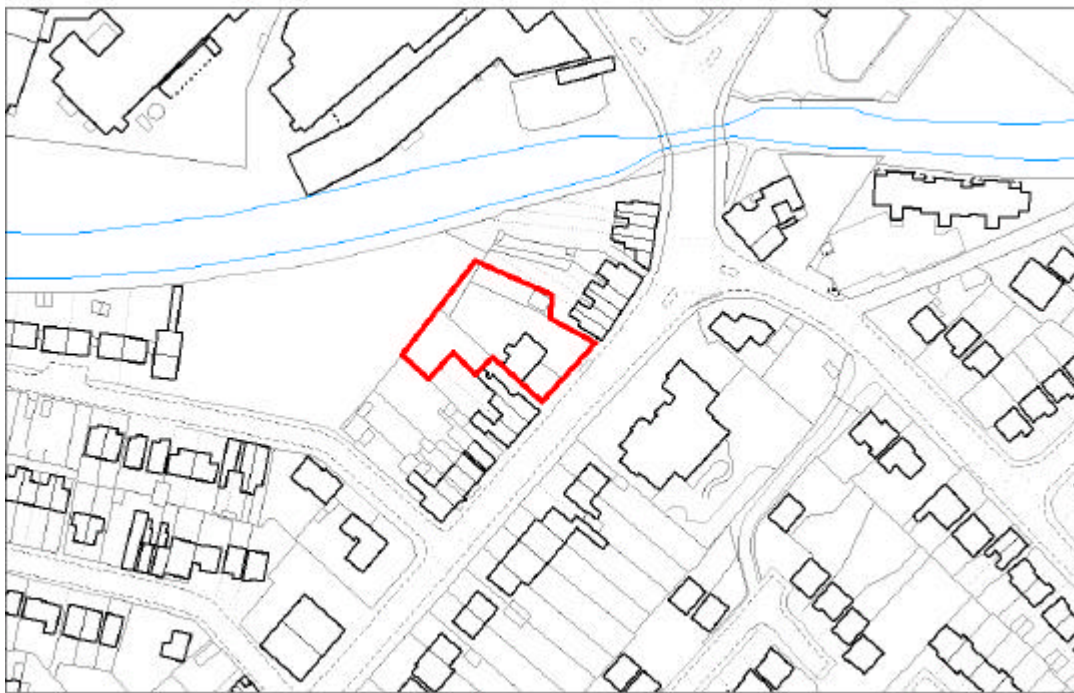
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Advance Land & Planning Limited

**Location:** 103 HIGH ROAD,  
WILLENHALL, WV12 4JN

**Expired Date:** 14/12/2010

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



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Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

### **Application and Site Details**

The application is largely retrospective. Enforcement action has already been authorised (see History section). This application has resulted.

The site is in an area of mixed uses (dwellings, shops, pub, school), at the north end of Lane Head Local Centre. There is a bus stop outside the site. Properties either side of the site are largely residential.

At the rear, there is an area of open space, and a canal.

The application property is a two storey detached domestic style building, used as two flats (at ground and first floor) with a single front room, previously used as a shop with a small parking area to the front. The applicant also controls Nos. 97 and 99, in use as flats. There is a shared driveway between 101 (not in the applicants ownership) and 103, accessing the application site.

The proposal is for

- change of use of the single ground floor front room to reception / office for the vehicle sales
- change of use of most of the site to the display and sales of vehicles (with sufficient space to display around 30 vehicles for sale, turning and manoeuvring, and customer parking)
- retention of the 3 metre palisade fence along the rear boundary (partly on Council land)
- 3 metre palisade style gates adjacent to the side of No. 103, at the entrance to the sales area
- 2 metre palisade fencing separating car sales site from resident's car park
- Brick pillars and railings (total height 2 metres) on the front boundary (improving appearance but also offering security)
- 7 car parking spaces for the flats – Nos. 97 to 103 (previously approved)
- An amenity area for the flats in 103, 46 sq.m. enclosed by a screen fence
- 4 staff parking spaces for the car sales
- These are behind 4 customer parking spaces
- A limited amount of landscaping
- the scheme is stated to create 2 full time and 2 part time jobs
- hours of operation would be
  - 0900 to 1900 Monday to Friday
  - 0900 to 1700 Saturday
  - 1000 to 1600 Sundays and Bank Holidays

The application boundary has been drawn to include not only the property associated with no 103, but also the vehicular access and parking provision for the adjoining residential properties comprising nos 97 – 101. Appropriate ownership notices have been served.

The applicant has submitted a Planning Statement with the application:-

- Storage containers and other materials have already been removed and the site tidied up following a report to committee earlier this year;
- The previously approved caravan storage use (*see History*) would have had comparable impacts on houses adjoining the site
- The owner is negotiating with the Council's Estate Officer on land ownership / fencing

- prepared to accept conditions that exclude vehicle repairs, spray painting and jet washing to control impact on neighbours (only hand washing and valeting are proposed on the site)
- Proposed parking provision is well above what is needed in practise
- In 2009, to tidy up the site and bring it back into use, the former owner entered into a lease with Lane Head Car Sales, on the understanding that they would erect a higher and more secure fence at the rear of the property
- Prior to this, the site had been used for drug related activity and similar anti-social behaviour
- The two flats were refurbished and rented.
- The shop was converted into an office/reception.
- In Spring 2010 the site was sold to the current applicant who was not aware of the unauthorised activity and fencing.
- The current owner / applicant is keen to regularise the situation that occurred before his involvement

### **Relevant Planning History**

#### **At 97 to 101 (adjoining)**

WILL2489 – change of use of 97 and 99 to 4 flats, approved 1963.

BC8902P - creation of car park at rear (8 spaces for flats at front, including 101), approved 1983.

#### **At No. 101 adjoining**

06/1967/FL/W3 – change of use to café, refused 2007

08/1054/FL – change of use to café, refused 2008

08/1900/FL – change of use to laundrette , approved 2009

#### **At No. 103 (the site)**

BC49188P - storage of caravans, refused 1977 (site included No. 101 and part of rear of 107). Allowed on Local Appeal.

BC56770P - storage for caravans, approved 2001. (Implemented, but now ceased)

06/1868/FL/W2 - erection of 12 apartments, refused 2007 (approximately the same area as the current application)

08/0106/FL - erection of 10 apartments, refused 2008 (approximately the same area as the current application)

Enforcement action was authorised in April 2010, for car sales from this site, and the erection of a boundary fence. The reasons for action were:-

- Scale of the use
- Impact on appearance of area
- Noise and disturbance
- Overspray from vehicle washing
- Impact on residents
- Loss of garden for residential occupiers of the site
- Lack of appropriate controls on arrangement of uses on site is likely to cause congestion on street

The report set out that there was no objection to the use in principle, but that it needed to be controlled. Service of the Enforcement Notice has been deferred pending conclusion of the negotiations which resulted in this application.

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

2.2, 3.6, 3.16, ENV32, – seeking a high quality environment, enhancing local centres

GP1 seeking sustainable location for development

GP2, 3.7, ENV10 protecting the local environment

GP7 designing out crime

5.1 promoting the quality of shopping centres

S5 – Local Centres:-

- Boundaries tightly drawn to concentrate investment
- Retention / enhancement / further development of shops, services and other town centres uses will be encouraged

### **Consultations**

**Transportation** –No objection subject to condition on surfacing.

**Pollution Control Contaminated Land team** – no specific contaminated land requirements.

**Environmental Health** – no objection but offer comments -

Two complaints have been received about unauthorised access to the building, and about fly tipping (2008 / 2009)

Two further complaints, more recently, about the burning of commercial waste were dealt with informally. The proposed use will regulate the site and help prevent anti-social behaviour.

A condition controlling use of mechanical valeting equipment is appropriate to protect residential amenity. External lighting should also be controlled.

**West Midlands Fire Service** - Satisfactory for fire service access

**Centro** – there are limited bus services outside the site and the nature of the use is unlikely to generate a need for bus service improvements. The bus shelter outside the site should be retained in its present location, but if it is to be moved, that should not be agreed until the relocation has been agreed

**British Waterways** - Visual impact of the mass of cars would not be severe in summer because of the landscape buffer on the boundary. In winter the buffer will not be quite enough to screen the site and they suggest the palisade fence is painted a dark colour (black or dark green) and evergreen climbing plants are grown to reduce the visual impact from the canal.

**Inland Waterways Association** – some or all of the trees on the rear of the site should be retained to maximise the appearance of the site and the benefits to biodiversity.

**Environment Agency** – no comment. Recommend consultation with British Waterways and Drainage about any flood risk for the site from the nearby canal.

## **Representations**

Councillor D. Shires has objected to the application on grounds of safety, the intensification of the site and the inadequate parking on the site.

One local resident has objected on the basis that:-

- Site appears to be occasionally used by builder's vehicles
- Site is wholly unsuitable
- There is a bus stop immediately outside
- There is a nursery school opposite
- There are no parking facilities
- Parked vehicles outside the site block one of the traffic lanes for the traffic lights near the site – this causes traffic jams / delays
- Site produces thick black smoke in a smokeless zone (skip on site used for burning)

The agent for the applicant has submitted an exchange of information with a neighbour which records what is understood to be the neighbour's position in relation to the application, stating:-

- The fence between 103 / 105 and 107 does not correspond to the fence on the submitted plans
- The plans appear to correspond to the ownership situation
- The applicant is expected to revise the fence to match the plans
- The neighbour has no objection to the application subject to correcting the fence alignment

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

## **Determining Issues**

- Principle of the use in this location
- Visual impact on street
- Highway safety
- Impact on amenity of neighbours
- Fence on council land

## **Observations**

### **Principle of the use in this location**

The report to your committee in April, identified that there were no objections in principle, from officers, the key issues being the details of the use, as addressed in following sections of this report. (These were of concern because as an unauthorised use, appearance etc are not subject to any control.)

This conclusion reflects the location of the site close to the outer edge of the local centre, and the mixed use of the immediate vicinity. The site is also a detached property, with space around it, setting it apart from the general run of properties in the centre.

That remains the view of officers.

### **Visual impact on street**

It was considered in April that vehicle sales are a discordant feature in the street scene, with substantial adverse visual impact. It was concluded that this was only slightly mitigated by the existing low brick wall.

The application proposes a new front boundary (by adding pillars to the low wall, and inserting railings. That provides an improvement to the appearance of the site. The submission of a layout for the site shows a modest number of vehicles displayed for sale on the forecourt area.

The use has changed the appearance of the street. The proposed arrangement will keep that visual impact to an acceptable level. On balance, the scheme is supported.

There is potential for the display of adverts on the forecourt. This is not controllable under this planning permission, as adverts are subject to a separate area of the legislation. However, exceeding permitted allowances for adverts leaves the site open to action under the advert legislation, and is a matter than can be considered as may be necessary.

### **Highway safety**

This was not an issue which featured in the recommendation to enforce in April. The reason is that, because the use is in the Local Centre, the street is already well used for parking. The change from a shop on this property, to a car sales outlet was judged to be unlikely to increase the parking pressure significantly.

That remains the case. Despite that conclusion, the scheme now makes a sensible level of provision for customers cars (4 spaces in the yard area at the rear of the building). This will accommodate at least some visitors. Undoubtedly some customers will continue to park on street, but that remains something which does not generate concern in this location. There are no implications for the present location of the bus stop.

The scheme is acceptable, in this respect.

### **Impact on amenity of neighbours**

This was a significant issue in the April enforcement report. There were concerns about the outlook from the rear of houses adjoining, the lack of landscaping on the site, the level of activity from the shunting of vehicles within the site, e.g. for test drives, the movement of customers (at weekends especially), jet washing, vacuum cleaners and vehicle movements.

The proposal defines a layout for the vehicles on the site which eliminates most of the need for vehicles to shunt around as one or another is taken out. The supporting statements from the applicant identify the intention not to jet wash. The proposed hours of use correspond broadly to shopping hours in the local centre, such that activity on the site will be seen against a back drop if activity normal to the area.

Overall, the proposal brings the use within an acceptable arrangement, and will not have an undue impact on the amenity of occupiers.

The addition of an amenity space for the occupiers of the two flats on the site enhances this aspect of the site.



### **Fence on Council land**

This is an ownership issue, not a matter for this committee. However, it is clear that the applicants seek a solution. Granting a permission for the fence as proposed offers a reason to conclude a suitable land transaction.

### **Summary of Reasons for Granting Planning Permission**

The proposal offers improvements on the use as it began on the site, by controlling hours of operation and the details of the operation in ways which deliver an acceptable proposal.

The use is therefore consistent with the saved policies of the Unitary Development Plan 2.2, 3.6, 3.7, GP2, ENV32, and S5.

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

1. Within one month of the date of this permission, details of the surfacing, and drainage of the access, turning area and parking facilities, and the marking out of the parking facilities, as shown on the approved plan shall have been submitted to the Local Planning Authority, for approval in writing, or the use shall cease. The approved details shall have been implemented and completed within 2 months of that approval in writing, or the use shall cease.

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

(Note – the submitted details are expected to show the surface to be properly consolidated, surfaced, drained, and free of loose stone.)

2. a) There shall be no vehicle repairs, spray painting or jet washing of vehicles on the site at any time.

b) The hours of operation of the site for vehicle sales and inspections are:-

- 0900 to 1900 Monday to Friday
- 0900 to 1700 Saturday
- 1000 to 1600 Sundays and Bank Holidays

c) There shall be no use of vacuum cleaners in connection with car valeting on Sundays or Bank Holidays.

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

3. Within one month of the date of this permission

a) the existing palisade fencing around the site shall be painted black or dark green

b) The fence on the boundary of the site with No. 107 shall have been amended to match the submitted plans.

c) the front wall of the site shall have been modified by the addition of pillars in matching brick, and black painted railings, to a maximum height of 2 metres.

*Reason* To improve the appearance of the site in the street and from the open space and canal at the rear, and resolve any potential neighbour dispute.

4. a) At no time shall more than 7 vehicles be displayed for sale forward of the forwardmost point of the building on the site.

b) Behind that point, there shall be no vehicles (other than those of customers) displayed or parked other than

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Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

- staff vehicles in the area on the deposited plan shown as staff parking,
- and vehicles for sale in the area indicated by the vehicle outlines on the plan.

*Reason:* To ensure adequate space for customer parking, and vehicle movements on the site, to minimise the effects of the use on the public highway or on neighbouring properties.

5. a) Within on month of the date of this permission, a sign shall have been erected on the forecourt of the site, clearly indicating the presence of customer parking at the rear of the site.

b) At all times during the hours of operation of the site for vehicle sales and inspections, the gates into the rear area of the car sales area of the site shall be open.

*Reason* In the interests of highway safety.

6. a) Within 3 months of the date of the permission, the areas shown for planting on the deposited plans shall have been cleared of concrete, tarmac, or stone surfacing, and any / all sub bases, down to natural soil, and the pits shall have been filled with suitable soil for landscaping or the use shall cease.

b) Within 5 months of the date of this permission, 6 standard trees shall have been planted, in the locations indicated on the deposited plans, and the remainder of the landscape areas on those plans shall have been planted, or the use shall cease.

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

#### NOTE FOR APPLICANT

The Town and Country Planning (Control of Advertisement) Regulations 2007 allow some signage to be displayed without the express consent of the Local Planning Authority. The use is expected to comply with the terms of those Regulations.

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

**Reason for bringing to committee: Departure in the Green Belt**

**Application Number:** 09/1329/FL

**Application Type:** Full application

**Applicant:** Lapworth Partnership

**Proposal:** Conversion of Three Crowns  
public house into a dwelling & construction of  
4 no. detached dwellings.

**Ward:** Pheasey Park Farm

**Case Officer:** Alison Deakin

**Telephone Number:** 01922 652487

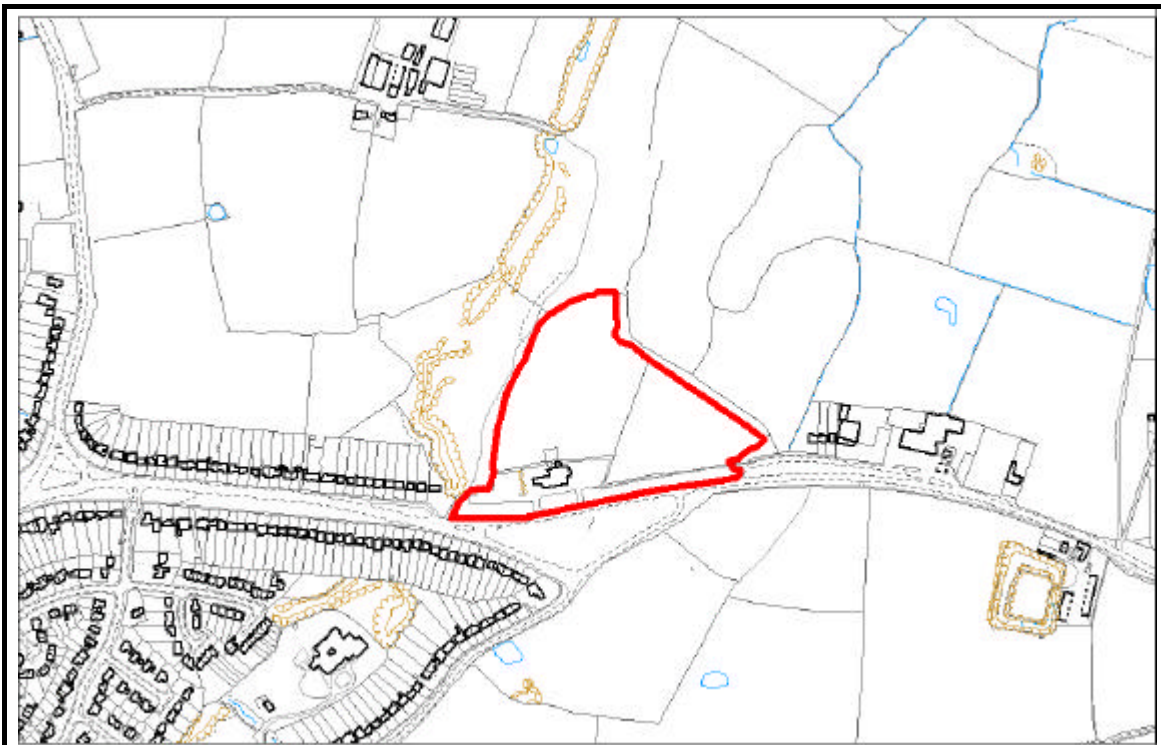
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Lapworth Architects Ltd

**Location:** THREE CROWNS  
P.H., SUTTON ROAD, WALSALL, WS5 3AX

**Expired Date:** 20/01/2010

**Recommendation Summary:** Refuse



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### **Current Status**

Committee resolved the following at its meeting in August 2010:

*“That consideration of planning application no. 09/1329/FL be deferred until the October meeting of the Committee for the following reasons:-*

- 1. To enable a Bat survey to be carried out;*
- 2. To resolve objections of Natural England;*
- 3. To enable officers to negotiate a Section 106 Agreement for the management of the grassland;*
- 4. To enable officers to negotiate the possible use of eco-friendly energy solutions.”*

The negotiations to resolve objections have been ongoing hence the reason for the delay in reporting back to Committee. Natural England objected to the loss of part of the Three Crowns Pasture Site of Importance for Nature Conservation (SINC) which is important limestone grassland, the need for appropriate management of the habitat and lack of a bat emergence survey.

A Bat Survey and Three Crowns Pasture Management Plan have subsequently been provided by the applicant. Eco-friendly energy solutions are also now proposed.

There have been a significant number of representations received to the proposals since the application was first reported to Committee.

The report has been updated to reflect the updated comments from Natural England and Ecology, to describe the eco-friendly solutions and to report and respond to the third party objections.

### **Application and Site Details**

The proposal is for conversion of the Three Crowns Public house to a single house and construction of four new detached houses, two on each side of the existing building. The proposed dwellings broadly sit in line with the former public house along Sutton Road behind an existing hedgerow and highway verge with private access drives behind the hedge leading from the two existing vehicle access points.

All the houses have 6/7 bedrooms with accommodation arranged over 4 floors incorporating dormer windows in the roof. Each property also has a basement where parking is provided plus games/leisure areas. These rooms have windows onto the rear garden. The pub conversion (plot 3) removes the “wacky warehouse” extension and provides a room for an indoor pool.

The design of the new dwellings is Arts and Crafts style, with features such as chimneys, gables and tile hanging. They are constructed in brick/render and tile hanging with small clay roof tiles and have terraces. The height of the new dwellings varies between 11.2m and 12.2m from the front. The existing Three Crowns building is 9.8m high to the front elevation.

The ground floor area of each of the proposed houses is as follows: -

- Plot 1 – 412m<sup>2</sup>
- Plot 2 – 278m<sup>2</sup>
- Plot 3 – 635m<sup>2</sup> (former pub building)
- Plot 4 – 288m<sup>2</sup>
- Plot 5 – 315m<sup>2</sup>

The plans show provision of solar panels/photovoltaic panels on the flat roof parts of plots 2, 4 and 5. The developer has advised that ground source heat pumps have been considered which would have minimal disruption on the visual impact on the surrounding area and indeed Plot 2 shows a plant room in the basement to house a ground source heat exchanger. The Design & Access Statement also states that the dwellings will be well insulated.

The Three Crowns is located on the north side of Sutton Road within the Green Belt and adjacent to the Great Barr Conservation Area. There are large car parking areas on both sides of the building and a beer garden and children's play equipment at the rear. There is a hedge along the rear boundary of the public house (beyond which there are open fields) hedgerows and tree planting around the perimeter of the site and a tall hedge along the front of the site except immediately in front of the Three Crowns building. The adjoining land is a Site of Importance for Nature Conservation and Local Nature Reserve. There is a significant levels difference between the car park on the west side of the building and the remainder of the site.

It is proposed to maintain most of the hedge at the front of the site with new tree planting in the highway verge. The developer advises that approximately 900m of the existing hedge will be retained and to compensate for the 130m of hedge removed, 180m of new hedge will be planted at the end of the proposed gardens. A management plan for the grassland is proposed.

The site area is 4.2 hectares including 0.5 hectares of the site which is currently developed as the public house.

The developer states it was not viable to implement the apartment scheme previously granted permission for the site as local agents have advised him that there is no market for apartments in this area. The developer also considers apartments would not be as in keeping with the surrounding area as the proposed larger houses now proposed. They also state the current proposals still seek to retain the landmark public house building and that as the additional dwellings are located on the previously developed car parking and beer garden areas there is no greater impact on the Green Belt.

The developer considers the opportunity to maintain the existing building and provide new aspirational housing for the Borough and raise the benchmark for providing high quality housing in Walsall outweighs any harm that inappropriate development has upon the character and openness of the Green Belt. He also states that there are very few sites in the Borough that could successfully accommodate this kind of housing. The housing is designed to achieve Secured by Design accreditation.

A Design & Access Statement, Bat Survey, Extended Phase 1 Habitat Survey, Nocturnal Bat Survey Report, Three Crowns Pasture Management Plan, Tree Survey and Visual Impact Assessment have been provided in support of the proposals.

The Design & Access Statement explains how the design has been influenced by the surrounding area and the importance of retaining the landmark building whilst removing some of the later additions to it. The new houses are Arts and Crafts style and sit broadly in line with the existing public house building. The design utilises existing access points with two new sections of service road set behind the wide highway verge. The proposals create a high quality development opportunity within Walsall to offer a level of aspirational housing currently not available in the Borough.

The Bat Survey states that potential for roosting bats at the Three Crowns Public House is low as the roof is in good condition and the external and internal crevices and cavities are choked with cobwebs. No bat roost was identified.

The Extended Phase 1 Habitat Survey states that the two best habitats on the site were semi-improved fields and the boundary hedgerows identified as a SINC. The main impact of the development is removal of hedgerows and loss of part of the adjacent SINC grassland. Nesting birds were noted in the hedgerows. Compensatory planting is recommended for loss of vegetation. There were several Ash trees and bushes in the curtilage of the site that may be suitable for bat roosting and further survey work is recommended if trees are to be removed.

The Nocturnal Bat Survey Report notes that on one occasion a Common Pipistrelle bat was recorded twice as it flew east and west along the rear of the site. From the evidence of the surveys the Three Crowns Public House is not a bat roost and the grounds are not used as a bat commuting route.

The Three Crowns Pasture Management Plan explains that the long-term vision for management is to restore the grassland to a favourable condition. The management objectives are to remove all areas of encroaching scrub and tall vegetation, re-establish a grazing regime or undertake an annual hay cut in September and fill in the gaps in the hedgerow dividing the two fields using native species from a local supplier to ensure provenance. A 10 year management plan is to be produced and implemented by the land owner.

The Tree Survey states that 13 trees were surveyed and none were rated as being of high suitability for retention, five were rated as moderate suitability for retention and eight were rated as low suitability for retention. None were identified to be felled.

The Visual Impact Assessment concludes that the proposal has been carefully designed to retain the open view of the former Three Crowns landmark building and disguise the other dwellings and that the proposals will not harm visual amenities.

### **Relevant Planning History**

07/2167/FL/E6 – Change of use and minor extensions to form 12 apartments – granted subject to conditions June 2008

07/0290/FL/E6 – Change of use and minor extensions to form 12 apartments – refused April 2007 due to (1) lack of a bat survey and (2) lack of provision for education/urban open space

### **Relevant Planning Policy Summary**

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

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

GP1: Supports the sustainable location of development.

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

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

ENV2: Highlights considerations of proposals within or adjacent to the Green Belt and states development is inappropriate if it conflicts with the openness and purposes of the green belt.

ENV3: Identifies more detailed considerations for proposals in the Green ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

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

ENV19: Seeks to protect Sites of Importance for Nature Conservation from development that would directly or indirectly destroy, damage or adversely affect them.

3.16, GP7, ENV32, H10 & 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. 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.

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

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

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.

6.3 & 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: All development should satisfy the car parking standards set out in Policy.

T10, T11 & T12 – Specifies accessibility standards for new developments

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

LC8: Proposals involving loss of community facilities, including public houses, will only be permitted if it can be demonstrated that there are existing facilities in an equally or more convenient location, a replacement facility could be provided, there is no longer a need for the facility or it would not be possible to retain the facility because it is not financially viable.

## **Supplementary Planning Documents**

### **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.

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.

Annexe E: ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in

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height, 45° code and garden dimensions of 12m in length and 68m<sup>2</sup> for housing. 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.

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted. Paragraph 59 of the Inspector's Report on the JCS states *"it is common ground that the Black Country needs to attract and retain higher numbers of AB social group households to the area to assist economic regeneration....what it clearly does not imply is that such aspirational new housing can only be provided in the form of low density, low rise schemes on greenfield sites peripheral to the existing built up area"*.

### **Regional Strategy for the West Midlands**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSS's, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

### **National Policy**

PPS1: Emphasises the need to reject poor design and the need for sustainable development.  
PPG2: Seeks to protect against inappropriate development that is harmful to the Green Belt.  
PPS 3: Encourages reuse of previously-developed land for housing. Paragraph 10 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. Some of the specific outcomes that the planning system should deliver are well-designed housing built to a high standard and in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.  
PPS5: The historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations.



PPS9: Seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology and contribute to rural renewal and urban renaissance.

PPG13: Seeks to minimise the use of the car by the sustainable location of development.

PPS24: Seeks to minimise the adverse impact of noise.

### **Consultations**

**Transportation** – No objections in principal subject to provision of turning areas for Fire Service vehicles, maintenance of visibility splays at each access point, full details of tree planting within the highway verge and engineering details of all driveway and access alterations. The front boundary of plot 3 encroaches onto the public highway therefore a Stopping Up Order under Section 247 of the Town and Country Planning Act 1990 to extinguish highway rights over the land must be confirmed prior to the commencement of the development. The proposal has 19 car parking spaces in total plus a considerable driveway in front of each dwelling. This exceeds the maximum standard of 12 car parking spaces required. In terms of traffic generation the proposed development will generate significantly less trips than the present public house.

**Public Rights of Way** – No objections.

**Pollution Control (Scientific Team)** – No objections in principle but recommend conditions to address noise arising from vehicles using Sutton Road.

**Pollution Control (Contaminated Land)** – No objections but if permission is granted the developer should undertake a ground investigation specifically for the current car park areas of the site to determine the need to implement remedial measures.

**Environmental Health** – No objections.

**Arboricultural Officer** – Objects due to unacceptable tree and hedge losses. The site contains visually significant hedgerows and trees which should be accommodated within the proposed development. The proposals are also insensitive to the existing vegetation on site. Plot 1 is too close to Cuckoos Nook and the Dingle Local Nature Reserve and would result in the hedgerow having to be removed to accommodate the development. Plot 5 also requires removal of a large section of an established hedge. The tree survey shows 11 of the 13 trees on site to be removed as well as much of the established, significant and mature mixed hedgerow.

**Ecology** – Concern that the development would result in loss of part of the Three Crowns SINC causing the loss of grassland habitats and removal of a significant length of hedgerow. This does not accord with policy ENV19 as the applicant has not demonstrated that there are reasons of overriding regional significance for this development which outweigh the nature conservation value of the site. However, the applicant has now provided a SINC Management Plan proposing management practices and replanting hedgerows lost to development. If Committee resolves to support the development proposals the management plan is a satisfactory basis to secure the appropriate management of the site to halt the loss of the botanical interest. Entering into a S106 Agreement would reinforce the importance attached to the management of this site.

A satisfactory bat activity survey has been carried out.

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**Landscape** – Objects. Infilling new houses on either side of the pub results in loss of openness within the Green Belt and would significantly extend the built up area into the open countryside. Loss of the established hawthorn hedge would open up views from Green Belt land to the site. The proximity of the buildings on plots 1 and 5 to the site boundaries with deep excavations required to provide basement parking and inclusion of side facing habitable rooms would adversely affect the existing planting and hedgerows along the side. No planting details have been provided for this sensitive Green Belt site.

**Conservation** – No objections. Whilst the loss of a public house is regrettable the conversion is sympathetic and the proposed partial demolitions would help restore the building's original form and context. The new buildings fit in with the local context in terms of scale and massing and maintain spacious characteristics in the vicinity. Good quality materials should be used in the new construction.

**Urban Design** – No objections.

**Drainage** – No objections.

**Severn Trent** – No objections.

**Fire Officer** – No objections as turning areas adjacent to plots 1 and 5 are provided.

**Equality & Diversity Consultant** – No objections.

**Police Architectural Liaison Officer** - Secured by Design accreditation should be achieved. As there are large areas of open land surrounding the site it is recommended that a robust perimeter protection is included. Security and surveillance considerations should also be made including secure fencing, alarms, CCTV, window design, location of utility meters and lighting.

**Natural England** – No objections. Natural England originally objected on two grounds that have subsequently been lifted following the submission of an adequate bat survey and on provision of a habitat management plan which it is recommended should be conditioned if Committee are minded to approve the proposals. It is recommended that management plan includes maintenance and enhancement of the tree line that is currently used for bat foraging and as a wildlife corridor. However, with regards to the issue of hedgerows, trees and the impact on the SINC Natural England recommends that due account is taken of the comments and recommendations of the Council ecologist.

### **Public Participation Response**

When the application was first reported to Committee there were 5 letters of objection (2 in response to the amended plans) and one letter of support summarised as follows:

- Welcome the conversion of the Three Crowns Pub to a dwelling but do not support development of new houses
- Proposals are contrary to Green Belt policy and should be refused
- Increased built development in the Green Belt has an adverse impact particularly at the edge of current urban development
- New houses detract from the entrance to Cuckoo's Nook and The Hayhead Nature Trail – a unique area of the Borough
- Disturbance to wildlife and bats

- Adverse impact upon flora, fauna and wildlife of this unspoilt site
- Such large houses are out of keeping with surrounding housing
- Concern that the developer may re-apply for a greater number of smaller houses if permission is granted
- Heavy traffic in the area leading to pedestrian safety issues, particularly for the elderly
- Lack of connections to foul water/sewer drainage
- Lack of evidence to support the claim that conversion to apartments would not be viable in this area
- The applicants statement that the scheme has already been reduced from 5 to 4 new houses should be disregarded as any further development should be resisted
- Support the proposals as it will improve the site that is presently an eyesore

Since August 2010 there has been a further 27 letters of objection (including one from Walsall Civic Society and one from Valerie Vaz MP) summarised as follows: -

- Residents were not aware of the earlier Committee
- Residents should be allowed to make verbal representations at the Committee
- Lack of consultation with local residents
- Councillors should not ignore officer objections/recommendations outlined in the earlier report
- MP's have been asked to investigate the process
- Support retention and refurbishment/conversion of the public house but not 4 additional houses
- Building 4 large houses doesn't enhance the Three Crowns landmark building – any new dwellings should be subservient to it
- The original plan to convert to apartments is preferred
- Overdevelopment
- Green Belt land should be protected from housing development
- The proposals are contrary to national and local policy on development in the Green Belt
- No very special circumstances have been put forward to justify inappropriate development in the Green Belt
- Expands ribbon development in the Green Belt
- The proposals set an unwanted precedent for more housing in the Green Belt
- The Green Belt improves air quality on this busy road
- Private commercial developers should not take precedence over Green Belt policies
- If the scheme to convert the pub is not viable this is a commercial decision not a planning issue
- The proposals fail to justify additional houses in the Green Belt
- Adverse impact upon the Green Belt and adjacent site of nature conservation
- Destruction of the SINC for future generations
- Natural England have deferred comments on the hedgerows, trees and the SINC to the Council's Ecologist which should be made clear in the report
- The site needs tidying up

One of the objectors wrote to the Green Belt Group Limited who were unable to help other than to advise the objector of the local planning process.

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

## **Determining Issues**

- Principle of new residential development in Green Belt
- Loss of a community facility
- Layout and Design
- Impact on the character and appearance of the surrounding area
- Access and parking
- Ecology and Landscaping
- Application Process

## **Observations**

### **Principle of new residential development in Green Belt**

The proposed retention of the Three Crowns building is welcomed as it is a prominent landmark in the area. The principle of its use for residential purposes has already been established in granting planning permission for conversion to apartments. The current proposals to convert it to a single house also allow re-use of the existing building without prejudice to the openness of the Green Belt and the building is of permanent and substantial construction, capable of conversion without complete reconstruction. This accords with paragraphs 3.7 and 3.8 of PPG2 and policy ENV2 (b) of the UDP.

However, paragraph 3.4 of PPG2 states that the construction of new buildings in the Green Belt is inappropriate unless for specific purposes listed which does not include new dwellings. The construction of the four additional dwellings which would have a significantly larger and wholly additional built footprint than the existing public house is therefore inappropriate development and the applicant has not provided sufficient evidence to justify very special circumstances to outweigh the harm to the green belt. This level of development would have an adverse impact on the openness and amenity of the Green Belt. This part of the proposal is also contrary to policies 3.3, 3.6 and ENV2 of the UDP. If Committee is minded to approve the application it will need to be referred to Government Office under the Departure procedures.

Supporting information included in the agent's letter of 12 July 2010 explains that in order to secure the long-term retention of the existing landmark building extensive works are required to convert it such as partial demolition, extension and remodelling as well as improved insulation, double glazing, re-wiring etc. They state it would be *"considerably cheaper to demolish the building and build a new dwelling the same size"* but provide no financial justification to support this. They have not provided any evidence to justify the claim that four new dwellings are required to finance the conversion works for the Three Crowns building. They also state that to convert the existing building to apartments is not viable yet provide no financial evidence to support this other than to say local estate agents have advised that there is not a market for apartments in the area.

However, the applicant has not provided any evidence to demonstrate the benefits that the Borough will gain from the provision of aspirational housing in this locality. A row of five substantial dwellings would extend the linear development along Sutton Road and encroach on the openness of the green belt. This would conflict with one of the purposes of including land in the green belt, namely to assist in safeguarding the countryside from encroachment. The proposal is therefore contrary to PPG2.

Objectors are also concerned that there is a lack of justification for the proposed inappropriate development and that a private commercial developer should not take precedence over Green Belt policies. The lack of information does not demonstrate very special circumstances as to why the conversion of the public house would not be viable without the new houses.

The applicant also advises the proposals are designed to re-use the existing developed parts of the site such as the car parking areas rather than encroach further onto undeveloped Green Belt land and that the new houses will cater for aspirational dwellings in the Borough for which there is a need.

Although the retention and conversion of the Three Crowns building is supported and has previously been approved, the development of four new houses would reduce the openness of the Green Belt. Whilst the applicant states that the development does not encroach beyond the previously developed part of the site, the new houses do project onto areas where there have not previously been buildings and it could not be argued that four large buildings are comparable to two flat areas of parking. In addition, their individual gardens project within the open paddock at the rear and subdivision and domestic use of these areas would adversely affect the character and openness of the Green Belt.

Objectors are also concerned that the additional houses have an adverse impact upon the openness of the Green Belt as it extends ribbon development along Sutton Road. They consider the proposals set an unwanted precedent for housing in the Green Belt contrary to national and local policy and no very special circumstances have been put forward to justify inappropriate development in the Green Belt sufficient to outweigh policy. This view is supported by officers.

### **Loss of a community facility**

The principle of the loss of the public house as a community facility has already been accepted by the Council in allowing its conversion to apartments by the earlier permission.

### **Layout and Design**

The proposals show the four new houses broadly aligned with the Three Crowns building, with the exception of the gym extension on plot 1 that projects forward approximately 8 metres. The houses are evenly spaced along Sutton Road with gated driveways leading off the existing access points. The existing mature hedge that runs across the rear of the car park is to be removed and a replacement hedgerow planted further back to allow each new plot to have between 17-23 metre garden lengths. The open land beyond is to be used to create paddocks for use by the future occupiers.

The proposed new dwellings are influenced by surrounding housing in Sutton Road. Nevertheless they have a much larger footprint than surrounding housing to the south and west. The applicant has explained that they are aiming to set new standards and provide aspirational housing in the Borough hence the larger footprints between 278m<sup>2</sup> and 635m<sup>2</sup> (the largest is the former Three Crowns building). By comparison the nearest houses have footprints between 64m<sup>2</sup> and 173m<sup>2</sup>. However, the proposed dwellings have generous plots with adequate private garden space and their design would be acceptable (ignoring the Green Belt issue).

Objectors consider that such large new houses will detract from the Three Crowns building as they are over-development and are not in keeping with surrounding

housing. They are also concerned that if the developer gets permission for five dwellings he may apply for a greater number of dwellings at a later stage. However, the developer has explained that the proposed housing is purposely designed as larger aspirational housing and a step change in design for housing in the Borough. Also any future application for additional dwellings would have to be justified in terms of Green Belt policy.

There is adequate space and separation between each of the individual proposed dwellings to prevent overlooking or over-shadowing. Habitable rooms are mainly concentrated on the front and rear elevations and the dwellings are laid out in line with each other so that there are limited side facing windows. The nearest existing house to the site is 515 Sutton Road which is over 25m away from the site boundary. The nearest facing properties are those on the opposite side of Sutton Road over 40m away from the site boundary. The proposals have no adverse effect upon residential amenities in terms of outlook, privacy or daylighting.

Given the secluded nature of the plots the Police have recommended that Secured by Design Accreditation is sought and that all boundaries, particularly those to the open land at the rear, are robust. The applicant has advised that such measures including gated access, CCTV, alarm systems, low level lighting and security doors and windows will be used in the development and Secured by Design Accreditation will be achieved. With regard to provision of robust boundary fencing it is considered that 2m high security fencing would not be appropriate within the Green Belt but alternative boundary treatment could be negotiated to address this matter.

The lack of connections to foul water/sewer drainage as highlighted by objectors is a detailed matter that could be dealt with at a later stage in the event that permission was granted for the current development. Severn Trent raises no objections to the proposals. Building Regulations will also require adequate drainage.

Committee asked that the developer consider incorporation of eco-friendly solutions in the design. The plans show solar panels/photovoltaic panels on the flat roof parts of three of the plots and the developer has advised that ground source heat pumps may also be included. The dwellings would also be well insulated to prevent heat loss and maximise energy.

### **Impact on the character and appearance of the surrounding area**

The proposals create a ribbon of housing development that extends beyond the edge of the urban area. This inevitably affects the character and openness of the areas on either side of the Three Crowns building which would have greatly reduced gaps between houses. This coupled with the loss of existing hedgerows and extension of the residential gardens into the open paddock land at the rear would further affect the character. Although the developer has sought to create a design that is in keeping with the style of housing in the area and seeks to maintain the hedge along Sutton Road to screen the new houses this does not outweigh the harm that inappropriate development has upon the character and openness of the Green Belt.

### **Access and parking**

The proposal utilises the existing accesses off Sutton Road. Transportation has stated that in terms of traffic generation the proposed development will result in significantly less trips than when the site was used as a public house. Use of these existing accesses is therefore acceptable providing adequate visibility is maintained. Given the reduction in traffic generation at the site the objectors concerns that heavy traffic could lead to pedestrian safety issues are considered not to be a problem.

The Fire Officer is satisfied that fire service vehicle access is adequate given that there are turning areas shown adjacent to plots 1 and 5.

Part of the private driveway at the front of plot 3 (Three Crowns building) includes land currently within the public highway therefore the developer will need to apply for a Highway Stopping-Up Order to extinguish highway rights over the land. This could be addressed at a later stage if permission is granted.

Each of the proposed houses has 6/7 bedrooms and the UDP maximum parking requirement is 15 spaces in total. The drawings show four garage spaces for each of plots 1, 2, 4 and 5 and five garage spaces for plot 3 which equates to 21 spaces, not including the space available on the private driveways. Although the parking is greater than the maximum requirement, policy T13 does state that *“developers must demonstrate that development will provide adequate on-site car parking to meet its own needs”*. In the circumstances as the proposed dwellings have a greater number of bedrooms and are aspirational dwellings it is considered that the additional parking is acceptable, particularly as there is adequate space within the plot to cater for parking and manoeuvring and there will be no adverse effect on highway safety and the environment.

The proposals include provision of new trees in highway verge. Whilst this is acceptable in principle maintenance of the trees should be the responsibility of the developer. The developer has also provided a management plan for this area and the open fields at the rear of the houses to ensure they are maintained on behalf of the future occupiers.

### **Ecology and Landscaping**

The proposed development encroaches onto the Three Crowns Site of Importance for Nature Conservation (SINC) by extension of the private gardens onto open land at the rear. This would result in destruction of important grassland habitats and removal of a significant hedgerow. The developer has advised that the land has no restrictions on it presently and could be ploughed which would also destroy the grassland. They also consider that although there is a small loss of grassland this would be compensated for by securing the long term retention of the majority of the grassland at the rear by retention to create paddocks and provision of a Management Plan as part of the current proposals.

Since the application was first considered by Committee the developer has provided a Management Plan for the Three Crowns Pasture SINC which seeks to restore the grassland by removing all areas of encroaching scrub and tall vegetation, re-establish a grazing regime or undertake an annual hay cut in September and fill in the gap in the hedgerow dividing the two fields using native species. This 10 year management plan is to be implemented by the land owner and will ensure positive management of the SINC. Natural England has indicated that they are satisfied with the proposals in this respect but recommend that the Council Ecologist comments are fully taken into account. Committee resolved that the Management Plan should be secured through a S106 Agreement. However, if Committee were minded to approve the proposals the implementation of the Management Plan could be secured by a suitably worded condition. Despite third party objections the Management Plan will help protect the SINC.

There would also be potential damage to the Cuckoo's Nook and The Dingle Local Nature Reserve due to the proximity of plot 1 to this boundary. Plot 1 has been

revised to move it closer to Sutton Road and further away from this western boundary, but the building remains within 1.5m of the boundary. This would prejudice retention of the dense hedges and landscaping by residential use adjacent. The floor plans have also been revised for plot 1 to reduce the conflict between habitable rooms and the boundary hedge.

The developer also states that the short term habitat loss due to hedge and tree removal is compensated for by the new hedge to be maintained by Management Committee involving each of new owners and provision of a Management Plan for the site to help protect the grassland. Despite these changes the applicant has failed to demonstrate reasons of overriding regional significance which outweigh the significance of the nature conservation value of the site in favour of development as required by policy ENV19. The hedgerows within the site are considered to have a wildlife and visual benefit and should be retained in accordance with policy ENV23.

A Bat Emergence Survey has been provided since the application was last considered by Committee and Natural England and the Council Ecologist have now removed their objections on this basis.

### **Application Process**

Objectors are concerned about the lack of consultation on the application and state they were not made aware of the earlier Committee date. However, when the application was first publicised in November 2009 a press notice was published, a site notice erected and direct neighbour notification letters were sent out to 49 properties. The publicity advised occupiers of the procedure for determining the application and directed them to Council's web site where the procedure for public speaking at Committee is available to view. As a result of this publicity 6 representations were received (referred to above) and there were no requests for public speaking. The procedures do not include notifying objectors of the date when an application is to be considered by Committee, unless they have registered to speak.

Despite the above it has been stated that residents have not been allowed to make verbal representations on the proposals but this later Committee does offer a further opportunity for public speaking.

Objectors have also written to their MP as they are concerned that Members may be supporting the proposals despite the weight of local objections and despite officer objections/recommendations to the contrary outlined in the earlier report. However, the application remains undetermined and objectors have the opportunity to voice their objections at this Committee which will be a material consideration in determining the application. Nevertheless if Committee were minded to support the proposals the application would still need to be referred to Government Office.

### **Conclusion.**

A number of Committee's concerns have now been resolved. The opportunities the development presents are fully recognised. Officers concerns about ecological impact have now been substantially resolved with Natural England no longer raising objections, but the Council's specialist officer remains concerned about the impact on the Three Crowns Pasture SINC. The scale of the development and the impacts this brings is still considered to lack full justification in the absence of any very special circumstances sufficient to outweigh the harm the development would have on the green belt. The recommendation therefore remains one of refusal.



### **Recommendation: Refuse**

1. The proposal is inappropriate development in the Green Belt by virtue of the additional footprint and increased height and mass of the new houses that reduce the openness of the site that have an adverse effect upon the character of the Green Belt. The loss of trees and hedgerows and encroachment of gardens onto the pasture land also alters the appearance of the site and adversely affects the character of the Green Belt. A lack of evidence has been submitted to demonstrate that there are very special circumstances sufficient to outweigh the harm the proposed inappropriate development of these additional houses has on the character, openness and purpose of the Green Belt. The proposal is therefore contrary to policies GP2, 3.3, 3.6 and ENV2 of Walsall Unitary Development Plan and Planning Policy Guidance 2: Green Belts.

2. The proposal fails to demonstrate reasons for overriding the regional significance of the Site of Importance for Nature Conservation sufficient to outweigh the significance of the nature conservation value of the site in favour of development. The proposed encroachment of development onto the Site of Importance for Nature Conservation, destruction of important grassland habitats, loss of trees and hedgerows within the site that have wildlife and visual benefits are therefore contrary to policies ENV19 and ENV23 of Walsall Unitary Development Plan and Planning Policy Statement 9: Biodiversity and Geological Conservation and Supplementary Planning Document: Conserving Walsall's Natural Environment.

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

**Reason for bringing to committee: Departure from the Development Plan**

**Application Number:** 10/1096/FL

**Application Type:** Full application

**Applicant:** TJM Holdings Ltd

**Proposal:** Erection of 5 houses with associated works, demolition of existing B1 Light Industrial, B2- General Industrial and B8-Storage and Distribution buildings

**Ward:** Aldridge Central & South

**Case Officer:** Alison Deakin

**Telephone Number:** 01922 652487

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

**Agent:** CT Planning Ltd

**Location:** Mill Green Farm, 724 Chester Road, Aldridge, Walsall, WS9 0LR

**Expired Date:** 14/10/2010

**Recommendation Summary:** Grant Subject to Conditions Subject to Referral to Government Office



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### **Application and Site Details**

The proposal is to demolish the industrial buildings on the site and erect five detached houses. The applicant states the new dwellings will provide aspirational housing in an exclusive location. They also consider the proposals would significantly reduce the amount of traffic to and from the site, especially large heavy goods vehicles and would enhance the openness of the Green Belt.

The houses are laid out in a crescent behind the Chester Road frontage in broadly the same position as the existing buildings. The design of the houses is Arts and Crafts style, each one is individually designed. There are at least 3 car parking spaces for each house.

The site is on the west side of Chester Road which forms the Borough boundary with Lichfield District Council. There is a group of large industrial buildings on the site (formerly agricultural and storage buildings) occupied for a variety of uses which share an access to the north of the buildings. There is an open car storage site adjacent to the western boundary, a detached house adjacent to the southern boundary, a group of dwellings opposite on Chester Road and the Plough & Harrow Pub to the north. The remainder of land surrounding the site is largely agricultural and horse paddocks. The site is at 2-2.5m higher ground level than Chester Road.

The site is lawfully used for B1, B2 and B8 purposes with no restrictions on hours of use, deliveries or external storage. The existing buildings on site have a volume of 11,787 cubic metres and maximum height of 8 metres. The remainder of the site is laid out as hardstanding including the access road and areas around the buildings which provide car parking for in excess of 60 cars. The proposed houses have a volume of 7657 cubic metres which represents a 35% reduction in the size of the buildings. The footprint is also 33 sqm less than the industrial buildings. The houses are laid out broadly in the position of the existing buildings with a maximum ridge height of 9 metres.

The Design & Access Statement states the houses will comply with the Code for Sustainable Homes as they will be 25% more efficient than homes built in 2006, there will be thermal efficiency in walls, windows and roofs, a high efficiency condensing boiler, encourage reduced water consumption and sustainable drainage. There is also drying space within each property, cycle storage, home office, energy efficient lighting, recycling, high security and sound insulation.

The site area is 0.8 hectares giving a density of 6 dwellings per hectare.

In support of the proposals the applicant has submitted a Design & Access Statement, Planning Statement, Bat Survey, Landscape Report, Note on Trip Rates and Geo-Environmental Desk Study.

The Design & Access Statement states that the proposed aspirational houses will improve the choice of housing in Walsall and offer a significant reduction (35%) in the mass of buildings on the site and offer improvements to the character and openness of the Green Belt. It also states the layout of large individual designed dwellings in substantial landscaped plots will create its own sense of place.

The Planning Statement acknowledges that whilst the proposed residential development is inappropriate within the Green Belt there are very special circumstances that would outweigh the harm by reason of inappropriateness or any other harm. The statement offers very special circumstances such as the fact that

there will be a 35% reduction in the volume of buildings on site thus enhancing the openness of the site, the increase in height is justified by the reduction in the volume of buildings, the proposal will result in less traffic and the provision of aspirational housing to improve the choice of housing in the Borough and enhanced landscaping.

The Bat Survey concludes that there is no evidence of bats roosting in buildings on the site. The few bats heard on site are more likely to be commuting across the site between forage areas.

The Landscape Report states that the current development on site is intrusive and dominates the landscape and is at odds with the surrounding landscape character. The development of housing presents an opportunity to introduce buildings more in keeping with the visual qualities and the introduction of hedge and tree planting along the road frontage will help screen new housing.

The Note on Trip Rates concludes that the change of use would result in a reduction of two way movements and expected net reduction of 132 movements. In addition there would also be removal of 20 HGV's per day. The reduction in trips would have no adverse impact on the local road network.

The Geo-Environmental Desk Study states there are no significant sources of contamination other than localised contamination from above ground fuel storage tanks, stockpiled excavated material and industrial activity at the site. They report recommends the site is investigated by intrusive techniques to confirm ground conditions and confirm presence or absence of contamination. A ground investigation to confirm the underlying geology is also recommended to determine suitable foundation solutions.

### **Relevant Planning History**

02/0521/FL/E2 – Continuation of the use of former agricultural buildings for B1 business), B2 (general industrial) and B8 (storage and distribution) uses – Granted December 2002.

BC59353P – Retrospective application for change of use of agricultural buildings to business use (Class B1, B2 & B8) – Refused December 1999.

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

### **Saved policies of Walsall Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

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

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

ENV2: Highlights considerations of proposals within or adjacent to the Green Belt and states development is inappropriate if it conflicts with the openness and purposes of the green belt.

ENV3: Identifies more detailed considerations for proposals in the Green ENV4: Redevelopment of major developed sites may be permitted provided they have (i) no greater impact (and where possible less impact) than the existing development on the openness and purposes of the Green Belt, (ii) the height of existing buildings is not exceeded and (iii) the area to be covered by buildings would not occupy a larger

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area than the aggregate floor area of the existing buildings, unless it would achieve a reduction in height which would benefit visual amenity.

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

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

3.16, 3.113, 3.114, 3.115, GP7, ENV32, H10 & 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. 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.

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

JP7: When windfall sites come forward for redevelopment these will be safeguarded for appropriate employment uses unless there are exceptional circumstances where it may be more appropriate to consider other uses such as housing due to the relationship of the site to the surrounding land uses or because the site is not well located to serve the needs of modern industry.

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

T7: All parking provision should be sensitively designed and integrated into the townscape or landscape and satisfy the car parking standards set out in Policy T13.

T13: All development should provide an adequate level of car parking to meet operational needs. Account should be taken of the location of development in relation to local facilities and public transport.

4 bed houses and above: 3 car parking spaces per unit are required.

## **Supplementary Planning Documents**

### **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.

DW1- Sustainability- New development should seek to simultaneously meet environmental, economic and community needs without compromising the needs of future generations

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

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

DW4- Continuity- Attractive spaces within new development should be defined or enclosed by buildings, structures and/or landscape

DW5-Ease of movement- All new development should contribute to creating places that are well connected, easy to get to and safe to move through

DW6- Legibility- New development should contribute to creating a place that has a clear image and identity and is easy to understand

DW7- Diversity- All new development should contribute to creating lively places that offer a mix of activities to the widest range of possible users

DW8- Adaptability- New development should 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

DW10- Well designed sustainable buildings- New development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment

Annexe E: 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.

### **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.

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted.

Paragraph 59 of the Inspector's Report on the JCS states *"it is common ground that the Black Country needs to attract and retain higher numbers of AB social group households to the area to assist economic regeneration....what it clearly does not imply is that such aspirational new housing can only be provided in the form of low density, low rise schemes on greenfield sites peripheral to the existing built up area"*.

### **Regional Strategy for the West Midlands**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSS's, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

### **National Policy**

PPS1: Emphasises the need to reject poor design and the need for sustainable development.

PPG2: Seeks to protect against inappropriate development that is harmful to the Green Belt.

PPS3: Encourages reuse of previously-developed land for housing. The planning system should deliver well-designed housing built to a high standard and in suitable

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locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPS4: Encourages sustainable economic growth and making the most efficient and effective use of land, prioritising previously developed land. It encourages location of developments which generate substantial transport movements in locations that are accessible. It also encourages new uses for vacant or derelict buildings. Policy EC6.2 discusses rural areas and states local planning authorities should strictly control economic development in open countryside away from existing settlements or outside areas allocated for development in development plans.

PPS9: Seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology and contribute to rural renewal and urban renaissance.

PPG13: Seeks to minimise the use of the car by the sustainable location of development.

## **Consultations**

**Transportation** – No objections. The development should only be served by the northerly access. The applicant has demonstrated a swept path analysis for a refuse vehicle which is acceptable. The existing access road to the site is unadopted and is it assumed that the proposed realigned road will also be private. However, if the developer intends to request the Council to adopt the proposed access road then full engineering details of the layout, alignments, widths and levels of the proposed access road, together with all necessary drainage arrangements and run off calculations, are required as part of the adoption under S38 of the Highways Act.

Policy T13 requires 3 parking spaces per dwelling which is accommodated on site as each house has garaging for 2/3 cars plus driveway parking.

The vehicle trip based analysis undertaken shows a net reduction of 13 and 10 two way movements and an overall reduction of 132 vehicle movements over a 12 hour period. In addition, as a result of the proposed development there would be removal of 20 HGV movements per day. This shows that the proposed development will considerably reduce the vehicle movements to and from the site compared to the present use.

**Pollution Control (Scientific Team)** – No objections.

**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 agricultural uses, light industrial, general industrial and storage and distribution buildings previously located on the site . Conditions to address these concerns have been recommended.

**Ecology** – No objections. The bat reports are sufficient to indicate that it is unlikely that there is a bat roost amongst the buildings to be demolished although activity by common pipistrelle bats was found. The development should enhance the neighbourhood for foraging and roosting bats and conditions are recommended to ensure this.

**Urban Design** – No objections. The design is acceptable in the surrounding context and the individual design of each property will add to the visual quality of the area as will replacement of the industrial units.

**Landscape** – No objections. Details planting and boundary/surface treatments are required.

**Natural England** – No objections.

**Drainage** – No objections.

**Severn Trent Water** – No objections.

**Fire Service** – No objections.

**Police Architectural Liaison Officer** - No objections. The applicant should design and build to achieve Secured by Design Accreditation. The site is in a secluded area so attention should be paid to security of the perimeter of the houses. Other security measures should be considered such as CCTV, lighting, robust fencing and gates and defensive planting.

**Environment Agency** – No objections subject to inclusion of conditions regarding potential land contamination.

### **Public Participation Responses**

Two letters of objection have been received which are summarised as follows:

- Lack of notification about the exact nature of the application
- Significant investment in an existing business on site has already taken place
- The landlords did not inform businesses of the intention to demolish the existing units and indicated that they were committed to generating small businesses creating employment opportunities for skilled tradesmen
- The business has local contracts and has expanded the workforce
- Adverse effect on the local work force during a recession and financial inconvenience and implications for companies occupying the site
- Loss of established businesses and jobs
- Adverse effect on bats and their habitat
- There is existing aspirational housing less than 25m from the site in Little Aston
- Photos of Unit 5 are not included in the application

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

### **Determining Issues**

- Whether very special circumstances have been demonstrated to justify residential development in the Green Belt
- Impact upon the character and openness of the Green Belt
- Loss of an employment site
- Layout and Design
- Relationship to surrounding properties
- Access and Parking

### **Observations**

**Whether very special circumstances have been demonstrated to justify residential development in the Green Belt**



The applicant acknowledges that the new housing is inappropriate development in the Green Belt but has put forward five very special circumstances they consider to outweigh the harm to the Green Belt. These are commented on below.

#### Green Belt purposes

The proposed development is confined within the existing developed part of the site where the industrial buildings and hardstanding areas are. In the circumstances the proposals do not conflict with the five purposes of including land within the Green Belt as defined in PPG2. The proposals do not encroach into the countryside, result in urban sprawl or cause neighbouring towns or villages to merge into one another. As there are no listed buildings and the site is not within a conservation area the proposals preserve the setting of the Green Belt. Despite the site not being within the urban area the development of previously developed land for housing does help regeneration and provides the opportunity to provide aspirational housing.

#### Openness

The replacement of the large industrial buildings and extensive hardstanding areas with smaller scale houses and gardens is considered to improve the openness of the site. The proposals have a footprint 33 sqm less than the industrial buildings and are 35% reduced volume. Although the new houses are 1m higher to the ridge height than the existing industrial buildings it is considered that their appearance, scale and massing is an improvement upon the present buildings and creates a greater openness. The proposals also remove the extensive areas of hardstanding and car parking presently on site.

#### Visual and Environmental Enhancement

The surrounding area is rural in character with small groups of dwellings surrounded by fields. The appearance of the existing group of industrial buildings on the site is considered to detract from the appearance of the Green Belt as the scale and size of the buildings present a massive outline from viewpoints outside the site. The proposed dwellings are a reduced size which coupled with the additional landscaping will improve the appearance of the site from surrounding viewpoints. The roofs of the houses, although higher are less extensive and more varied thus breaking up the mass and providing a break in the skyline. For these reasons the proposals are considered to enhance the visual appearance of the site within the Green Belt.

#### Reduction in Vehicular Movements

The Trip Generation Analysis demonstrates that there will be a net reduction of 132 vehicle trips to and from the site if it is developed for housing. It also offers the benefit of removing the need for HGV's to visit the site. The reduction of traffic and removal of industrial traffic from this rural area will improve the character of the site and the Green Belt.

#### Aspirational Housing

The proposals offer the opportunity to provide 5 large aspirational houses set within generous plots that would attract entrepreneurs and business managers to live within the Borough. Paragraph 59 of the Inspector's Report on the Joint Core Strategy states that the Black Country needs to attract and retain higher numbers of AB social group households to the area to assist economic regeneration and acknowledges that aspirational new housing can only be provided in the form of low density, low rise schemes on greenfield sites peripheral to the existing built up area. Mill Green Farm is one such site and the proposal offers the opportunity to provide this choice of housing. An objector is stating there is existing aspirational housing less than 25m

from the site in Little Aston but this does not detract from the argument, nor does it justify opposition to this application.

#### Conclusion on Green Belt Issues

The cumulative benefits of the proposals referred to above are considered sufficient to demonstrate very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness.

#### **Loss of an employment site**

The site is not an allocated employment site within the UDP and there is a history of enforcement seeking to terminate the employment uses at the site. The buildings are not fully let and those that are have short term leases. The applicants have existing industrial premises in Aldridge where there are vacant units that could accommodate displaced tenants from the Mill Green Farm site. Policy EC6.2 of PPS4 states local planning authorities should strictly control economic development in open countryside away from existing settlements or outside areas allocated for development in development plans.

The site is considered as part of Walsall's industrial land supply but as it is one of a number of small isolated industrial and quasi-industrial activities taking place in the Green Belt it only contributes marginally to the industrial land supply. It is not in an allocated employment site in the development plan and therefore displacement to a more central employment area is preferred rather than the present rural location.

The site is a distance from any employment catchment and as a whole is not well located for the needs of modern industry. Consequently it is an exceptional site under policy JP7 (d) and there is no objection to redevelopment for residential purposes. The applicant has provided a schedule of the small businesses on the site and these could be accommodated elsewhere in the Borough without difficulty.

An objector is concerned about the lack of consultation of the proposals by their landlords and the fact that they have made significant investments in the business which will be wasted if the business is forced to close. However, the matter of prior notification about intended proposals for a site is a private matter between the landlord and tenant. The local planning authority has carried out publicity on the planning application proposals.

If the businesses are displaced from the site objectors are concerned that this will result in loss of jobs as the workforce and local contracts may be lost that could in turn affect the viability of the established businesses. However, some of these uses are unlawfully operating at the site (hence the enforcement notices) and it is considered they would be better located in an established employment area where there is greater access to the transport network and facilities to meet the needs of a modern business. The applicant has demonstrated that there are vacant premises available in Aldridge that could provide alternative location for the businesses. The Strategic Policy team agree that the small businesses could be accommodated elsewhere in the Borough.

The supporting evidence demonstrates that 3 of the 16 units available on the site are occupied by A1 retail uses therefore not compliant with the permitted use of the site for B1, B2 or B8 uses. It also demonstrates that many of the units are used for storage only and there are low numbers of staff employed at the site (19 in total). Given that there are alternative premises available within 2km of the site at Westgate and Anglian Road it is considered that the risks arising from loss of employment on

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this site are outweighed by the benefits the proposed development has upon the Green Belt.

There has been an objection that photos of unit 5 have been deliberately missed out of the supporting information as these show the investment that has been made to the premises. However, there are photos available to Committee as part of this report, and in any event, inclusion in the application submission is not mandatory.

### **Layout and Design**

The proposed layout positions the houses in the area of the existing industrial buildings facing a new cul-de-sac that addresses Chester Road then arcs back into the site. The houses have spacious plots with extensive rear gardens averaging between 23m and 37m in length and there is clear definition between public and private space. There is proposed planting throughout the site to all front gardens, around rear garden boundaries and within the open space between the access and Chester Road. This will assist in screening the proposed development and will be an improvement on the visual appearance of the site.

The design of each house is individual providing accommodation over 3 or 4 floors utilising basement and loft spaces. Plot 1 is the largest house and has 6 bedrooms, plots 2, 3 and 5 have 5 bedrooms and plot 4 has 4 bedrooms. The design is based on Arts and Crafts style and has typical features such as chimneys, gables fronts, porches, buttress walls, bay windows and first floor balconies. The materials proposed are plain clay tiles or slate with render, tile hanging and timber joinery to the facing elevations. These designs are typical of dwellings found in surrounding areas and are acceptable.

Despite objectors concerns about a potential adverse effect on bats and their habitat the developer has provided two bat surveys. These indicate that it is unlikely there is a bat roost amongst the buildings to be demolished and that proposals for enhancement of the neighbourhood for foraging and roosting bats can be secured through conditions. Natural England and the Council Ecologist have reviewed the bat surveys and are satisfied that there will be no adverse effect upon bats or their habitat. Condition 5 reinforces the position.

### **Relationship to surrounding properties**

The proposed house on plot 5 is closest to the existing property 724 Chester Road yet this is over 30m away which complies with the separation distances recommended in SPD: Designing Walsall. As all properties have spacious plots with large rear gardens there is little opportunity for overlooking or loss of privacy between the new plots. The enhancement of landscaping around the perimeter of the site will also improve the outlook from surrounding occupiers and prevent potential overlooking. The new houses will be an improved outlook from 724 Chester Road and more compatible relationship than the existing unrestricted industrial uses.

### **Impact upon the character and openness of the Green Belt**

The proposal to remove the industrial sheds on the site which are of vast scale and size and replace them with houses will decrease the volume of buildings on the site by 35%. Despite the houses having a ridge height 1m taller it is considered that their overall reduced scale and size will be an improvement to the character and openness of the Green Belt.

Nevertheless it is recommended that permitted development rights for extensions, alterations to the roofs, porches, outbuildings, hard surfacing and chimneys are

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removed to enable control over future development at the site that may reduce the openness of the Green Belt or adversely affect the character.

### **Access and Parking**

The proposed access is via the existing access to the north of the site and is acceptable. Each of the proposed houses has at least three off-street parking spaces which accords with requirements of policy T13. The proposed number of vehicle movements is also greatly reduced from the existing industrial uses and it is considered that the type of traffic will have less of an impact on the highway network than the existing number of vehicles which includes HGV's visiting the site.

Although the site is located in a rural area, there are facilities within the outskirts of Aldridge 2km distant that can be reached by walking, cycling or public transport such as schools, shops, public houses and employment. There are bus stops within 750m of the site. The proposals reduce the overall level of traffic to the site and may also reduce commuting distances for entrepreneurs with businesses in the Borough. The proposals are large houses where there is adequate garage space for storage of bicycles to encourage home owners to use alternative travel.

### **Summary of Reasons for Granting Planning Permission**

The applicant has demonstrated very special circumstances sufficient to outweigh the harm to the Green Belt by reason of inappropriateness. The houses do not extend beyond the developed part of the site and improve the openness of the Green Belt as they have a smaller footprint and massing and introduce additional landscaping. The reduced scale of the buildings will improve the visual appearance of the site from the wider setting, there will be reduced vehicular movements and the proposals offer the opportunity to provide aspirational housing for AB households as required in Walsall.

The site is not an allocated employment site and there is a history of enforcement over the existing industrial uses. It is also evident that there is some unlawful retail use on site. The tenants businesses could be accommodated in Aldridge so that jobs are displaced rather than lost. The applicant has demonstrated the low numbers of people actually employed at the site and has advised that all tenants are on a short lease. On balance the loss of potential employment is outweighed by the benefits the proposals offer to the Green Belt.

The layout of the houses addresses Chester Road and there is a clear distinction between public and private spaces. Each house has more than adequate garden areas and separation distances between houses are acceptable. There is more than adequate separation between the plots and 724 Chester Road and therefore no adverse impact upon neighbour's outlook or privacy. The design and materials are acceptable in the surrounding context. The scale and massing of the houses will improve the appearance of the Green Belt as they are smaller than the existing industrial buildings.

The proposals have no adverse impact upon bats or their habitats as demonstrated by the bat surveys.

The existing access is utilised which is adequate to serve the new houses and the proposals will result in less traffic visiting the site and removal of HGV's. The level of parking accords with Council policy.

In light of the above the proposals are considered to accord with the aims of saved policies GP1, GP2, GP7, 2.2, 3.6, 3.7, 3.16, 3.21, 3.113, 3.114, 3.115, 3.116, 3.117, ENV1, ENV2, ENV3, ENV14, ENV18, ENV23, ENV32, ENV33, 6.3, H3, H10, JP7, T7 and T13 of Walsall Unitary Development Plan and Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment.

**Recommendation: Grant Subject to Conditions Subject to Referral to Government Office**

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 works hereby approved shall only be carried out in accordance with details contained within the following approved plans and specifications except insofar as may be otherwise required by other conditions to which the permission is subject;

- Location Plan (3568/99A) received 19/8/10
- Site Plan (0729-203a) received 19/8/10
- Aerial view from the south (0729-224) received 12/8/10
- Aerial view from the east (0729-201) received 12/8/10
- Floor Plans: Plot 1 (0729-204) received 19/8/10
- Elevations: Plot 1 (0729-209) received 12/8/10
- Elevations: Plot 1 (072-210) received 12/8/10
- Roof Plan: Plot 1 (0729-211) received 12/8/10
- Floor Plans: Plot 2 (0729-205) received 12/8/10
- Elevations: Plot 2 (0729-213) received 12/8/10
- Elevations: Plot 2 (0729-212) received 12/8/10
- Roof Plan: Plot 2 (0729-214) received 12/8/10
- Floor Plans: Plot 3 (0729-206) received 12/8/10
- Elevations: Plot 3 (0729-215) received 12/8/10
- Elevations: Plot 3 (0729-216) received 12/8/10
- Roof Plan: Plot 3 (0729-217) received 12/8/10
- Floor Plans: Plot 4 (0729-207) received 12/8/10
- Elevations: Plot 4 (0729-218) received 12/8/10
- Elevations Plot 4 (0729-219) received 12/8/10
- Roof Plan: Plot 4 (0729-220) received 12/8/10
- Floor Plans: Plot 5 (0729-208a) received 19/8/10
- Elevations: Plot 5 (0729-221) received 12/8/10
- Elevations: Plot 5 (0729-222) received 12/8/10
- Roof Plan: Plot 5 (0729-223) received 12/8/10
- Development overview from the south (0729-225) received 19/8/10
- Overview from north and south (0729-226) received 12/8/10
- Plot 1 & the fields context (0729-227) received 12/8/10
- Plot 1 & 2 context (0729-228) received 12/8/10
- Plot 3 context (0729-229) received 12/8/10
- Plot 4 context (0729-230) received 12/8/10
- Plot 5 context (0729-231) received 12/8/10
- Sections AA and BB (0729-232) received 19/8/10
- Strategic Landscape Proposals (L391/10) received 19/8/10
- Note on Trip Rates prepared by DTA received 12/8/10

- Vehicle Tracking Assessment for 3 axle refuse vehicle (11162-04) received 18/11/10
- Bat Survey prepared by S Christopher Smith (SK078014) received 12/8/10
- Landscape Report prepared by Liz Robinson Associates received 19/8/10
- Planning Statement prepared by CT Planning received 19/8/10
- Design & Access Statement by CT Planning received 19/8/10

*Reason:* In order to define the permission and ensure the satisfactory development of the application site.

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

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

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

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1). The site investigation shall provide information to enable a detailed assessment of the risk to be completed for all receptors including controlled waters and groundwater that may be affected, including those off site.
- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with a detailed assessment of the risks and hazards to all receptors arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to be implemented to deal with the potential hazards and risks identified by the detailed risk assessment and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2). The remediation statement shall provide details of the data that will be collected in order to demonstrate that the works set out are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency. Any changes to these components require the express consent of the local planning authority.
- iv) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part 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.

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

*Reason:* To ensure that any remedial works required as an outcome of the applicant fulfilling the requirements of the 'Universal condition for development on land affected by contamination' are completed to a satisfactory standard and ensure safe development of the site and to protect human health, controlled waters and the environment.

- 5(a) Bat survey work has found a risk that bats may be present in the buildings within the site (as identified in the BC Ecology and Chris Smith reports dated October 2009 and July 2010) and the following precaution shall be taken when implementing the planning permission:

1. Contractors undertaking demolition works shall be made aware that bats may be present and care is required during demolition works and a watch kept for bats by persons who have been suitably briefed by people qualified and experienced in bat ecology.

If no bats or evidence of bats are found during these operations, the approved works can continue.

- 5(b) If bats or evidence of bats are found during these operations:

- i. Bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
- ii. No further destructive works shall be carried out to the building until the need for Natural England licence has been established.
- iii. 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
- iv. 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.

6. No external lighting shall be installed in front or rear gardens without the written consent of the Local Planning Authority. Any proposed lighting scheme submitted for Local Planning approval shall comply with the following requirements:

- i. Any external lighting must be downward directed, shaded with a sharp cut-off and must not illuminate roof or hedges at any height.
- ii. Security lighting switched on by any kind of detector must be separated from the detector and set either directly below it and at least 1 metre away or level with it and over 2 metres away.

No external lighting scheme other than that permitted by the Local Planning Authority is permitted.

*Reason:* To conserve local bat populations.

7. No built development shall commence until a landscape scheme to enhance the site for bats has been received and approved in writing by the Local Planning Authority. The landscape scheme shall include tree and hedge lines of value to foraging and commuting bats comprising predominantly locally native species as well as providing other shrubs and herbaceous plants to provide foraging habitat for bats. The approved scheme shall be implemented in the first planting season after any part of the development is brought into use and retained thereafter. This planting should be designed to link with existing tree and hedge lines within and adjacent to the application site.

*Reason:* To conserve local bat populations.

8. No built development shall commence until proposals to incorporate bat roosting features into the proposed buildings have been received and approved in writing by the Local Planning Authority. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* to conserve local bat populations.

9. No part of the proposed development shall at any time be served by any vehicle access point other than the northern most access point on the site, as shown on the deposited plan.

*Reason:* In the interests of highway safety.

10. Prior to the first occupation of the development hereby permitted, the proposed access road, turning areas and parking facilities shown on the approved plan shall be 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. The proposed realigned private access road shall be constructed to a specification suitable to cater for the use by a 26 tonne fully loaded refuse wagon.

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

11. Development shall not begin until drainage details, incorporating sustainable drainage principles and assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved in writing by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is complete.

*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.

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



of 07.00 to 18.00 weekdays and 08.00 to 14.00 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:* In the interests of adjacent residential occupiers.

13. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no development within Schedule 2, Part 1, Classes A, B, C, D, E, F and G of the Order shall be carried out to the dwellings or on the site, as appropriate, without the prior submission and approval of a planning application.

*Reason:* To enable the Local Planning Authority to retain effective control over future development of this site and the Green Belt.

#### **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.

**Note for applicant: Nesting Birds**

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 or your ecologist.

**Note for applicant: Japanese knotweed**

Japanese knotweed is present on the site. It is an aggressive invasive species which should be eradicated from the site in line with best practice. It is illegal to allow it to escape into the wild. If physically removed from the site it is regarded as controlled waste and must be disposed of in accordance with government regulations.

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

**Reason for bringing to committee: Departure from the Development Plan**

**Application Number:** 10/1424/FL

**Application Type:** Full application

**Applicant:** Edward Robertson

**Proposal:** Amendment to permission  
10/0866/FL for enlarged house on plot 1.

**Ward:** Aldridge Central & South

**Case Officer:** Devinder Matharu

**Telephone Number:** 01922 652487

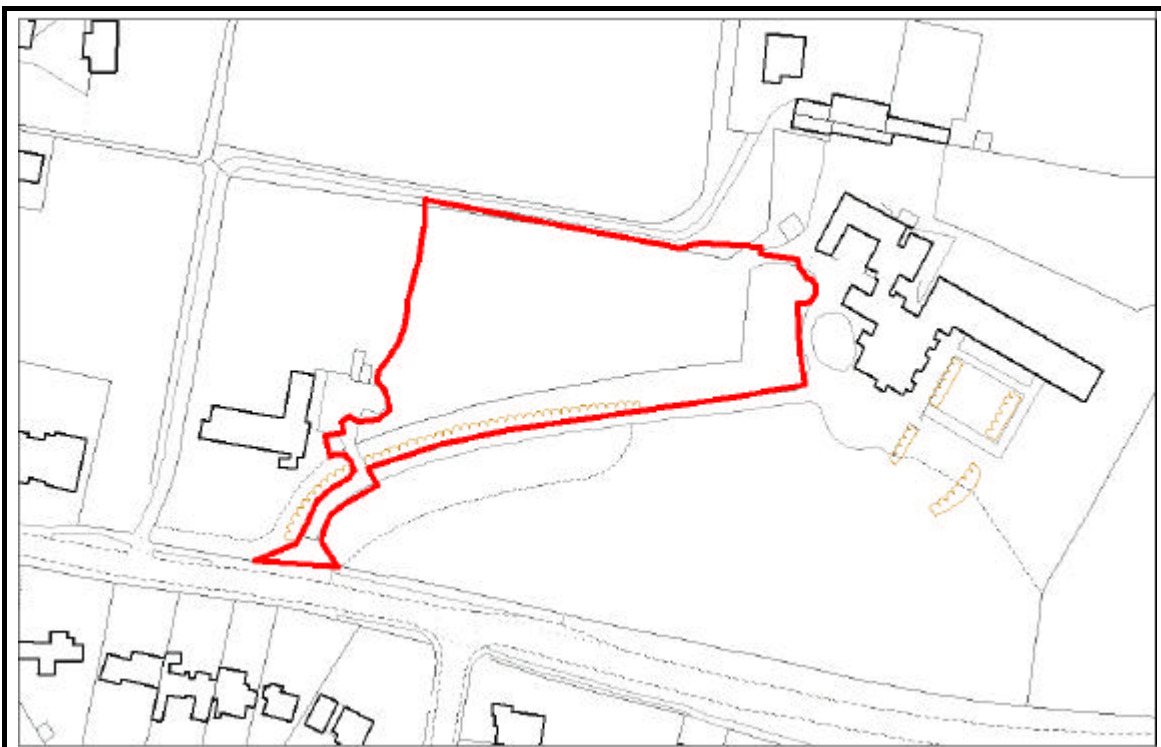
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Brownhill Hayward Brown

**Location:** FORMER BEACON VIEW  
CHILDRENS HOME, LITTLE ASTON  
ROAD, WALSALL, WS9 0NN

**Expired Date:** 20/12/2010

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



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### **Application and Site Details**

The application is for an amendment to planning permission 10/0866/FL, proposing an enlarged house on Plot 1 at the Former Beacon View Children's Home.

The amendment includes a 0.5m extension along the whole rear elevation and the chimney breast relocated 0.2m towards the rear of the site. This would increase the footprint of the property by 9 square metres.

Full planning permission for 3 houses at this site was approved in October 2010.

Access to the site is via a driveway shared with Aldridge Court Nursing Home which is located to the north east. The character of the surrounding area is spacious plots with trees and hedges along the boundaries. There is a sports ground set behind Little Aston Road, new flats to the west and Cooper & Jordan School further to the west. Opposite the site there is a mix of dwellings of differing age and design set in spacious plots facing Little Aston Road.

Plot 1 is "L" shaped and has 4 bedrooms with an attached garage with accommodation within the roof space. The footprint of plot 1 is 192square metres.

The house is a wide fronted Arts and Crafts style with features such as hipped roofs, projecting gables, chimneys and tile hangings. The overall ridge height of the house is 8.6m.

A Design and Access Statement has been submitted with the application, which addresses the amendment to Plot 1.

### **Relevant Planning History**

10/0866/FL - Construction of 3 new dwellings. Granted subject to conditions October 2010.

09/1134/OL – Outline application for demolition of existing building and development of 3 houses – Granted subject to conditions - October 2009. Access, layout and scale were determined at outline stage. A condition limiting the footprint of each of the houses to no greater than 131 sq m and ridge height of 7.5m was included to safeguard the amenity of the green belt.

09/1135/CC - Demolition of existing Children's Home building – Granted subject to conditions - October 2009. This referred to demolition of the fire damaged children's home and did not include demolition of the garage.

### **Relevant Planning Policy Summary**

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

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

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment.

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

ENV2 states development is inappropriate if it conflicts with the openness and purposes of the green belt.

ENV3: Identifies more detailed considerations for proposals in the Green Belt ENV4: Redevelopment of major developed sites may be permitted provided they have (i) no

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greater impact (and where possible less impact) than the existing development on the openness and purposes of the Green Belt, (ii) the height of existing buildings is not exceeded and (iii) the area to be covered by buildings would not occupy a larger area than the aggregate floor area of the existing buildings, unless it would achieve a reduction in height which would benefit visual amenity.

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

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

3.16, 3.113, 3.114, 3.115, GP7, ENV32, H10 & 3.116: new development 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.

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

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

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

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

T7: All parking provision should satisfy the car parking standards set out in Policy T13.

T13: All development should provide an adequate level of car parking to meet operational needs.

## **Supplementary Planning Documents**

### **Designing Walsall SPD**

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough.

DW1- to simultaneously meet environmental, economic and community needs without compromising the needs of future generations

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

DW3- All new development must be designed to respect and enhance local identity

DW4- spaces within new development should be defined or enclosed by buildings, structures and/or landscape

DW5- All new development should contribute to creating places that are well connected and easy to get to.

DW6- New development should contribute to creating a place that has a clear image and identity.

DW7- All new development should contribute to creating lively places that offer a mix of activities.

DW8- New development should contribute to creating flexible and adaptable places that can easily change over time

DW9- seek to ensure it creates places with attractive environmental quality

DW10- New development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment

Annexe E: 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.

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### **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.

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted.

### **Regional Strategy for the West Midlands**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSSs, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

Policy CF1 - Scale and range of new housing development

Policy QE1 - Environment

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

### **National Policy**

PPS1: Emphasises the need to reject poor design and the need for sustainable development.

PPG2: Seeks to protect against inappropriate development that is harmful to the Green Belt.

PPS 3: Encourages reuse of previously-developed land for housing. Paragraph 10 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. Some of the specific outcomes that the planning system should deliver are well-designed housing built to a high standard and in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPS5: The historic environment and its heritage assets should be conserved.

PPS9: Seeks to conserve, enhance and restore the diversity of England's wildlife and geology.

PPG13: Seeks to minimise the use of the car by the sustainable location of development.

### **Consultations**

#### **Transportation – No objection**

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**Arboricultural Officer** –No objection

**Landscape** – No objection

**Urban Designer** – No objection

### **Public Participation Response**

None received.

### **Determining Issues**

- Principle of residential development in the Green Belt
- Whether the proposal would harm the character of the Green Belt
- Impact on the character and amenity of Conservation Area
- Access and parking

### **Observations**

#### **Principle of residential development in Green Belt**

The principle of residential development at the site has been established by the granting of both outline planning permission 09/1134/OL and full planning permission 10/0866/FL. Although the construction of new buildings inside the Green Belt is inappropriate in most cases it was considered that the site was comparable to a major developed site whereby redevelopment for residential purposes is not inappropriate.

Consideration of planning permission 10/0866/FL established that the proposals met the criteria in Annex C of PPG 2 to such an extent so as to constitute very special circumstances sufficient to outweigh inappropriate residential development in the Green Belt. It is considered that, because of these very special circumstances, the grant of permission for this minor amendment to the house on plot 1 would not constitute a departure from the development plan requiring referral to government office. There are no policy objections.

#### **Whether the proposal would harm the character of the Green Belt**

Ensuring that the proposed house does not have a larger combined footprint than the building it replaces helps avoid any greater impact upon the openness of the Green Belt. The footprint of the original children's home was 394m<sup>2</sup> and the existing garage has a footprint of 42m<sup>2</sup> giving a total of 436m<sup>2</sup>. The footprint of plot 1 is 192 square metres with the addition of the 9 square metres; this gives a total of 201 square metres. With the combination of the other two plot types, this takes the total to 445 square metres. It is considered that this small addition to the footprint would not have any greater impact on character and openness of the green Belt to warrant refusal of the application. The buildings are also positioned within the existing developed part of the site so as not to encroach further within the Green Belt. Plot 1 is positioned within the developed part of the site and offers a significantly improved design from the original Children's Home, enhancing the quality of the green belt and conservation area.

#### **Layout and Design**

The proposed house plots occupy the same part of the site as the full permission. The house the subject of this application is set back over 25m from the highway

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boundary behind existing trees and shrubs that are to remain. There is also existing screening to the other boundaries that will remain. For this reason the building will not be obvious or obtrusive within the street scene and not visually prominent from Little Aston Road or the wider Green Belt.

### **Impact on the character and amenity of Conservation Area**

It is considered that the additional extension at the rear of the house would relate to the design of the proposed house and as such would enhance the character and appearance of the Conservation Area.

### **Access and parking**

The proposal would not impact on the access and parking arrangements

### **Summary of Reasons for Granting Planning Permission**

The principle of developing three houses on this previously developed site in the Green Belt is acceptable and has previously been granted outline permission.

The amendment to Plot 1 takes the footprint of the building to a total of 201 square metres, 9 square metres over the approved footprint of 192 square metres. With the combination of the other two plot types, this takes the total to 445 square metres. It is considered that this small addition to the footprint would not have any greater impact on character and openness of the green Belt to warrant refusal of the application. The proposed house is located within the previously developed part of the site. The house offers an improved design and there are no prominent views of the house from the wider Green Belt area or from Little Aston Road.

In terms of the appearance within the Conservation Area the dwellings are not prominent or visible. They do not harm the appearance of the Conservation Area and introduce a new element which is an improvement to the buildings they replace.

In light of the above the proposals are considered to accord with the aims of the saved policies of the Walsall Unitary Development Plan, in particular, policies GP1, GP2, GP7, 2.2, 3.6, 3.7, 3.16, 3.21, 3.113, 3.114, 3.115, 3.116, 3.117, ENV1, ENV2, ENV3, ENV4, ENV14, ENV18, ENV23, ENV29, ENV32, ENV33, 6.3, H3, H10, T7 and T13 of Walsall Unitary Development Plan and Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment and the advice given in PPS1, PPS3, PPS5, PPS9 and PPG13.

### **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 works hereby approved shall only be carried out in accordance with drawing number 2698/2A, 2696-5 and 2696/9/A submitted on 22 October 2010.

*Reason:* In order to define the permission and ensure the satisfactory development of the application site.



3. 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 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 protect the amenities of surrounding occupiers.

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

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

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

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

6. 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 development shall be completed with the approved details and retained as such.

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

7. Prior to the first occupation of the development, the access drive, parking and manoeuvring shown on the approved plan shall be fully consolidated, surfaced and drained and shall be installed and thereafter be retained for this purpose only.

*Reason:* To ensure availability of adequate off-street parking.

8. Prior to the commencement of the development a revised plan shall be submitted for approval in writing by the Local Planning Authority showing a bin hardstanding area and a visibility splay at the access point, measuring 2.4m X 25m in an easterly direction along the access to Aldridge Court. The approved splay shall thereafter be kept clear of vegetation and structures between 600mm and 2m in height above road level at all times.

*Reason:* To maintain highway safety.

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9. Prior to commencement of the built development, details to incorporate bat roosting features into the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The proposals may provide access to bats to cavity walls or under roof tiles and/or incorporating purpose made Schwegler-type roosting boxes into the fabric of the building. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* To conserve local bat populations.

10. Prior to commencement of the built development, details to incorporate bird nesting boxes in appropriate locations within the site. The use of a variety of nesting boxes would provide a resource for local bird species. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* To conserve and enhance local nesting bird populations.

11. Notwithstanding the submitted landscaping plan prior to the commencement of the built development a further detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority that includes; details of proposed garden boundary treatments, development site boundaries enhancing hedgerows, the creation of diverse ground flora, creation of habitat to perpetuate habitats for birds within the site, takes account of the ecological appraisal of September 2009 enhancing and reinforcing the existing habitats. The agreed scheme shall be implemented within 12 months of the development completed. 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, unless otherwise agreed in writing with the Local Planning Authority.

*Reason:* In order to define the permission and to safeguard the visual amenity of the conservation area, green belt and natural environment of the site and the immediate vicinity.

12. No built development shall commence on site until the boundary details have been submitted to and approved in writing. The development shall be completed in accordance with the approved details and retained thereafter.

*Reason:* To ensure the satisfactory appearance of the development and to secure the site.

13. Prior to the commencement of built development full details of proposed external lighting to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. Any details of external lighting approved by the Local Planning Authority shall be installed in accordance with the approved details and retained as such.

*Reason:* To safeguard the visual amenities of the area.

14. None of the existing trees on the site shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority.

*Reason:* To safeguard the trees in the Conservation Area on site.

15. The approved tree protection measures and fencing detailed in the Arboricultural Report dated 10 July 2009 shall be fully implemented prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2005.

*Reason:* To safeguard the trees in the Conservation Area on site.

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

*Reason:* To safeguard the trees in the Conservation Area on site.

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

*Reason:* To safeguard the trees in the Conservation Area on site.

18. The tree/bramble/ever green hedge buffer to the north/east and southern boundaries of the application site shall be retained and maintained at all times.

*Reason:* To safeguard the visual amenities of the conservation area, green belt and the wider area.

19. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no development within Schedule 2, Part 1, Classes A, B, C, D, E, F and G of to the Order shall be carried out to the dwellings or on the site, as appropriate, without the prior submission and approval of a planning application.

*Reason:* To enable the Local Planning Authority to retain effective control over future development of this site and the Green Belt.

NOTE FOR APPLICANT; 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. Also, any damage caused to the public highway caused as a result of the demolition works shall be reinstated at the applicant's expense.

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

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

**Reason for bringing to committee: Deferred from Previous Meeting**

**Application Number:** 08/1863/LE

**Application Type:** Certificate: Lawful

Existing use / Development

**Applicant:** David Mosedale

**Proposal:** Certificate of Lawfulness for existing use for the repair, refurbishment and storage of tractors, agricultural implements and equipment and parts, and sales of the above and retention of 10 buildings on site, and a greenhouse and polytunnel

**Ward:** Pelsall

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652429

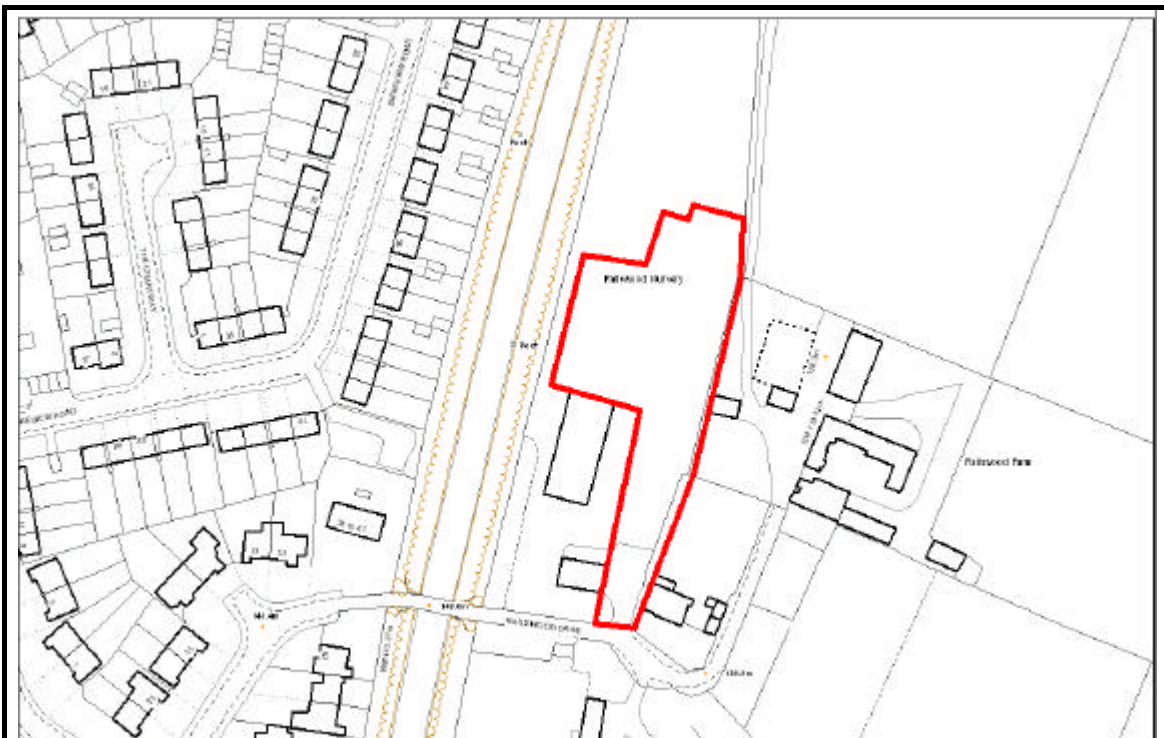
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** John Dring

**Location:** Railswood Nurseries, Railswood Drive, Pelsall,

**Expired Date:** 16/02/2009

**Recommendation Summary:** Grant Lawful Existing Use



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### **Current Status**

This application for certificate of lawfulness for an existing use was reported back to Committee on 8<sup>th</sup> July 2010, following a deferral by members when the application was originally considered 10<sup>th</sup> September 2009. On 8<sup>th</sup> July 2010 members further resolved:

*That consideration of planning application 08/1863/LE be deferred pending further evidence and business information to be submitted in the name of Railswood Tractors to confirm continuous use over a 10 year period to include accounts, tax returns and bank statements, etc.*

**In response the applicant's agent has submitted** a letter dated 9<sup>th</sup> November 2010 as follows:

"...the request for particular types of evidence, i.e. accounts, tax returns etc cannot be produced, nor would they differentiate between the various businesses on the Railswood site. Thus there is no specific reference to the tractor business. Most accounts, tax returns etc over 6 years old have been destroyed."

"The applicant has not been reluctant to submit information, it is just that the type of documentation required is not available – hence the submission of the Statutory Declarations and many signed statements.... Your Legal Department considers this information is sufficient to grant a certificate."

**Further items of evidence** have also been submitted (10<sup>th</sup> November 2010) as follows:

1. Statement of Account/VAT Invoice (Lloyds TSB)  
These papers are for March 2003 (the oldest in the applicant's possession), and show a considerable number of transactions, all under the general account name of Railswood Nurseries.
2. E-Bay Transactions  
The agent states that the applicant has used e-bay for about 8 years, copies of a selection of such transactions, relating to specific deals involving tractors dated November 2004 and July 2005 have been submitted.
3. Letter from A N Tomlinson (Chartered Accountants and Insolvency Practitioners) 14<sup>th</sup> August 1996  
The agent states that the content illustrates that the applicant was having dealings with a particular tractor company in 1996.
4. Notices – Pelsall Carnival Committee  
These notices show that the applicant paid for a stall for sales and tractor display at Pelsall Carnival for 2005 and 2006.
5. Letter from Martyn Single, Manager, Planning and Building Control, Walsall MBC 16<sup>th</sup> November 1999 relating to a tractor museum.  
The applicant considered that a request to establish a museum on the site shows that the tractor business was a substantial and significant part of the business, and not merely a hobby, as suggested at Committee on 8<sup>th</sup> July 2010.

6. Letter from Carol Shepherd, Pelsall Civic Society 25<sup>th</sup> September 2010, Supporting the establishment of a museum at Railswood.  
The agent states that a museum has been a long-held ambition of the applicant and this letter and that from Martyn Single (detailed above) show the long term nature of the tractor business.

**Officer Comment:**

Members are reminded that the Local Planning Authority has no information or evidence to contradict the Statutory Declarations or other evidence submitted. Circular 10/97 confirms that if the Local Planning Authority have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less probable, there is no good reason to refuse the application provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability". Further the Court has held (*Gabbittas v SSE and Newham LBC* 1985) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. Neither the identity of the applicant nor the planning merits of the use are relevant to consideration of the purely legal issues which are involved in determining an application (paragraph 8.15 of Annex 8 of Circular 10/97).

***The following report remains essentially the same as that considered by Committee in July 2010 with the same recommendation.***

This application was reported to committee on 10<sup>th</sup> September 2009 when members resolved:

*That planning application 08/1863/LE be deferred pending further evidence and business information to be submitted such as audited accounts, tax returns, bank statements etc to corroborate the evidence already submitted, to confirm the continuous use over a 10 year period.*

**In response the applicant's agent submitted a letter** dated 15 Jan 10 as follows:

"The applicant states that the records requested would be of no benefit for the following reasons:

1. Audited Accounts – these do not have to be produced as the business does not reach a turnover of over £5.6m a year.
2. Tax/VAT Returns – Inland Revenue and Customs still refer to Railswood Nurseries, even though the company name was changed formally to Railswood Tractors over 3 years ago. As you are aware the applicant operated a number of businesses on the site since purchasing it in 1996. The original response to Enforcement dated 28-05-08 clearly stated that parts of the site were occupied as a nursery and a landscape/agricultural contracting business. Both these uses ceased by 2006. The areas of the site occupied by these uses are not included in the application for the certificate. For tax and VAT purposes, all the uses were considered as one business and there is no breakdown for the individual operations, including the tractor etc business. In any event, such records are kept only for 6 years. The VAT registration was transferred from Wood Lane to Railswood. It is an 'umbrella' registration for all the businesses, including the tractors.

3. Bank Statements – these do not detail the source/aim of the individual transactions, so that the tractor business cannot be specifically identified.

The applicant states he could supply further information, mainly in the form of signed statements, but also paperwork to show:-

- i. The combined business – nursery, contracting and the tractor business were previously carried out in Wood Lane, Pelsall, prior to their purchasing and moving to the Railswood site in 1996. This would illustrate the long-term operation and continuity of the business including the tractor etc operation.
- ii. The tractor business has operated at Railswood continuously since 1996 to the present. The nursery and contracting businesses, which also began at Railswood in 1996 have now ceased. Mrs Roe at Railswood Farm can confirm this, the most immediate neighbour.
- iii. The operation of the tractor etc business at Railswood 1996 to the present.

In addition there are photographs which show the tractor business operating along side the nursery business. The age of the photos can be judged by the height of the trees around the site. There is also no telecommunications mast.

The applicant has been using eBay for the tractor business for over 8 years. Also in 2002, the applicant was in correspondence with Martin Single, Planning and Building Control Manager, regarding the establishment of a tractor museum, based around the business he was already operating.

The applicant however considers that the submission of further information, as referred to above, will be of little benefit. He has already submitted copies of invoices etc, signed statements and two statutory Declarations to prove the existence of the tractor business from 1996 continuously until the present day. This information was considered sufficient for the recommendation to grant the certificate of lawfulness.

**Two further Statutory Declarations and 25 further supporting statements** were submitted on the 11 June 10 in support of the case.

One of the additional statutory declarations has been provided from an employee, who was employed by Railswood Tractors between 1994 and 2003 as a gardener, the other statutory declaration has been provided from a company who cleaned and polished tractor parts between 1980 and 2005 (when the company ceased trading).

The 25 further supporting statements include:

One from a former local councillor who lives locally who has known the applicant since 1996 and was always fully aware of the tractor business and activities that ran alongside the Railswood Nursery business. Since the nursery business was wound up the tractor business has grown to provide an alternative income.

One from the son of the former owner of the site who the applicant has serviced and repaired tractors for.

Two from neighbours

One from a local Police Community Officer

Nine from company representatives including an engineering company who made tractor castings for Railswood Nurseries and many which traded spares for tractors and vintage tractors

Five from former employees and subcontractors

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And six from farmers who have dealt with the applicant regarding tractors. All the supporting statements confirm the operation of Railswood Tractors from the site since 1996.

**The agent has apologised for the delay** in submission of the additional information, this is due to the applicant trying to maintain his business in the difficult economic circumstances, including visits to shows etc across Britain and Eire.

### **Application and Site Details**

This application is made under Section 191 of the Town and Country Planning Act 1990 for a Lawful Development Certificate for an existing Use for the repair, refurbishment and storage of tractors, agricultural implements and equipment and parts and sales of the foregoing and retention of 10 buildings on the site.

The site is situated at the eastern end of Railswood Drive (beyond the railway bridge) and forms part of the former Railswood Nurseries site, and is situated within the green belt.

The amended redline boundary for this application includes the access and parking area to the east of the existing bungalow (occupied by the applicant), a strip of land to the east of the existing polytunnel and the remainder of the site to the north within the applicants ownership, it does not include 'Railswood bungalow' the former nursery green house or polytunnel.

Circular 10/97: Enforcing Planning Control, Legal Provisions and Procedural Requirement, Annex 8: Lawfulness and the Lawful Development Certificate makes it clear that the onus of proof in Lawful Development Certificate applications is firmly on the applicant.

The applicants have submitted documentary evidence in support of their application including:

- Statutory declarations from the applicant and his wife
- Six statements from customers of the business, since its occupation of the application site
- Documents dating back to 1987 illustrating operation of the business prior to occupation of the application site.
- Various business documentation dating from 1993 to 2008.

### **Relevant Planning History**

EA5451, erection of a bungalow, approved subject to conditions 08-12-1966. Condition to restrict to agricultural use (see BC60205P)

BC10826P, Section 53 Determination, erection of glass house. Planning permission not required, 04-04-1984.

BC27958P, loft conversion (existing bungalow) approved 12-12-1989.

BC37456P, 3 poly tunnels and 1 replacement poly tunnel for horticultural crops, approved 25-01-93.

BC47403P, resiting of 3 poly tunnels, approved 09-10-1996.

BC60205P, Removal of condition on EA5451, which restricted the occupancy of the dwelling to persons employed or last employed locally in agriculture or forestry or dependents of such persons, approved 20-12-1999.

BC62485P, change of use of horticultural land to keeping of horses and erection of field shelter. Approved subject to conditions 13-02-2001. Condition to ensure no more than 4 horses or ponies grazing.

BC62487P, formation of hardstanding for 1 x 7.5 tonne lorry. Withdrawn 08-12-2000

Railswood Caravan Storage Site, Railswood Drive

BC54249P, full consent sought for caravan storage site, approved subject to conditions 26-10-1998. Condition restricted to 60 caravans to be stored at any one time, with hours of movement restricted.

03/2279/PT/E5, 12.5m high timber monopole telecoms mast with 2 transmission dishes, 3 antenna (total height 15m), equipment cabinet and ancillary development. Refused 09-01-2004. Subsequent appeal allowed 03-11-2004.

07/1056/PT/E12, prior notification for telecommunications, 14.9m high timber clad monopole supporting 3 antennae with equipment cabinet at ground level. Refused 12-07-2007.

### **Relevant Government Guidance**

#### **Circular 10/97: Enforcing Planning Control, Legal Provisions and Procedural Requirements, Annex 8: Lawfulness and the Lawful development Certificate**

The onus of proof is firmly on the applicant. While the Local Planning Authority should always co-operate with an applicant seeking information they may hold about planning status of land, by making records readily available, they need not go to great lengths to show that the use, operations, or failure to comply with a condition, specified in the application is, or is not, lawful.

Something is lawful if no enforcement action may be taken and it is not in contravention of any enforcement notice which is in force.

If the local planning authority are provided with information satisfying them of the lawfulness, at the time of the application, of the use, operation or other matter in the application they must issue a certificate to that effect; and, in any other case, they shall refuse the application.'

### **Consultations**

**Legal Services** – There are no enforcement notices to prevent a certificate being granted and the 10 years required for the use to be made out appear to have been supported in the Statutory Declarations and the Customer Statements. The LPA has no information to contradict the Statutory Declarations or the Customer Statements.

### **Public Participation**

There is no statutory requirement to consult and no consultation of an informal nature has taken place.

## **Determining Issues**

Whether the evidence provided by the applicant is satisfactory to determine that the use, operation or activity is lawful and whether the Certificate of Lawfulness should be issued.

## **Observations**

The purpose of an application for a Certificate for Lawful Existing Use (*LDC*) is to determine whether there is enough evidence provided by the applicant that a development has been in place for a certain length of time making it immune from enforcement action. The certificate will then establish whether it has become lawful over the passage of time. The onus of proof in a LDC application is firmly on the applicant. If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of certificate "on the balance of probability".

In this case it is for the applicant to prove that the use of part of the site for the repair, refurbishment and storage of tractors, agricultural implements and equipment and parts and sales of the above and retention of 10 buildings on the site has been in use continuously for a minimum of 10 years.

The Statutory Declarations submitted by the applicant and his wife both declare that the said business has been operating continuously from the site since they acquired it in April 1996. The business has operated from the 10 buildings on the site. The submitted site plan (received 16-02-09) clearly identifies the 10 buildings referred to in the Statutory Declarations and they have been observed on site, currently being used for the purposes declared.

Six statements have also been submitted from customers, suppliers and a mechanic who has maintained vehicles at the site. These all clearly state that the site and buildings have been used since 1996 for the use described.

Further business evidence has been submitted, (invoices and receipts) dating from 1993 through to 2008. This shows the business in operation prior to moving to the site and since moving to the site in 1996.

The green house and polytunnel at the site are not included within the redline site boundary for this application as they were used for the Railswood Nursery business only and not the tractor business. Likewise the Railswood bungalow is outside the redline as this provides the residential accommodation for the applicant only and is not part of the business use.

There are no enforcement notices relating to the site to prevent a certificate being granted.

The 10 year period required for the use described is supported in the Statutory Declarations, the Customer Statements *and the additional Supporting Statements* submitted. The Local Planning Authority has no information to contradict the Statutory Declarations or the Customer Statements *or additional Supporting Statements*.

**Conclusion**

As a matter of fact and degree, it is recommended that a Certificate of Lawful Existing Use can be issued for the use described in the application.

**Recommendation: Grant Lawful Existing Use**

Walsall Metropolitan Borough Council, hereby certify that on 3rd December 2008 the use described in the first schedule hereto, and as more particularly described on the red edged amended site plan received on 16<sup>th</sup> February 2009 and attached to this certificate, would have been lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended).

For the following reasons:-

1. The evidence supplied by the applicant demonstrates that the use of this site commenced more than ten years prior to the submission of this application and the Council has no information to contradict the submitted evidence.

**First Schedule:**

Use for the repair, refurbishment and storage of tractors, agricultural implements and equipment and parts and sales of the foregoing and retention of 10 buildings on the site.

**Second Schedule:**

Railswood Nurseries, Railswood Drive, Pelsall, Walsall. WS3 4BE.  
Red edged Amended Site Plan dated 16<sup>th</sup> February 2009.

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

**Reason for bringing to committee: Disproportionate development in Green Belt**

**Application Number:** 10/1110/FL

**Application Type:** Full application

**Applicant:** Mr & Mrs Horton

**Proposal:** Single storey rear extension and  
front porch extension

**Ward:** Aldridge Central & South

**Case Officer:** Jenny Townsend

**Telephone Number:** 01922 652420

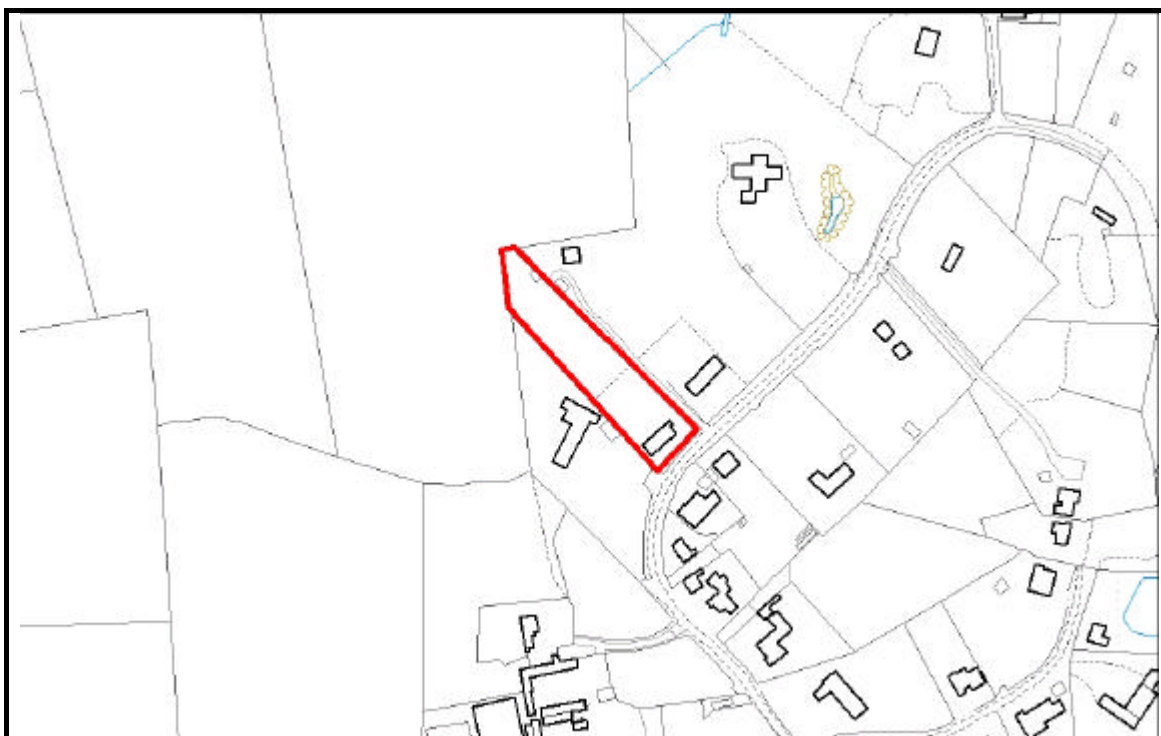
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Mr Nick Massey

**Location:** TANGLEWOOD, BOURNE  
VALE, ALDRIDGE, WALSALL, WS9 0SH

**Expired Date:** 16/11/2010

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



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### **Application and Site Details**

This application is for extensions to a detached bungalow in the Green Belt which would replace the existing rear conservatory with an extension. The existing front canopy and one of the bow windows is to be replaced with a new entrance lobby.

The rear extension would infill the area between two existing wings on either side of the bungalow.

The roof to the extension would be hipped and would be similar to the existing hipped roof to the wing on the right-hand side of the bungalow except that the ridge would be approximately 0.3 metres higher. The conservatory would have a flat glazed roof measuring 2.7 metres high.

There is a detached garage to the rear which lies alongside the boundary with Beechwood, the property to the left. To the rear of the garage there is a large wooden summer house. Beechwood is a bungalow which lies away from the application property on the far side of the plot.

### **Relevant Planning History**

The original property was called Twynholm. Planning permission BC36267P for porch, pitched roof over existing garage and single storey side extension was granted subject to conditions 26/08/92 and BC41490P for construction of snooker room and conservatory plus a pitched roof over the existing flat roofed porch was granted subject to conditions on 04/07/94.

06/0073/FL/H4 Single storey rear extension and front porch. Refused 11/04/06 on the grounds that the larger roof of the proposed front porch, and the greater size and complexity of roof shapes of the proposed rear extension, compared with the canopy and conservatory which are to be replaced, would harm the simplicity of the existing building design and, when added to the previous extensions to the dwelling, amount to disproportionate additions to the original dwelling. The proposal would therefore harm the openness and character of the Green Belt.

### **Relevant Policies**

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

#### **Saved Policies of Walsall's Unitary Development Plan 2005**

GP2, ENV32, H10, 3.16, 3.116: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. All developments should make a positive contribution to the quality of the environment and create a high quality living environment.

ENV2: Limited extension or alteration of an existing dwelling in the Green Belt will be allowed provided that this will not result in disproportionate additions.

ENV3: The siting, design, form, scale and appearance is consistent with the character of the surrounding area.

ENV18: Development will not be permitted if it would damage or destroy trees protected by a TPO unless it would be in the interests of good arboricultural practice. Developers will be required to provide appropriate replacement planting.

ENV23: appropriate measures to encourage the conservation of wildlife.

### *Supplementary Planning Documents* *Designing Walsall*

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 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.

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

Provides guidance on development which may adversely affect trees, important species and habitats.

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted.

### **Regional Strategy for the West Midlands**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSSs, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

Policy CF1 - Scale and range of new housing development

Policy QE1 - Environment

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

### *National Policies*

PPS 1 Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

### **Consultation Replies**

**Landscape Team** – No objection

**Natural Environment Tree Officer** – No Objection

**Natural Environment Ecology Officer** – No objection. No bat survey is required in support of this application however a note to application is recommended to be included in any decision notice.

Regeneration, Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG

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Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

## **Public Participation Responses**

None.

## **Determining Issues**

- Design of Extension, Impact on Character of Green Belt
- Impact on Bats and Trees
- Impact on Amenity of Nearby Residents

## **Observations**

### **Design of Extension, Impact on Character of Green Belt**

The proposed front extension would be in line with the front of the bungalow and the design would be in keeping. Many of the neighbouring properties have pitched roofs to the front and therefore the proposal would be in keeping with the area.

The original footprint of the property was approximately 94 square metres and the existing extensions (approximately 169 square metres) mean that the current footprint is approximately 263 square metres. This represents an increase of 180% on the size of the original dwelling.

The application proposes to further add approximately 20 square metres. It would replace part of the existing extensions. However under The General Permitted Development Order the property could already be extended by 4m in length. This would create a greater addition to this application. Although this is an increase to the footprint, it is a modest amount in relation to the size of the extensions which have already been added. Such additions are characteristic of the properties in this area, most of which have been significantly added to since originally being built.

Further permitted development rights could be restricted by condition.

Given the position of the proposed rear extensions between the existing rear wings there would be little impact on the openness of the Green Belt when viewing the bungalow from either the road or the fields to the rear. It is considered that the siting, design, form, scale and appearance of the proposed extension is acceptable and is consistent with the character of the surrounding Green Belt area.

The hipped roof above the kitchen section of the rear extension would be similar to the existing hipped roofs at the rear of the bungalow and as there is only one new roof proposed, this would not overcomplicate the roof design to the rear of the property. The flat roof and lightweight construction of the roof to the conservatory would be in keeping with the simple design of the existing property.

### **Impact on Bats and Trees**

The proposal would not have any arboricultural implications and the Council's Ecology officer has no objections provided a note is added about bats.

### **Impact on Amenity of Nearby Residents**

The proposals to the front would not project forward from the front of the existing bungalow and would be set in from the boundary with both of the neighbouring properties.

The rear extension would not project beyond the existing wing on the side of the bungalow nearest to Woodend and would be screened from Woodend. It is



considered there would be little impact on the amenity of the occupiers of Woodend from the extension.

### **Summary of Reasons for Granting Planning Permission**

The conservatory would project 0.2 metres beyond the rear of the existing bungalow, with the space to the side of the application property and the side of the neighbouring bungalow The Cedars plus the existing boundary fence; it is considered there would be little impact on the amenity of the occupiers of The Cedars from this part of the proposal.

The proposal would replace part of the existing extensions and proposes to further add to the existing disproportionate extension by increasing the existing footprint by approximately 20 square metres. Although the proposal would increase the existing disproportionate footprint, the proposed extension is considered modest compared to extensions that could be undertaken under permitted development. The design of the proposal would blend in with the existing property minimising any impact on the openness of the Green Belt.

The proposal is considered would not cause a significant increase in overlooking, a loss of privacy or a loss in the daylight or sunlight enjoyed by nearby properties.

No bat report is required as there is a low risk of bats being present at the property and a recommendation has been made for precautions to be taken when development begins should bats be discovered during these operations.

There are no implications to nearby trees from the proposals.

The proposed development is considered to meet the aims and objectives of Walsall's Unitary Development Plan, in particular policies GP2, ENV2, ENV23, ENV32, H10, and the Supplementary Planning Documents "Designing Walsall" and "Conserving Walsall's Natural Environment".

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

That planning permission is granted 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 walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

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

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

Existing and proposed elevations and floor plan submitted on 28 October 2010.

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Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

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).

4. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no development within Schedule 2, Part 1, Classes A, B, C, D, E, F and G of to the Order shall be carried out to the dwelling known as Tanglewood, Bournevale, Aldridge, as appropriate, without the prior submission and approval of a planning application.

*Reason:* To enable the Local Planning Authority to retain effective control over future development of this site and the Green Belt.

**Note to applicant:**

Although the application does not require a formal bat survey, there is still a risk that bats may be using your house for roosting. It is therefore important that you are satisfied that there are no bats using the buildings affected by the development before work is carried out. Any damage, destruction or disturbance to bats roosts is a criminal offence. Care should be taken during building works. Stripping the roof tiles should be carried out carefully by hand. If any bats or evidence of bats are discovered work should stop and advice should be sought from Natural England. They can be contacted on Tel: 0845 6014523 or e-mail: [wildlife@naturalengland.org.uk](mailto:wildlife@naturalengland.org.uk)

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

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

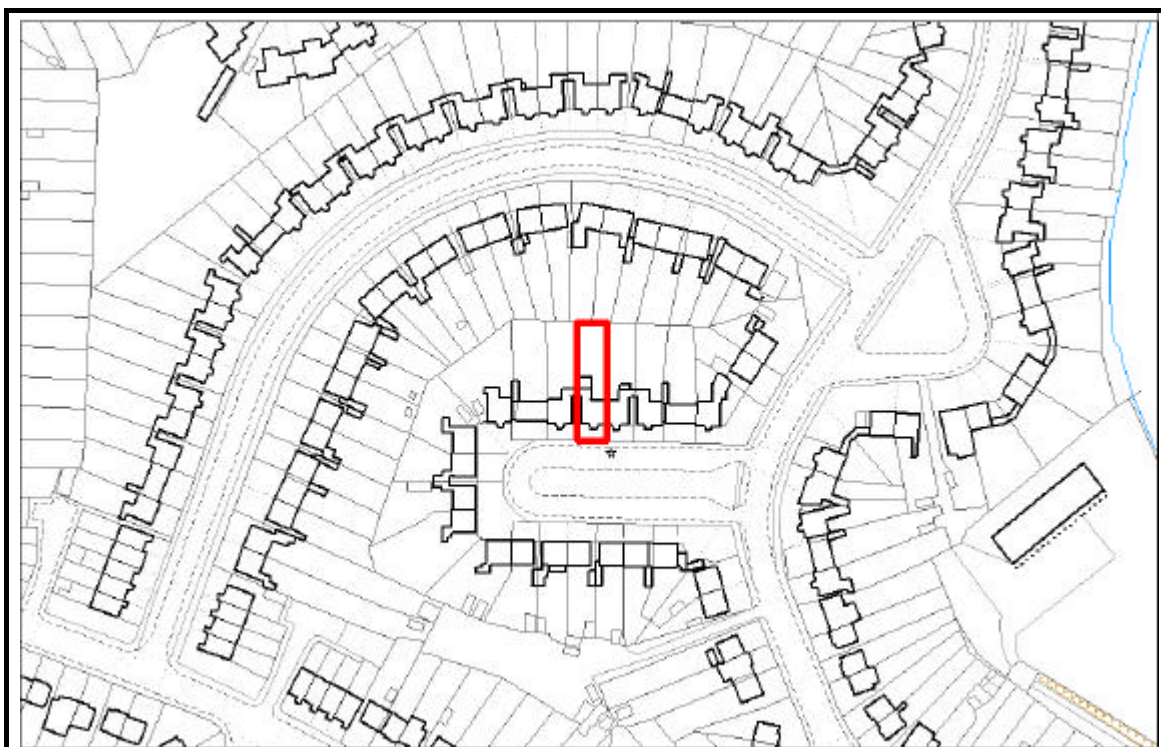
**Application Number:** 10/1278/FL  
**Application Type:** Full application

**Applicant:** Mr Ralph Robinson  
**Proposal:** Conservatory to rear.

**Ward:** Bloxwich East

**Case Officer:** Stuart Crossen  
**Telephone Number:** 01922 652420  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**  
**Location:** 10 ST. DAVIDS  
PLACE, BLOXWICH, WALSALL, WS3 3BA  
**Expired Date:** 15/12/2010

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



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### **Application and Site Details**

The application proposes a conservatory on the rear elevation of a traditionally styled semi-detached house which is in a cul-de-sac of similar styled terraced and semi-detached houses.

The application house has a 3 metre long flat roof outbuilding at the rear, which is linked to the same type of building at number 12, and is 4 metres from the boundary with the adjoining house number 8. A 3 metre deep flat roof extension on the rear elevation has recently been removed.

The proposed conservatory would measure a total of 4.5m in depth, 3.5m in width and 3.2m high. It would be built up to the 1.8m high boundary fence number 8. Number 8 has a conservatory which projects from the original outbuilding near the opposite boundary to the application house, 4.2 metres deep and extends to the side up to the boundary with the application house. It creates an 'L' shaped extension which encloses the patio at the back of the house and in total it projects 7.4 metres beyond the rear elevation of the application house. The original rear elevation of number 8 has a set of French doors opening onto the enclosed patio serving what is used as an office, but was formally a dining room.

The rear garden would be 15 metres deep from the proposal and meets the boundary to the rear gardens of houses along Benton Crescent.

### **Relevant Planning History**

None – Conservatory at number 8 has been built under the old householder permitted development regulations.

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

### **PLANNING POLICY STATEMENT 1**

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

### **Saved Policies of Walsall's Unitary Development Plan 2005**

#### **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.**

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

#### **H10: Layout, Design and Dwelling Mix.**

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

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

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

#### *Supplementary Planning Document Designing Walsall*

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 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.

These include guidelines regarding the length of extensions in relation to the adjoining dwellings and a 45 degree code to assess the impact.

#### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted.

#### *Regional Strategy for the West Midlands*

*The Regional Strategy has been revoked by the Secretary of State in a Parliamentary Statement of 6 July 2010. It has therefore ceased to be planning policy. The work done for the strategy (and for the various partial revisions in the West Midlands) may provide relevant material considerations. In such cases the relevant reference(s) will be in terms of 'observations' rather than as policy.*

#### **Consultations**

None

#### **Representations**

None

#### **Determining Issues**

- Impact on the amenity of neighbouring residential occupiers

#### **Observations**

#### **Impact on the amenity of neighbouring residential occupiers**

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The conservatory would be built close to the boundary with number 8 and project 3.5 metres from the original rear elevation, partway past the conservatory and patio area, before tapering away from this boundary the last 1 metre. There would be no views towards number 8 because of the boundary fence.

The conservatory at number 8 presents an unusual situation because it creates an 'L' shape extension enclosing a patio between the back of the house and the conservatory. The conservatory at number 8 already has a significant impact on light and outlook from the French doors and patio area.

If the applicant was to erect a conservatory under their permitted development rights it could project up to 3 metres, which would almost enclose the open side to the patio at number 8.

On balance it is considered that the proposal would not significantly worsen the outlook from number 8, have a significant overbearing impact, or result in an unacceptable loss of light.

Only part of the conservatory would be seen from number 12, projecting 2 metres further out than the original 3 metre deep outbuildings at the application house and number 12, and set away from this boundary. The conservatory in relation to number 12 is considered would not have an overbearing impact, would have little impact on light and would not result in significant overlooking.

### **Summary of Reasons for Granting Planning Permission**

The proposed conservatory would not significantly worsen the outlook from occupiers of number than is already the case, result in overlooking or an unacceptable loss of light. The existing outbuilding at the application house would partly screen the proposed conservatory from number 12 which ensure there would be little if any impact on amenity here.

The proposed development is considered to meet the aims and objectives of the Walsall Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Documents "Designing Walsall" and other material planning considerations.

### **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 facing bricks of the conservatory shall match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the conservatory, unless otherwise previously agreed in writing by the local planning authority.

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

3: Notwithstanding the provisions of the Town and Country Planning (General

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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 without the prior approval of a planning application.

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

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

Side elevation plan (00/007) deposited 23 November 2010;  
Ground floor plan (00/004) deposited 23 November 2010;  
Site plan (00/002) deposited 23 November 2010;  
Proposed rear elevation plan (00/003) deposited 23 November 2010;  
Side elevation plan (00/006) deposited 23 November 2010;  
Roof plan (00/005) deposited 23 November 2010;  
Side elevation plan (00/008) deposited 23 November 2010;

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).

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Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on  
02/12/2010*

**Reason for bringing to committee: Requires delicate judgement**

**Application Number:** 10/1025/FL

**Application Type:** Full application

**Applicant:** Mr John Woodall

**Proposal:** New 4 bedroom dwelling plus  
parking and associated landscaping

**Ward:** Streetly

**Case Officer:** Andrew White

**Telephone Number:** 01922 652429

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

**Agent:** Mr Paul Spooner

**Location:** LAND R/O 19 MIDDLETON  
ROAD, SUTTON COLDFIELD, B74 3EU

**Expired Date:** 30/09/2010

**Recommendation Summary:** Refuse



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### **Application and Site Details**

This application is for the erection of a new four bedroom house on garden land at the rear of 19 Middleton Road, Streetly.

The house would be L-shaped building 14.2 metres wide and between 11.2 metres and 7 metres deep. The ridge height of the house is stepped and would be 6 metres at its highest and 5.15 metres at its lowest. The ground floor would provide two double bedrooms, two en-suite bathrooms, cloak room, study, utility, dining kitchen and living area, whilst at first floor (in the roof), two further double bedrooms, bathroom and en-suite. The proposal would include 88 square metres of private amenity to the west of the proposed house and two off road parking spaces (one below policy) accessed from Astor Road utilising an existing access.

The application site has 26.2 metres of frontage to Astor Road. The depth of the site varies between 17.4 metres at its deepest down to 13.7 metres. The site is separated from the remainder of 19 Middleton Road by an existing 1.8 metre high fence. The frontage to Astor Road is currently a 1.8 metre high wall, with double wooden gates 9 metres from the western boundary of the site. Behind the wall is a row of conifers and several trees.

The proposal would leave 19 Middleton Road with 252 square metres of amenity space, varying in depth between 14 and 16 metres as well as off road parking accessed from Middleton Road to accommodate at least four cars.

Middleton Road is characterised by large 1920 and 1930 style traditional design residential properties, with continuous building line set back from the road behind trees, hedges and soft landscaping. There have been subsequent infill plots in the past 40 years between or behind the existing properties of Middleton Road. Broad characteristics include brick, roughcast render, chimneys, natural material tiles, bay windows, chimneys, gable features and small and traditionally proportioned windows. Astor Road by contrast is a cul-de-sac of 1970s detached houses and bungalows generally in plots smaller than those of Middleton Road. Astor Road rises gently along its length to the junction with Middleton Road. Broad characteristics of Astor Road include; brick, large areas of render, concrete roof tiles, chimneys, continuous building lines set behind smaller front gardens with soft landscaping and larger proportioned windows. Astor Road also includes at the junction with Middleton Road several plots that are wide and shallow with houses that are set against their rear boundaries.

The western boundary of the site is shared with 10 Astor Road, set at slightly lower level, a bungalow with its rear and side elevation facing the site. The rear garden is relatively small and includes a conservatory with the garden and conservatory well screened by the boundary hedge and fence.

The northern boundary includes a fence, hedge and trees within the garden of 15 Middleton Road.

The agent has submitted the following documents in support of the development; - design and access statement that briefly outlines the context, the layout of the development, its scale and massing, landscaping of the site, the appearance of the development, how it reflects the immediate vicinity, access and that they have consulted neighbouring properties. The agent continues; the building is far enough away to avoid severe root severance, some form of pruning may be necessary to existing leylandii and weeping willow trees in the neighbours garden as they

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overhang the applicant's garden. The building has been designed to maximise the southern aspect minimising any shading by the remaining trees. It is intended to only remove the existing flowering cherry to the front of the development, the remaining trees and shrubs will remain.

- Tree risk assessment that states; due to the age and overall condition of the willow tree I would recommend that the tree be removed and replaced with a heavy standard. The proposed development is approximately 3 metres from the drip line of the willow tree canopy, pollarding and installation of a root barrier would be recommended if the tree is to be retained. Installation of root barrier should have a relatively low impact on the willow tree.

- sun shadow diagrams for the 21<sup>st</sup> June and 21<sup>st</sup> of December for the following times 9am, 12 noon and 6 pm. 21 June shadow diagrams show is limited shadowing of the neighbour's property from the new dwelling, 21 December shadowed diagrams show that at 9am and 6pm the new house would not create a shadow of the neighbours garden, the 12noon diagram shows that the combined shadow of the new house and the existing trees would create a shadow on the neighbours garden.

### **Relevant Planning History**

06/1514/FL/E12- Land at rear of 19 Middleton Road. Erection of single bungalow. Refused 2006;... proximity to the boundary of 15 Middleton Road represents a cramped form of development, out of keeping with the character of the surrounding area, loss of outlook for potential occupiers reducing amenity enjoyed by neighbours. Footprint of the proposed bungalow appears close to the adjoining trees, not demonstrated the trees overhanging the site would be affected. Appeal Dismissed with the Inspector commenting that, *'the simpler design reflects the properties in Astor Road. The bungalow would be built close to its rear boundary, with the area to the rear of the property shaded by trees in the neighbouring garden. The front of the dwelling would be largely dedicated to parking and turning area resulting in the useable amenity area limited to the side garden. As a result the proposal would be a cramped form of development out of keeping with the character and appearance of Astor Road'*. The Inspector continued, *'the proposal would be close to the boundary of 15 Middleton Road with mature trees within the garden overhanging the boundary, resulting in their future well-being being threatened. Whilst the loss of these trees would not be detrimental to the character and appearance of the street scene, their loss would be detrimental to the future occupiers of number 15'*.

06/1281/RM/E12 Land off Astor Road Larger site at the rear of 15 and 19 Middleton Road. Reserved matters for the erection of 1 dwelling. Refused... design, height and massing, out of character with properties in Astor Road resulting in an unacceptable detrimental impact on the amenity of the residents of the bungalow at number 10 Astor Road not been demonstrated that trees on site would be affected. Allowed on appeal.

05/1960/FL/E3 Land to the rear of 15 - 19 Middleton Road. Erection of 2 semi-detached dwellings. Refused July 2005 for: design, height and massing out of character with Astor Road resulting in an unacceptable detrimental impact on the amenity of the residents of 10 Astor Road.

05/0150/FL/E3 Erection of 2 dwellings. Refused March 2005 for: scale, height, design and massing fails to respect the character of Astor Road resulting in significant harm to the character and appearance of the surrounding area

development resulting in development the full width of the rear garden of 10 Astor Road having a significant overbearing impact reducing amenity to occupiers.

04/0568/FL/E5 - Erection of 2 dwellings. Refused May 2004 by reason of its height, massing and proximity to the boundary, result in unacceptable detrimental impact on amenity of residents of 10 Astor Road would suffer significant overbearing impact, loss of light and loss of outlook.

03/0847/OL/E5 outline permission for erection of a single dwelling on a larger site granted July 2003.

09/0289/FL 31 Hall Lane, Pelsall- Proposed new dwelling rear of 31 Hall Lane has some similarities to the current case. It was refused March 2010. Applicant appealed the decision and the inspector commented; *this part of hall lane is characterised by detached dwellings with long back gardens, the long open rear gardens with an absence of buildings other than ancillary buildings can be readily appreciated, the new dwelling would look out of place and the character and appearance of the area.*

### **Relevant Planning Policy Summary**

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

#### **Saved Policies of Walsall's Unitary Development Plan 2005**

**2.1 and 2.2** state that creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design is a key consideration.

**GP2:** The Council will not permit development which would have an unacceptable adverse impact on the environment.

**3.6** seeks environmental improvement resulting from development.

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

**GP7:** Proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

**3.113** New development provides opportunities for high quality architectural and landscape design to contribute to the environmental and economic well-being of the Borough.

**3.115** The design of buildings together with landscape design have a role in the creation of an environment which is distinctive, creates a sense of place and which makes a positive contribution to the quality of life.

**ENV32:** Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

**H10:** (a) The Council will expect the design of residential developments, including residential extensions, to:-

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

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

**T7:** All development should satisfy the car parking standards set out in Policy T13.

**T13:** 4 bed houses and above 3 spaces per unit

## *Supplementary Planning Documents*

### *Designing Walsall*

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 relevant policies to this case;

**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.

**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 activities to the widest range of possible uses

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

**Local Character Guidance: Streetly-** large detached houses, many with attractive architectural detailing an individual character are interspersed with more modern 20th-century housing estates. Spacing and rhythm between houses allows for glimpsed views of mature landscaped rear gardens between properties which contributes to the character. Proposals to develop domestic rear gardens in a manner that does not reflect this character will not be acceptable. All new residential units must make provision for usable amenity space. New developments should seek to reflect the positive aspects of Streetly's character such as individual houses with architectural detailing the add variety and vibrancy to the visual qualities of the Street scene.

### **Area of Special Townscape Character; Thornhill Road/Middleton Road/Foley**

**Road East- Trees;** trees form a valuable component of the townscape character.

Many of the trees are planted in the rear gardens of private properties, they can be largely hidden from public view by many properties, front garden trees which are most prominent. The preference is for existing trees to be retained and the Council will look carefully at proposals where trees are to be removed. **Building plot ration;** Infill development should reflect the density of the existing development along the particular street. The footprint of the new building should not exceed 25% of the total area of the plot within which it is set.

**Building design;** New building should respect heights, scale and bulk of the existing buildings and be of a domestic scale. The roofscape articulated by chimneys, ridge lines running parallel to the street, although there are occasional gable features acting as punctuation and used to break the silhouette. Facades are expressed with projections, such as bay windows, balconies, porches and entrances. **Building materials;** the existing architectural character includes; brick, terracotta mouldings, decorative arches, lintels, white-painted rough finished render, mock half timbering, plain clay or slate roof coverings and wooden or metal framed windows. Proposals should complement and provide a contemporary reflection of these elements.

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

Provides guidance on development which may adversely affect trees, important species and habitats.

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has now been through its Examination in Public. It is on course for adoption early in 2011. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of the latest national policy and available evidence. However, the plan is not generally site-specific and it will carry little weight until it is adopted.

### **Regional Strategy for the West Midlands**

Members should note that the revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court. This means that RSS's, including the West Midlands RSS, have been reinstated as of 10 November 2010. The Government has responded to the judgement by advising its proposed abolition of the RSS system should be a 'material consideration' in planning decisions. Abolition will, however, require the enacting of primary legislation and this is likely to take a year. Therefore, the legal position (under Section 38 of the Planning & Compulsory Purchase Act 2004) is that the West Midlands RSS is again a part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP, and decisions should be made in accordance with it unless material considerations indicate otherwise.

### *National Policies*

**PPS 1:** Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

**PPS 3:** Housing: 'Matters to consider when assessing design quality include the extent to which the proposed development:

is well integrated with, and compliments, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access creates or enhances, a distinctive character that relates well to the surroundings ....'

- Definition of previously developed land now does not include 'private residential gardens'
- Density is a measure of the number of dwellings which can be accommodated on a site or in an area. The density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. If done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.

**PPS9:** Biodiversity and Geological Conservation.

Networks of natural habitats provide a valuable resource. They can link sites of biodiversity importance and provide routes or stepping stones for the migration, dispersal and genetic exchange of species in the wider environment.

The accompanying ODPM **Circular 06/2005: Biodiversity and Geological Conservation** – *Statutory Obligations and their Impact within the Planning System* gives guidance on how the legal provisions for site and species protection and local authority duties for nature conservation; need to be taken into account.

**PPG13:** Transport. The guidance promotes more sustainable patterns of development for housing development and encourages assessment of the location and accessibility of jobs, services and transport choices and to reduce travel, especially by car. The guidance continues that local authorities should; *not require developers to provide more spaces than they themselves wish*

### **Consultations**

**Transportation** – No objections subject to safeguarding conditions.

**Natural Environment Ecology Officer** – No ecological reasons to refuse subject to conditions and a note to applicant.

**Landscape Officer** – No objections subject to safeguarding conditions.

**Natural Environment Trees** – No objection subject to safeguarding condition relating method of construction for foundations.

**Environmental Health** – No adverse comments.

**West Midlands Fire Service** – Satisfactory fire access.

**Severn Trent Water** – No objections subject to safeguarding conditions.

### **Representations**

None

### **Determining Issues**

- Principle of development
- Design and Character of Area
- Impact on Trees
- Impact on Amenity of Nearby Residents
- Access and Parking.

### **Observations**

#### **Principle of Development**

PPS3 now excludes garden land from previously developed land. This does not automatically mean that proposals should be refused but considered in their context. Whilst the current site is half the size than the majority of the previous proposals that have been considered, the larger site had previously benefited from outline and reserved matters approvals for houses plus a series of refusals. In 2006 the Council dealt with a planning application for the same plot as currently being considered. The house in the 2006 application would have been between 3.5metres to 1.6metres to the garden boundary with 15 Middleton Road with the space illustrated as private amenity space for the new house and shadowed by the neighbour's trees. The Council refused this application and the applicant appealed the decision. The planning inspector dismissed the appeal commenting; *the bungalow would be built close to its rear boundary with 15 Middleton Road and the area to the rear of the property would be shaded by trees... the area in front of the dwelling would be dedicated to parking and turning area and as a result the useable amenity area would be limited to the side garden bordering 10 Astor Road. I consider the*

*development represents a cramped form of development, out of keeping with character and appearance of Astor Road.*

Whilst the current site has similarities to the 2006 application, the current proposal does not include amenity space to the rear of the proposed house as the current proposal is to place the house adjacent to the garden boundary of number 15 and 19 Middleton Road. The new house would have four secondary windows facing the boundary, has reduced hard surfacing to the frontage and a larger amenity space free from shadowing adjacent to 10 Astor Road. Taking into account the changes to PPS3 garden land definition, the scale of previous proposals, the planning history of this plot, the inspectors decision, the principle of developing this garden land for a single house is considered on balance, would be acceptable.

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

The character of Middleton Road broadly reflects the arts and crafts style, with more modern infill development and described in the Council's Area of Special Townscape Character. The original 20-30's style houses are larger, with many benefiting from extensions and alterations set within larger plots. Astor Road is a cul-de-sac of early 1970's houses and bungalows, smaller than the Middleton Road houses. Astor Road properties are also in smaller plots and whilst it is considered that the plot for the proposed house reflects the general size and proportions of the Astor Road plots which it adjoins, the proposal would be seen as sitting within the garden of the larger Middleton Road properties. The Area of Special Townscape Character; Thornhill Road/Middleton Road/Foley Road East guidance sets out that infill development should only occupy 25% of the plot. The current proposal would occupy 29% of the overall plot, 4% more than the Council's guidance for infill plots in the vicinity. However, it is considered that the house positioned adjacent to two garden boundaries would on balance, be out of character with the immediate vicinity forming a cramped form of development and impact on the amenity and outlook currently enjoyed by the occupiers of 15 and 19 Middleton Road.

The proposal would be seen within long rear gardens of Middleton Road that currently have an absence of buildings other than ancillary buildings can be readily appreciated, the new dwelling is considered, that on balance, would not integrate or compliment the local distinctiveness of the area being out of character with the appearance of the immediate vicinity compromising the quality of the local environment.

The architectural design of the proposed house is considered a transition between Middleton Road and Astor Road. The proposed design of the dwelling, whilst reflecting the simpler design of Astor Road, includes some arts and craft detailing including window, render, timber detailing and chimney. The house is considered acceptable in terms of architectural design.

### **Impact on Trees**

The Council's Arboriculturist confirms that there are no protected trees within or adjacent to the current application site and that the site is not within a conservation area. The applicant's agent has submitted a tree risk assessment that considers the impacts the development would have on the willow tree in the adjacent garden and concludes the tree condition is poor as showing signs of decay at the main fork as well as a stress fracture being visible. The tree risk assessment recommends should the tree be retained the installation of a root barrier should be installed and the development would have a relatively low impact on the willow. The Council's arboriculturist has visited the site and confirms there are several trees on site which



do not warrant statutory protection. The arboriculturist continues, to ensure the continued health, condition and stability of the trees in the neighbouring property an explanatory channel should be dug to ascertain root material in order to aid the design of footings. The impact on the existing trees is not considered sufficient to recommend refusal of this application.

15 Middleton Road is to the north of the application site with trees between three and four metres from the proposed house. The boundary is a hedge and fence. The northern elevation of the proposed house includes four high level secondary windows and three roof lights. The orientation of the house and the design maximises the southern aspect towards Astor Road, it is considered, the impact from the trees on the rear windows and ambient light levels which is likely to be limited.

The proposed garden area to the west of the proposed house only has a damson tree adjacent to the garden boundary, to the north. The southern aspect of the proposed garden is largely unobstructed and it is considered there would be limited shadowing of the proposed garden, limiting pressure for the removal of the damson tree. On balance, the impact on the trees or their impact on the living conditions of the new occupiers is not seen as decisive in this instance.

### **Impact on Amenity of Nearby Residents**

The majority of the windows for the new house face Astor Road in order to maximise light levels from the south. It is considered these windows would not impact on the amenity of nearby residents.

The design of the house includes a large window facing west towards the garage of 10 Astor Road, a bungalow close to the boundary of this and the neighbour's garden boundary. A separation distance of 15 metres to the side wall of the garage of number 10 with a 1.8 metre fence along the boundary. The 15 metres exceeds the Council's separation distance of habitable room windows to blank walls as set out in Annex E of Designing Walsall and considered not to impact on the amenity of the neighbours.

The proposed house would be one metre from the boundary with, and to the south of, 15 Middleton Road which has a fence and hedge. The rear elevation of number 15 would be 16 metres from the proposed house at an acute angle. To the rear and within 7 metres of 15 Middleton Road, there is a large mature tree which would interrupt direct views of the new house.

The proposed house is to the south of the garden of 15 Middleton Road and 1 metre from the boundary of the neighbour's garden, the agent has provided shadowing diagrams illustrating mid-summer and mid-winter. Potential shadowing of the neighbours garden is likely to occur during the day in mid-winter from the proposed house, although the neighbour already suffers from shadowing from the existing fence, hedge and trees. The proposed house would provide a solid shadow rather than the dappled shadow of the trees. The proposed house may leave approximately 13 metres of rear garden clear of shadowing from the new house, directly at the rear of 15 Middleton Road. It is considered that taking into account the shadowing diagrams supplied, the 16 metre separation from number 15, the retention of the existing fence, hedge, mature tree towards the rear of number 15, interrupting views, the scale and mass of the proposed house close to the garden boundaries, is considered on balance would impact on the amenity currently enjoyed by the occupiers of 15 and 19 Middleton Road.

Should the application be approved, it is considered that, a condition restricting permitted development rights, would allow the Council to consider future impacts to neighbours should the occupiers of the new house wish to extend or add garden structures.

The proposed house has 4 high level windows along the boundary of number 15 serving a bedroom, cloak room, utility and the dining area. In addition, the proposed house includes 3 roof lights facing the boundary of number 15, serving a bedroom and two for the dining area. The four windows have a sill height of 1.6 metres and may provide some limited overlooking of number 15, however, a condition that these are obscurely glazed to a suitable level of privacy glass, is considered to adequately protect the amenity of the neighbours in this instance. The 2 roof-lights over the dining area are considered to provide little or no opportunities of overlooking of the neighbours garden. The single roof-light to the upper floor bedroom may provide limited opportunities to overlook the neighbour's garden and again, this can be conditioned to be obscurely glazed to a suitable level of privacy glass to protect the neighbour's amenity.

### **Access and Parking**

The proposal provides two off road parking spaces which is below the Council's maximum standard of 3 spaces. Astor Road does not have any traffic regulation to control on street parking. The increase in traffic and the short fall of one space below the Council's maximum standards as a result of the new dwelling is not considered to cause harm to the area. The Council's highway officers have no objection to the development subject to conditions for visibility splays and the surfacing of the driveway.

### **Recommendation: Refuse**

The site is with an area of Special Townscape Character. The proposed house would be positioned immediately adjacent to the garden boundaries of 15 and 19 Middleton Road. It represents a cramped form of development which would be out of keeping with the character of the area and have an overbearing impact on the outlook and amenity currently enjoyed by the occupiers of 15 and 19 Middleton Road. It is neither well integrated with nor does it compliment, the neighbouring properties or the local distinctive character of the area and as a result compromises the quality of the local environment. As such the proposal would be contrary to policies 2.2, 3.6, GP2, ENV32, 3.16 and H10 of the Walsall Unitary Development Plan, Policy DW3 of the Designing Walsall SPD, the Area of Special Townscape Character; Thornhill Road/Middleton Road/Foley Road East and advice given in PPS1 and PPS3

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