



Development Control Committee

18th June 2009

Report of Head of Planning and Building Control, Regeneration

Contents Sheet

Item No	Page No	Application Number	Site Address	Proposal	Recommendation
1	1	09/0273/FL	Goscote Hospital, Goscote Lane, Walsall, WS3 1SJ	Change of Use from Former Redundant nurses accommodation and part office to offices	Grant Subject to Conditions Subject to Referral to Government Office
2	13	09/0432/FL	STAFFORD ROAD, DARLASTON, WEDNESBURY	Erection of 22 dwellings to plots 25-40 and 45-60 consisting of 3 bedroom semi/terraced houses including all necessary access and sewer works (revisions to earlier permission)	Grant Subject to conditions
3	17	09/0387/FL	THE NAVIGATION INN,FIBBERSLEY,WILLENHALL, WV11 3SU	Alteration and extension of Public House car parking and beer garden.	Grant Subject to conditions
4	23	09/0502/FL	305 WOLVERHAMPTON ROAD,WALSALL,WS2 8RL	Change of use from newsagents (A1) to chip shop (A5 Hot food takeaway)	Grant Subject to conditions
5	32	09/0331/FL	DAY STREET,WALSALL,WS2 8EJ	Change of use to Restaurant and Takeaway (Use Class A3 and A5). (No external changes)	Refuse
6	42	09/0458/AD	AXLETREE WAY (ADJ. IKEA ENTRANCE),WEDNESBURY,WALSALL	Two 98 sheet posters on a monopole.	Refuse Advert



ITEM NO: 1.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on 18 Jun 2009

**REASON FOR BRINGING TO COMMITTEE: Departure from the
Development Plan**

Application Number: 09/0273/FL

Application Type: Full application

Applicant: WALSALL TEACHING
PRIMARY CARE TRUST

Proposal: Change of Use from Former
Redundant nurses accommodation and
part office to offices

Ward: Blakenall

Recommendation Summary: Grant Subject to Conditions Subject to
Referral to Government Office

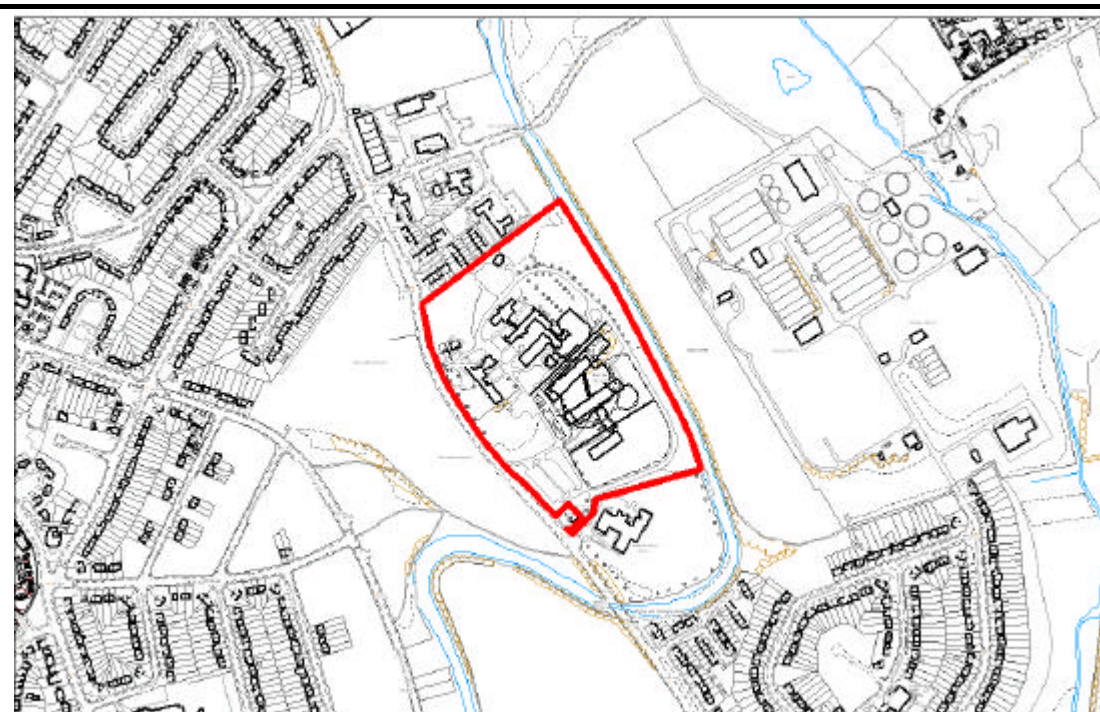
Case Officer: Alison Deakin

Telephone Number: 01922
652487

Agent: DRIVERS JONAS LLP

Location: Goscote Hospital,
Goscote Lane, Walsall, WS3 1SJ

Expired: 19/05/2009



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Application and Site Details

The proposal is for change of use of the now derelict former nurses' accommodation building at Goscote Hospital to provide 1546 sq m of office accommodation. The vacant building is three storeys high with a single storey wing at the rear and is located at the front of the hospital site where it is seen as a significant landmark. The ground floor of the building was last occupied (2005) as offices with nurses' accommodation on the first and second floors.

Walsall Teaching Primary Care Trust (tPCT) would initially provide offices for staff supporting the new Palliative Care Centre currently being constructed at the site. Other staff to be based in the building will enable provision of general high quality health care. Staff will be transferring from properties across Walsall. The proposals involve minor internal works.

The site is allocated in the Unitary Development Plan as a Major Developed Site within the Green Belt and has mature landscaping throughout. Demolition works have recently been carried out following grant of planning permission for the erection of new dementia care and palliative care centres within the centre of the site. The former nurses' accommodation building on the front and catering unit at the rear are the only remaining buildings.

There are 151 car parking spaces over the whole of the Goscote Hospital site and it is intended that parking for office staff will be accommodated within this provision. There are however, 8 marked out car parking spaces directly in front of the building and a further 15 spaces available within the car park to the east giving a total of 23 spaces. Access will remain as existing comprising a one way circulatory traffic system with separate access and egress points along Goscote Lane. A Transport Statement has been provided in support of this proposal.

In terms of addressing the tests given in Policy S7 the applicant states:

- There is a need to invest in the vacant building to preserve its integrity. Its use for offices would allow Walsall tPCT to provide accommodation reducing the need for staff to travel to different locations throughout the Borough. It would also meet a local need to provide support workers for the Palliative Care Unit and other health workers to serve the Goscote area.
- A sequential test has not been carried out as the change of use would make best use of the tPCT freehold ownership which best meets its needs for Goscote hospital.
- The proposed change of use will not have an adverse impact upon any one existing centre as relocated staff will be from a number of offices rather than one particular office in an existing centre.
- The proposed change of use will not have an adverse economic impact upon existing or planned provision to meet local needs as the new offices would contribute towards supporting the wider regeneration of the Goscote Corridor.

- The Transport Statement concludes that the site is genuinely and realistically accessible by a range of transport modes including public transport, cycling and walking and a Travel Plan can be prepared if required. Also that the existing parking and highway provision can accommodate the change of use.
- Although contrary to policy relating to location of town centre uses there are other merits to the case that warrant support.

Relevant Planning History

06/2190/ND/E11 – Screening Opinion as to whether an Environmental Impact Assessment is required for proposed health care development – EIA not required as the proposals are not likely to have a significant effect on the environment given the scale of existing and previous uses on the site.

07/1694/OL/E11 - Outline: Demolition of existing hospital buildings and redevelopment to provide new health and social care buildings to include Dementia and Palliative Care Units together with access, associated hard and soft landscaping – Granted Subject to Conditions 02/11/07.

07/2085/FL/E11 – 40 no. Dementia Care Apartments, Communal Facilities, Day Treatment and Day Care Centres, Parking and associated landscaping – Granted subject to conditions 17/01/08

08/0020/FL - Section 73 Application to Delete Condition 12 of Planning Approval 07/1694/OL/E11 which requires closure of the southern access and re-opening the central access to the site – Granted 21/02/08

08/1299/FL - New build palliative care centre, accommodation to include 12 inpatient beds, day care centre, therapy and counselling services along with associated ancillary services and staff/admin facilities. External landscaping and provision of 37 no. parking spaces – Granted subject to conditions 19/11/08

08/1803/FL – Section 73 application to delete condition 18 of planning permission 07/2085/FL/E11, which requires closure of the southern access to the site and re-opening the central access – Granted 29/01/09

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

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

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

GP4: promotes local area regeneration including protecting and enhancing the natural and built environment and helping bring forward vacant and underused buildings for new uses.

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

3.3: The character and function of the Green Belt will continue to be safeguarded as part of the wider West Midlands Green Belt.

3.16: Development will be considered 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.

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

ENV2(b): States re-use of buildings within the Green Belt will be acceptable provided that: -

- it would not have a materially greater impact than the present on the openness and purposes of the Green Belt
- it does not involve any building extension or associated uses of land around the building which would conflict with the openness and purposes of the Green Belt
- The buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction and,
- The form, bulk and general design of the buildings are in keeping with their surroundings.

ENV3: Identifies more detailed considerations for proposals in the Green Belt.

ENV4d: allows for infilling or redevelopment of major developed sites in the Green Belt provided proposals have no greater impact than the existing development on the openness and purpose of the Green Belt. This includes Goscote Hospital site.

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

ENV17: Promotes planting provided there is no adverse impact upon amenity.

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

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

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

ENV32: Poorly designed development which fails to take account of the context or surroundings will not be permitted.

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

3.113, 3.114 & 3.115: Good design should respond positively and imaginatively to the context, in which development takes place, discourage crime and increase safety.

S1: Defines Class B1(a) offices as a town centre use.

5.41 & S6: Out of centre development may be appropriate to meet specific local needs where certain criteria are met.

S7: Out of centre development of town centre uses must meet specific tests listed in policy including;

- Need for the facility i.e. support for the scheme and accessibility in the local catchment area or an expression of community need,

- Sequential approach i.e. are there any more centrally located sites that could accommodate the proposed use,
- Whether there is likely to be an adverse impact on the vitality or viability of the an existing centre,
- The proposal must not have an adverse economic impact on existing or planned provision to meet local needs
- Should offer accessibility by a choice of sustainable transport modes
- Should not be reliant on access by car
- Should have no adverse traffic impact on the local highway network
- Should not conflict with policies for protection of employment land

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

T10: States accessibility standards that apply to development proposals and suggests these may be supplemented by Green Transport Plans.

T12: Encourages access by public transport.

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. Provision for Class B1(a) office Uses - 1 car park space per 30m² of gross floor space, 1 bike locker for every 10 car parking spaces plus taxi facilities.

Designing Walsall SPD

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

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

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

National Policy

PPS1: Promotes sustainable and inclusive patterns of urban and rural development.

PPG2: Seeks to protect against inappropriate development that is harmful to the Green Belt. Limited infilling or redevelopment of major developed sites that meets the criteria C3 & C4 in Annex C of PPG2 is not inappropriate development

PPS6: Promotes the hierarchy of existing town centres to protect their vitality and viability and highlights a sequential approach to site selection and requirement for an assessment of need.

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 subject to safeguarding conditions including a travel plan

Strategic Policy – No objections. The building has not been in active use since 2005. Class B1(a) offices are defined as a town centre use in PPS6 and UDP Policy S1. There is no evidence to demonstrate the proposal would satisfy the tests on out-of-centre development given in PPS6 and Policy S7. However, the building is an important local feature and bringing it back into use is a significant material consideration. It is also significant that the building is part of a complex of health-related uses, and the proposed use is complementary to this.

The proposals are in accordance with UDP Policy ENV4(d). The site is included in the Goscote Lane Corridor Regeneration Framework Strategy and the proposals would not conflict with the Strategy.

Despite the fact that the site has been used for health services for a number of years (and would attract staff and visitors as well as patients) it is relatively isolated in terms of public transport as bus routes nearest to the site do not operate from all parts of the anticipated catchment area directly to the facility. The proposal is therefore contrary to UDP Policies S7(v) and S7(vi), T10, T12 and PPG13. To overcome this conflict provision will need to be made for public transport access to serve the catchment of the development during the time of operation, possibly via a Green Transport Plan.

Development on this site in the Green Belt is acceptable in principle. Bringing the building back into use (especially for health purposes) outweighs the requirement to consider a more central location, providing permission is granted for the occupation of the offices by Walsall Primary Care Trust only. Significant public transport improvements would be required for the development to be acceptable in accessibility terms.

Landscape – No objections. The positive re-use of this building is welcomed as it forms a landmark feature. The change of use has no landscape implications, particularly as facilities already exist for car parking.

Ecology – No objections. The application does not involve demolition of the building or substantial alterations other than changes to partition walls therefore the risk of harm to bats is low and can be dealt with through a note to the applicant on any decision notice.

Conservation – No objections. The former hospital building dates from 1928 and is designed in the Neo-Georgian Classical Revival style. The building is not listed/locally listed or within a conservation area but does have local architectural and historic merit and should be considered being added to the Council's Local List. The building is also a significant landmark along Goscote Lane and is set within attractive spacious grounds.

Overall, the conservation section is very pleased to see the building retained, with a new use in what is currently a derelict building. The proposed internal changes are to remove internal partitions that were put in when the building was converted to nurses' accommodation during the 1990's. The Heritage Statement suggests that the building does have internal features of significance, including fireplaces and flooring which should be protected and safeguarded through these works. Again, it is presumed that these features will be left in-situ, such as the staircases. If any of the features identified within the Supporting Statement are affected then it is recommended that the applicants discuss such implications with the Council prior to the works taking place.

The external features of the building are not affected. It is unfortunate that some of the first floor windows have been replaced with UPVC. The remaining timber fenestration should be kept with repairs to be made as and where appropriate. The value of the fenestration of this building is highest on the eastern wing of the building, as well as the main front door and associated fanlight.

Fire Service – No objections.

Regeneration Framework Team – The Goscote Project Reference Group fully support the proposals. The only point of concern is that there is an infrequent bus service to the site.

Public Participation Responses

None.

Determining Issues

- Impact upon the Green Belt
- Principle of office use out of centre
- Impact upon the amenities of the area
- Parking and accessibility

Observations

Impact upon the Green Belt

No extensions to the building are proposed, merely minor internal alterations to remove partition walls which do not materially affect the external appearance of this permanent building and therefore do not adversely affect the character or openness of the Green Belt. The retention and re-use of the building is supported as it is a significant landmark and its use for offices is considered to have no greater impact upon the character or openness of the Green Belt than its former use as nurses' accommodation and offices. Re use of the building meets the requirements of UDP policy ENV2

The re-use of this building within a Major Developed Site in the Green Belt, accords with policy ENV4 of the UDP.

Principle of office use out of centre

The application is made on behalf of Walsall tPCT and identifies that the offices would be used in part to support the healthcare facilities being provided at this former hospital site. The principle of ancillary offices to support the healthcare facilities on site is considered acceptable. However, not all of the proposed offices would be used in this capacity therefore the tests in policy S7 should be addressed. Paragraph 5.6 of the UDP states “*the Council will apply the sequential approach in a flexible, realistic and sensitive manner, and consider the needs of developers and operators*”.

The proposed use of the building for Class B1(a) office purposes is contrary to policy S7 of the UDP as it proposes to enlarge offices in an out-of-centre location. Although there is no evidence to demonstrate the proposals satisfy the tests in PPS6 and Policy S7 the supporting information addresses each of the tests giving a satisfactory explanation why there are very special circumstances in this case to outweigh the policy requirement.

Although there was a proportion of office space within the existing building this was considered to be an ancillary use whereas the proposed change of use would make the primary use of the building for office purposes. Conversion of the building to offices to be used only by Walsall tPCT to support the new Palliative Care Unit on site and health workers across Walsall is considered acceptable. It reduces the need for staff to travel, would have no adverse impact upon amenity for neighbours or create road safety or traffic problems. There is a benefit in re-use of this significant landmark building to ensure its retention and continued upkeep for a use that is considered to be appropriate in the context of the wider hospital uses already on the site.

Whilst the standard locational tests under policy S7 would not be met here, the particular circumstances of this case has significant benefits which outweigh the normal requirements that direct offices to town and district centres. The proposals offer: retaining this landmark building; the offices support the existing health related uses on site plus tPCT staff serving the Goscote area and the wider Borough without having any adverse impact upon highway safety, parking or surrounding amenities.

Impact upon the amenities of the area

The retention and re-use of this significant landmark building is welcomed as it ensures its continued protection from vandalism or deterioration whilst providing a suitable alternative use. The proposed changes have no impact upon the external appearance of the building and in the circumstances will not have any visual impact. The use for office purposes will have little impact upon the character of the site as a whole and provides a complimentary use to support the health care facilities both on site and the wider community.

There is a residential dwelling, Top Lodge, adjacent to the access to the hospital site near to the existing nurses' accommodation building. However, it is considered that the change of use and general comings and goings from the proposed offices have no greater impact upon residential amenities than the former hospital uses or approved health care facilities on site. There are no objections from third parties.

Parking and accessibility

Although concerns have been raised regarding the sustainability of the site in terms of its accessibility by a choice of means of transport the developer has offered to provide a Travel Plan that would encourage occupiers to use alternative transport and can be secured through a suitable condition. In addition the proposed offices are for use specifically by Walsall tPCT staff only. The tPCT staff will serve the catchment area around the hospital site and Walsall generally therefore reducing the need to travel from a greater number of dispersed locations.

Traffic impact was considered in the approved 2007 Transport Assessment and the updated TA submitted as part of this planning application. The conclusions show that the change from nursing accommodation and ancillary offices to just offices will increase the number of vehicle trips. However, reviewing the whole site and combining each of the approved uses, there will be an overall reduction in the number of trips to the site and hence an overall reduction in traffic generation. There will be no significant detrimental impact on the surrounding highway network and no requirement for contributions to highway improvements from this application.

Conclusion

The proposal offers an acceptable alternative use of the former Nurses' Accommodation building that does not require extension or external alterations and would therefore preserve the character and openness of the Green Belt. Although the proposal is for Class B1(a) offices in an out of centre location the applicant has demonstrated that there are special circumstances to support this including operational efficiencies and sustainability benefits to Walsall tPCT and that the offices will provide accommodation for support workers for the Palliative Care Unit on site, health workers for the Goscote locality and Walsall borough. The building is a significant landmark along Goscote Lane and its retention and re-use is supported. On balance, the opportunity to retain the building and the fact that the proposed office uses in part support the health care uses at the site is considered to outweigh the conflict with Policy S7. Reviewing the whole Goscote hospital site combining each of the approved uses, it is considered there will be an overall reduction in the number of trips to the site and hence an overall reduction in traffic generation.

Summary of Reasons for Granting Planning Permission

The proposals offer an acceptable alternative use of the former Nurses' Accommodation building that does not require extension or external alterations and would therefore preserve the character and openness of the Green Belt. Although the proposal is for Class B1(a) offices in an out of centre location the applicant has demonstrated that there are special circumstances to support this including operational efficiencies and sustainability benefits to Walsall tPCT. The building is a significant landmark along Goscote Lane and its retention and re-use is supported. On balance, the opportunity to retain the building and the fact that the proposed office uses in part support the health care uses at the site is considered to outweigh the conflict with Policy S7.

The use of the building for offices is considered to have no adverse impact upon neighbour's amenity as no external alterations to the building are proposed and reviewing the whole Goscote hospital site combining each of the approved uses, it is considered there will be an overall reduction in the number of trips to the site and hence an overall reduction in traffic generation, with no detrimental impact on the surrounding highway network and no requirement for contributions to highway improvements.

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, (as amended)

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

- Site Location Plan (Plan 1) received 24/09/09
- Approved Masterplan for Goscote Hospital Redevelopment (PL06-GOH) received 02/03/09
- Ground Floor Plans for last known use (06614-GF-ALKU) received 24/03/09
- 1st & 2nd Floor Plans for last known use 06614-1&2-ALKU) received 24/03/09
- Ground Floor Plan Indicative Layout (06614-G-IL) received 24/03/09
- 1st & 2nd Floor Plans Indicative Layout (06614-1&2-IL) received 24/03/09
- Transport Statement prepared by Peter Brett Associates LLP dated January 2009 (project ref: 22185/002) received 02/03/09

- Supporting Statement on behalf of Walsall Teaching Primary Care Trust prepared by Drivers Jonas LLP dated February 2009 (ref: 13663061/1) received 02/03/09

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

3. Prior to the commencement of the development, a car parking layout plan shall be submitted to and agreed in writing by the Local Planning Authority showing the provision of 6 disabled car parking spaces in suitable locations to serve the development. The approved layout shall be implemented including clearly demarcating on the ground before first occupation and maintained thereafter.

Reason: In the interests of highway safety

4. Prior to the commencement of the development, a revised plan shall be submitted to and agreed in writing by the Local Planning Authority showing a covered secure and illuminated cycle storage facility in a suitable location near the building entrance. The approved cycle store shall be implemented before first occupation and maintained thereafter.

Reason: In the interests of highway safety and to ensure provision of facilities to support alternative means of transport to serve the development in the interests of sustainability.

5. Prior to the commencement of the development, a revised plan shall be submitted to and agreed in writing by the Local Planning Authority showing the location of and materials of the refuse storage area to serve the building. The approved refuse store shall be implemented before first occupation and maintained thereafter.

Reason: In the interests of highway safety.

6. The offices hereby approved shall be used only for the purposes of providing offices to primarily support local service provision by Walsall Teaching Primary Care Trust and for no other purpose.

Reason: To retain effective control over the occupation of Class B1(a) offices in this out of centre location to ensure compliance with policies of the Unitary Development Plan. Other possible occupants may not be able to demonstrate any special circumstances to justify this out of center location would be contrary to UDP policy S6 and S7

7. The premises shall not be occupied outside 09.00 hours and 17.30 hours Mondays to Fridays only unless otherwise submitted to and agreed in writing by the Local Planning Authority.

Reason: To avoid disturbance to residents/patients and avoid harm to the character of the Green Belt from undue night-time activity.

8. Within 3 months of the date of this approval a Travel Plan for the development hereby approved, that co-ordinates with the travel plans for the rest of the hospital complex, shall be submitted and agreed in writing by the Local Planning Authority. The Travel Plan shall be a flexible working document and relate to the hospital complex as a whole including the previously approved developments (Dementia Care and Palliative Care Units) and any future developments.

Reason: In the interests of highway safety and sustainability encouraging alternative modes of transport.

Note to applicant;

Although the application does not meet the criteria for the Local Planning Authority to require a formal bat survey, there is always a risk that bats may be using the existing buildings 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 or disturbance to bats roosts is a criminal offence. Care should be taken during site clearance and if any bats or evidence of bats is 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



ITEM NO: 2.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on 18 Jun 2009

REASON FOR BRINGING TO COMMITTEE: Major Development

Application Number: 09/0432/FL

Application Type: Full application

Applicant: Persimmon Homes (West
Midlands) Ltd

Proposal: Erection of 22 dwellings to
plots 25-40 and 45-60 consisting of 3
bedroom semi/terraced houses
including all necessary access and
sewer works (revisions to earlier
permission)

Ward: Darlaston South

Recommendation Summary: Grant Subject to conditions

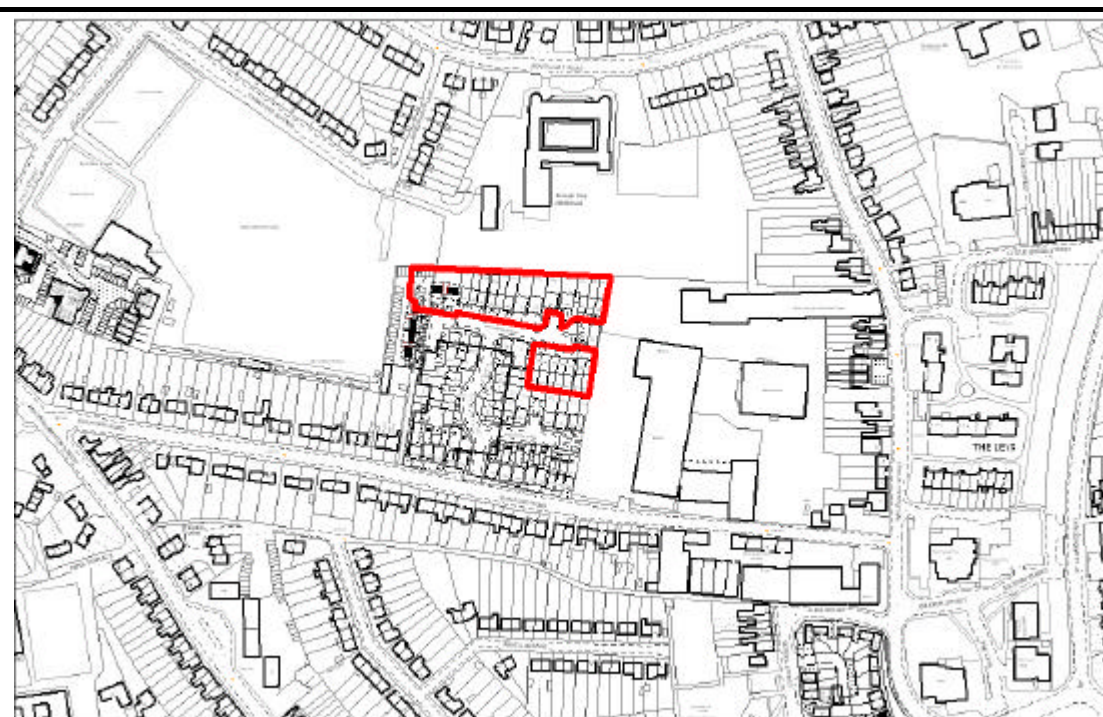
Case Officer: Karon Hulse

Telephone Number: 01922
652492

Agent: Development Design
Partnership

Location: STAFFORD ROAD,
DARLASTON, WEDNESBURY

Expired: 16/07/2009



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Application and Site Details

This application seeks to substitute a number of house types on plots 25-40 and 45-50 on the new development on land at Stafford Road, Darlaston. This follows approval of reserved matters in June, 2007.

It is proposed to delete 26 dwellings (the block of 6 flats in the northwest corner of the site and 16 x three storey houses and 4 x two storey houses along the northern boundary). They will be substituted by 22 x three bedroom two storey semi/terraced houses. Each property would either have a garage/parking space or parking spaces to accommodate two vehicles, therefore parking is provided at 200%.

Relevant Planning History

06/0126/OL/W1 - Outline for the erection of 18 apartments and 51 houses including access which was granted 16th March, 2007.

06/1873/RM/W5 - Reserved matters : 70 dwellings. Grant Subject to Conditions 6th June, 2007

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

Unitary Development Plan

2.1, 2.2 and GP1: Sustainable Location of Development - Development will be guided by the principles of sustainability.

GP2: Environmental Protection - Requires new development to contribute to the improvement of the environment.

GP7: Community Safety - Development is expected to design out crime whilst maintaining good urban design.

Para 3.113, 3.114 & 3.115 Seek good design and high quality architectural and landscape design to improve access, discourage crime and create a distinctive environment.

Para 3.16 The Council will consider development in relation to its setting.

ENV32: Design and Development Proposals - Poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

H9: Minimum Densities - Housing densities in the range of 30 -50 dwellings per hectare.

H10: Layout, Design and Dwelling Mix - High quality living environment to be created, well integrated with surrounding land uses and local character.

T7 and T13 - Car Parking - development to comply with car parking standards : 1, 2 and 3 bedroom houses: 2 spaces per unit, 4 bedroom houses and above: 3 spaces per unit

Residential Development Standards (RDS)

These include guidelines relating to design and space around dwellings including garden dimensions, habitable room separation and boundary treatments.

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

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

Policy 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 - Delivering Sustainable Development, PPS3 - Housing, PPG13 - Transport, PPG24 - Planning and Noise, PPG25 - Development and Flood Risk, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention.

Consultations

Transportation – no objection

Public Participation Responses

None

Determining Issues

- Principle of new house types

Observations

Principle of new house types

The use of this site for residential development has been determined by the previous outline and reserved matters consent. The number of units proposed will be reduced from 26 apartments and houses, to 22 houses.

Each two storey dwelling will have three bedrooms and meet the parking standards.

The proposed streetscene created by the new units will be more uniform in its appearance as they will all be two storey in height along the rear boundary as opposed to that which was previously approved of two and three storeys. This is an acceptable change. Access to the site remains the same.

All other matters and details approved by the reserved matters application remain the same.

Summary of Reasons for Granting Planning Permission

The use of this site is for residential, the proposed substitution of house types will have no adverse impact on the design of this housing scheme overall, any adjacent occupiers or the local environment. Parking expectations in the UDP are met. As such the development is in accordance with policies 2.1, 2.2, GP1, GP2, GP7, ENV14, ENV32, H3, H9, H10, T7 and T13 of Walsall's Unitary Development Plan, and the adopted Designing Walsall Supplementary Planning Document.

Recommendation: Grant Subject to conditions

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

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

2. This permission hereby grants the substitution of house types on plots 25-40 and 45-60 to allow for the erection of 22 dwellings. Conditions 6, 10, and 12 of planning consent reference number 06/0126/OL/W1 dated 16th March, 2007 and conditions 11 and 13 imposed by planning approval reference number 06/1873/RM/W5 dated 6th June, 2007, unless otherwise discharged and implemented fully, remain relevant.

Reason: To define the permission.



ITEM NO: 3.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on 18 Jun 2009

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

Application Number: 09/0387/FL
Application Type: Full application
Applicant: Bluemark
Developments Ltd & Punch
Taverns Ltd

Proposal: Alteration and
extension of Public House car
parking and beer garden.

Ward: Willenhall South

Recommendation Summary: Grant Subject to conditions

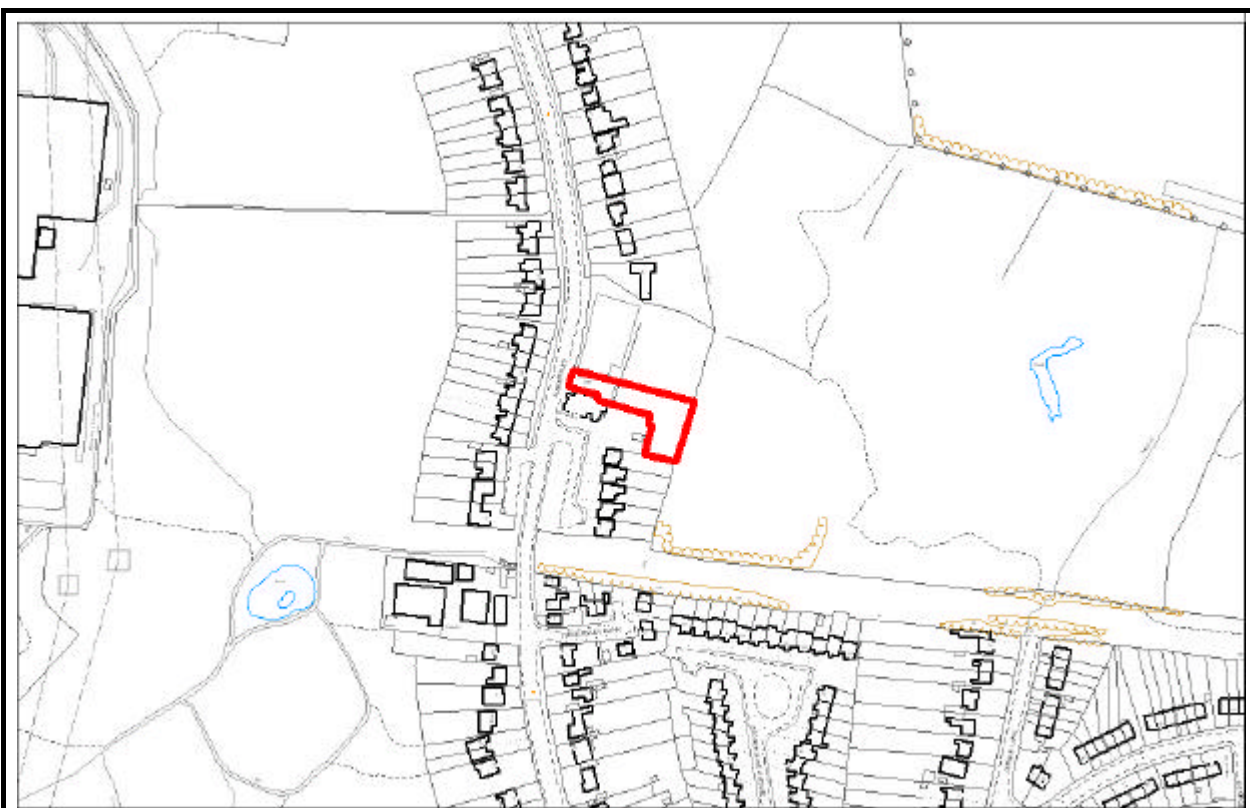
Case Officer: Karon Hulse

Telephone Number: 01922 652492

Agent: Mr Jonathan Boxley

Location: THE NAVIGATION
INN, FIBBERSLEY, WILLENHALL, WV11
3SU

Expired: 19/05/2009



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Status

Councillor Shires is concerned about the impact on the amenity of neighbours, impact on the surrounding area, over-development of the site and protecting town centre viability.

Application and Site Details

This site was recently granted planning permission for the erection of five dwellings (on the land formerly used as the Navigation Pub car park), resiting the pub car park to the side of the pub, and the beer garden to the rear of the pub. The approved layout shows parking along the boundary between the beer garden and the new housing

This application seeks consent for a revision to the approved car park to provide additional parking spaces, increased from 19 to 29 spaces. The revised scheme extends the car park across part of the rear boundary of the pub.

The revised car parking would be approximately 6 metres closer to the side boundary with the adjoining house, no. 41 Fibbersley (previously approved at 17 metres away, now reduced to 11 metres).

The application also includes landscaping between the new car parking and the rear garden to no. 47, Fibbersley and improved boundary fencing (as well as the retention of some good fencing already present).

Relevant Planning History

08/0569/FL – erection of 5 houses and relocation of car parking and garden area. Grant Subject to Conditions 25th June, 2008

Relevant Planning Policy Summary

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

Unitary Development Plan (UDP)

GP1...principles of sustainable development

GP2, 3.6 and 3.16 seek to improve the environment and achieve schemes that do not have an unacceptable adverse impact on the environment

GP7 designing out crime

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

ENV14...encourage the development of previously developed land

ENV 32 does not permit poorly designed proposals

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

7.36...ensure adequate levels of off-street parking...particularly in residential areas to avoid environmental and road safety problems

T7 and T13 Car Parking standards

T12...access by Public Transport to Residential Developments...walking distance no more than 400 metres to a bus stop

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;

Local Development Framework (LDF)

The broad principles of the UDP are further advanced in the document taking account of recent national and regional planning guidance

Regional Spatial Strategy for the West Midlands (RSS 11)

Overall the strategy promotes sustainable regeneration of previously developed land and promoting a high quality environment.

National Policy

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

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

Consultations

Transportation – no objections

Fire Service - no objections

Pollution Control (Contaminated Land) – no objections

Pollution Control (Scientific Team) – no objections

Regeneration(Landscape) – no objections

Regeneration(Trees) – no objections

Public Participation Responses

Two letters of representation objecting to the extension of car park next to the boundary with no.47 and the risk of more noise from people using the new car park.

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

Determining Issue

- impact on residential amenity

Observations

Impact on residential amenity

The proposed car park extension will run across the rear boundary of the pub (shared with the urban open space to the east of the site) towards the boundary with no. 47 Fibbersley.

The original version of the current application proposed the car park within one metre of the boundary with no.47. Officers have secured a revision, to the presently proposed 11 metres away from that boundary. The previous permission granted consent for the new car park to be approximately 17 metres away from the boundary.

It should be noted that the distances to the house, No. 47 (rather than to its garden boundary) from the nearest point of the car park changes less (the approved scheme is 19 metres at its nearest, the present proposal is 17.5 metres).

Officers consider the proposed distance is acceptable and will allow a continued acceptable level of private amenity for the occupiers of no.47, Fibbersley.

In addition to the physical separation, the scheme also proposes to landscape the area between the car park and the rear garden of no 47 Fibbersley. Furthermore it is intended to retain existing fencing and replace some metal railings with a close boarded fence to match the existing.

The provision of the new landscaping provides an opportunity to enhance this part of the site. Whilst it will result in the removal of several Elder trees, these are scrubby and not considered worthy of retention. Any planning approval should require a replacement scheme of suitable species to ensure continued screening of the adjacent occupiers garden.

The size of the proposed car park provides sufficient parking for customers of the public house therefore ensuring its continued use as a valuable community facility and its position to the rear of the site will have little visual impact on the surrounding area.

Summary of Reasons for Granting Planning Permission

The proposed development, as revised, provides for the siting of the new car park sufficiently far from the adjoining house (no. 47 Fibbersley) to be acceptable. The amenities of the occupiers will be further protected by the

provision of a landscaping buffer, tree replanting scheme, and improved fencing. The size of the proposed car park provides sufficient parking for customers of the public house therefore ensuring its continued use as a valuable community facility and its position to the rear of the site will have little visual impact on the surrounding area. On balance, having taken into account all material planning considerations including policies GP1, GP2, 3.6, 3.7, 3.16, GP7, 3.7, ENV14, ENV 32, ENV33, 7.36, T7, T12 and T13 T12 of the development plan, the proposal is considered acceptable.

Recommendation: Grant Subject to conditions

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

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

2. No development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the Local Planning Authority. The submitted scheme shall include any internal site divisions. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason : To ensure the satisfactory appearance and functioning of the development and in order to protect the rear amenity areas of the new dwellings.

3. No development shall take place until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Borough Council and these works shall be carried out as approved. This scheme shall include indications of all hard surfaces, walls, fences, access features, the existing trees and hedges to be retained, together with the new planting to be carried out, and details of the measures to be taken to protect existing features during the construction of the development.

Reason: To preserve and enhance the visual amenities of the locality in accordance with

4. All hard and soft landscaping works shall be carried out in accordance with the approved details. All landscaping work and new planting shall be carried out prior to the occupation of any part of the development or in accordance to the timetable agreed with the Borough Council. Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species, following consultation with the Borough Council, unless the Borough Council gives written consent to any variation.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005.

5. No development shall be carried out until full details of existing and proposed levels of the site, accessway and floor levels, in relation to land adjoining the site, 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.

Reason: To ensure the satisfactory appearance of the development and protect the visual amenity of the area.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site, other than through the accesses as shown on the deposited plans, without the prior approval of a planning application.

Reason: To ensure the satisfactory provision of off-street parking, ensure the satisfactory functioning of the development and in the interests of highway safety.

7. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be surfaced in tarmacadam (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The areas shall thereafter be retained and used for no other purpose. The parking spaces shall have been clearly marked out.

Reason : To ensure the satisfactory provision of off-street parking, appearance and functioning of the development and in the interests of highway safety.

8. No development shall be carried out until details of the proposed new storage shed have been submitted to and approved in writing by the Local Planning Authority.

*Reason :*To safeguard the amenities of existing occupants.



ITEM NO: 4.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on 18 Jun 2009

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

Application Number: 09/0502/FL
Application Type: Full application

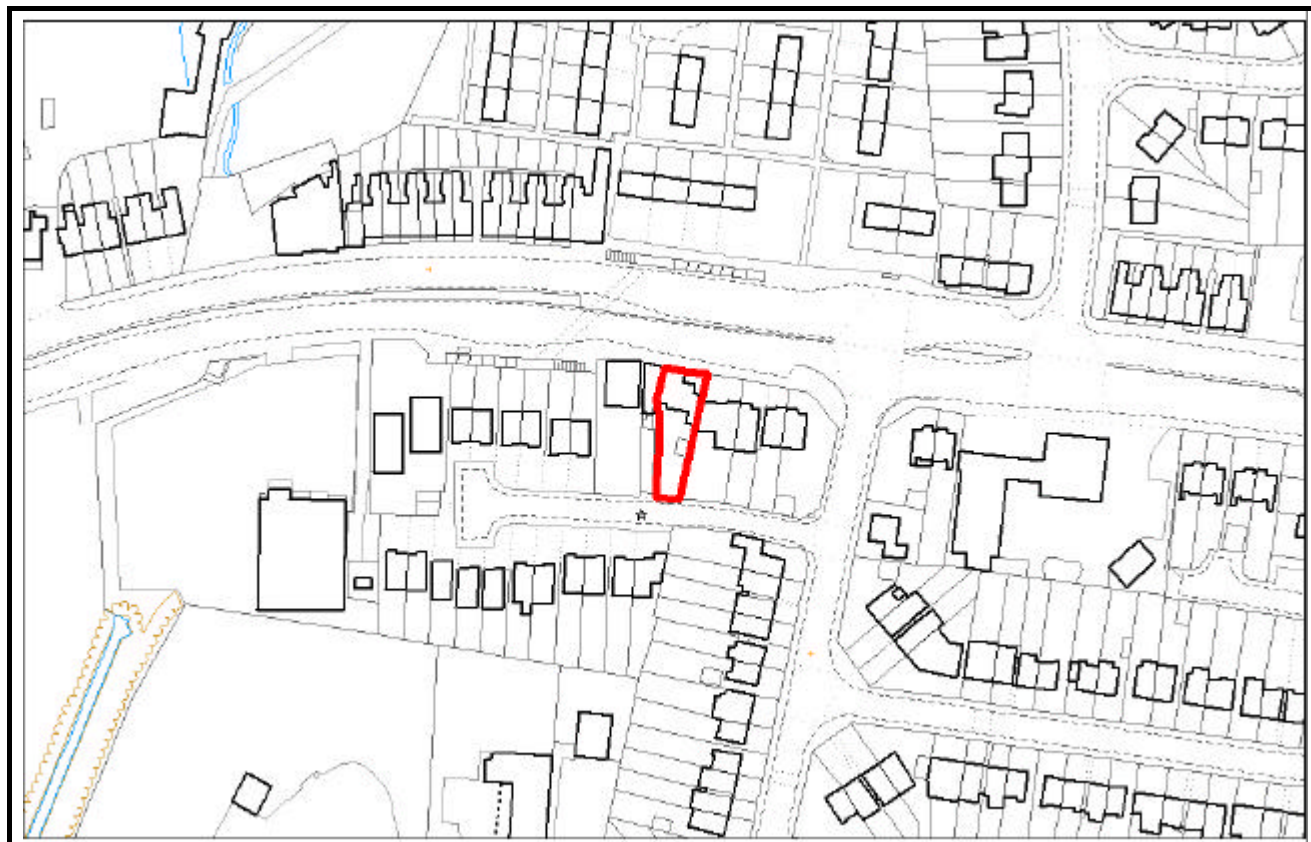
Case Officer: Karon Hulse
Telephone Number: 01922
652492

Applicant: Mr Paul Poonian
Proposal: Change of use from
newsagents (A1) to chip shop (A5 Hot
food take-away)

Agent: Seven Design Build
Location: 305
WOLVERHAMPTON
ROAD, WALSALL, WS2 8RL
Expired: 12/06/2009

Ward: Pleck

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

The application relates to an existing, closed shop on the A454 Wolverhampton Road, west of the traffic light junction of Wolverhampton Road and Primley Avenue. The premises front Wolverhampton Road and have a rear access off Primley Close.

The proposal is to change the use of the former newsagent's shop to a chip shop (hot food takeaway), converting parts of the former ground floor residential accommodation to food preparation areas (two rooms of 16.5 sq m and 14.8 sq m. each) with a counter sales area replacing the former shop area. Other ground floor rooms would be as storeroom and staff room for the chip shop, with a second entrance to the premises used as the hall way entrance to a first floor flat.

A ramp approach is proposed for the front entrance, sited on the pavement frontage.

The application proposes 3 parking spaces at the rear of the building, accessed from Primley Avenue.

The applicant proposes trading hours as 11.30 – 14.00 and 16.30-22.00 Monday to Saturday, with no Sunday or Bank holiday trading.

The applicant illustrates fume extraction systems being ventilated through the existing chimney, including an electrostatic precipitation filter.

Numbers 293 to 303 Wolverhampton Road, to the east of the site, are dwellings and further east, beyond the traffic light junction, is a Somerfield petrol filling station and shop. To the west of the site is a take away and laundrette. Further west are the rear gardens of houses at nos. 2-12 Primley Close and 317, 319 Wolverhampton Road (accessed from Primley Close).

Primley Close is a residential street with on - street parking along the cul de sac (4.5m at its narrowest). Alumwell Infant School is to the south of Primley Close, accessed of Primley Avenue and some 120m away.

The applicant has submitted an accompanying statement setting out that promotions such as lunch break deals for local school children will not be offered. Additionally, a letter from the Chair of Moxley People's Centre explains the applicant's existing business in Moxley and the support given by him for the local community and events.

The applicant has submitted an additional statement explaining how the scheme will cater for the local community, catering for the residents on the south side of the dual carriageway of Wolverhampton Road. Occupancy of the premises, which have been vacant for the last 3 years, would reduce

levels of vandalism. Deliveries would be twice a week using a small transit van. The proposal would provide part employment for 5 to 6 staff.

Relevant Planning History

09/0108/FL – change of use to chip shop, refused on 19th March 2009 for reasons related to the impacts of servicing and parking at Primley Avenue, impacts of odour and detrimental appearance of fume extraction systems, the likelihood of the attraction of anti-social behaviour, and lack of adequate parking and servicing provision. Additionally the site is outside of a defined local centre and would be likely to impact on the amenity of neighbours. Parts of the proposed new entrance and ramp were within the public highway/footpath.

07/1949/fl/W5 – change of use to hot food takeaway, refused on 25th October 2007, for reasons related to the impact of the combined effect of fume extraction and ventilation equipment and limited off-street parking likely to obstruct a part of the strategic highway.

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

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

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

Policy GP 2 - development to make a positive contribution

3.6 Development should improve the environment

3.7 The Council will seek to protect people from environmental problems

Policy ENV10 sets out that development will only be permitted if it would not;

(II) cause unacceptable adverse effect in terms of smoke, fumes...vibration, smell, noise or other polluting emissions;

(III) have an unacceptable adverse effect on nearby land uses....

Policy ENV32 states that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

5.11 The Council will promote the function of established centres so as to maintain them as focal points for shopping and commercial activities.

S7: Out of centre developments – will only be permitted where need can be demonstrated, in accordance with a sequential test and not have an adverse impact on the local highway.

(e) The Council will encourage proposals for the conversion or redevelopment of units which have been used for retailing to employment, housing or other uses.

S10: Hot food takeaways - These uses will be appropriate in the Town, District and Local Centres (subject to Policy S4) and in some shopping and commercial frontages elsewhere subject to following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on the residential amenity.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity

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: car parking standards.

Supplementary Planning Document (SPD)

Designing Walsall SPD

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development identifies 20m² per dwelling where communal private space is made.

Regional Spatial Strategy for the West Midlands (PPS 11) (RSS) -

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes. There is no need for this application to be considered under the Conformity Protocol.

National Policy Guidance

Planning Policy Statement 1 paragraph 34 states that Planning Authorities should plan positively for the achievement of high quality design.... Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area... should not be accepted.

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

Consultations

Transportation: The applicant has now revised the layout and has satisfied the Highway Authority on the Reasons for refusal of application 09/0108/FL except for the cycle parking. However it is not considered by the Highway Authority to be a material issue on its own merits to raise any objections.

With regard to delivery arrangements, the servicing arrangements from the previous use will also remain for the new use

Environmental Health: No objections. The applicant has agreed the specification of the filtration system to meet the guidelines of DEFRA guidance. Maintenance must be carried out to ensure these performance levels are always achieved.

Pollution Control Teams : No objections.

Fire Service – Satisfactory access.

Public Participation Responses

Twelve letters have been received, objecting on the following grounds;

- there are sufficient take-aways in the vicinity, including the new KFC and fish an chip shop near Junction 10, take-away premises and Somerfield's selling hot pies, along Wolverhampton Road;
- the opening of access to the rear of these premises has, in the past brought drug related problems, with cars parking in the access areas to deal and use drugs;
- the existing hot food take-away has started a delivery service which brings noise and disturbance to the residential properties of Primley Close, with engines left running whilst orders are awaited and car doors slamming late at night.
- there is no authorised access at the rear. As currently constructed it is an illegal vehicle crossing at a point in Primley Close where the road is only 4.9m wide; Reversing out from the proposed parking would therefore be a hazard to nearby occupiers;
- the use of the rear access for car parking will exacerbate an existing parking problem in the cul-de-sac, particularly with school runs;
- the additional competition will impact on a current business;
- the use will bring increased littering, which is an existing problem attracting vermin;
- the use would attract large numbers of school children from the nearby secondary school.

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

Determining Issues

Whether the previous reasons for refusal are overcome in respect of;

- Out of centre location
- Amenity of the occupiers of Primley Close, including fear of crime
- Parking and Highway safety

Observations

Out of centre location

The premises are one in a row of three retail units at this part of Wolverhampton Road which is not included as a defined Local Centre in the review of the Unitary Development Plan. The nearest Local Centre is at Birchills.

Policy S10 provides that food and drink outlets are uses appropriate in Town, District and Local centres and in some shopping and commercial frontages elsewhere, if in accordance with policies S6 and S7 and subject to considerations of amenity, adequate off-street parking and satisfactory provision of extraction of fume extraction equipment.

Policy S7 provides that the Council will encourage proposals for the conversion of premises to other suitable appropriate uses, subject to environmental and traffic considerations. The site is an existing retail premise and its conversion to a hot food take away would therefore be acceptable in policy terms, subject to environmental considerations.

The site is not within a defined local centre and comprises an existing retail unit in a relatively isolated location on the northern edge of Alumwell Estate. Other hot food take away premises exist adjacent to the site, along Wolverhampton Road -440m to the east of the site, Pleck Road and within Local centres that are similarly on the edge of Alumwell Estate. The extent to which the proposal addresses a local need is therefore doubtful.

Amenity of the occupiers of Primley Close, including fear of crime

The refurbished shop frontage, with new access and landscaping of brickwork to accommodate a litter bin and planting, would be an improvement in the street scene of this locality and help manage street litter.

The application proposes parking at the rear of the premises for 3 vehicles, accessed off Primley Avenue, with space for pedestrian visibility and space sufficient to allow for turning within the site. Parking would be for the occupier of the first floor flat and two staff of the proposed take away. A condition is recommended to ensure that the parking and access area is not used for vehicle deliveries to customers of the hot food take-away.

Part of the rear of the site will remain as amenity space for the occupier of the flat, at 43.5 sq m, which is well above the guideline of Designing Walsall, at 20 sq m.

The existing shop would be able to receive deliveries from the rear. The applicant's accompanying statement explains that deliveries would comprise a weekly delivery of potatoes and delivery of fish three times a week.

Satisfactory provision is made for refuse storage and collection, although its design is required to be approved by condition.

The hours of opening have been limited to be less likely to attract anti-social behaviour.

It is therefore considered that the impact of this scale of servicing parking and delivery on the amenity of occupiers of Primley Avenue, where parking on open frontage drives predominates, would be negligible.

The applicant has agreed with Environmental Health details of fume extraction and odour controlling systems that will be able to vent via the existing chimney stack. The chimney will have a small cowl/hood which is considered to be of acceptable appearance. The proposed fume and odour control systems are marginally in excess of the DEFRA guidance and as such, comprise a system that will satisfactorily deal with fumes and odours.

West Midlands Police Architectural Liaison and Crime Reduction Officer comments that the scheme incorporates appropriate CCTV and laminated and toughened glazing which is considered satisfactory. The proposed short trading hours with closure at 22.00 would reduce the likelihood of attraction for anti social behaviour.

One resident alleges that there have been problems of drug misuse at the rear service area of an adjacent property. However, West Midlands Police has no record of such activity or concerns.

It is therefore considered that the proposed development would make little impact on the amenity of the occupiers of nearby dwellings, and in particular residents of Primley Close. The comments of West Midlands Police are therefore supported.

Parking and Highway safety

The site is on a part of Wolverhampton Road where works to facilitate a Red Route will remove an existing area of pavement projecting into the highway so as to provide an enlarged lay-by immediately in front of the shop and its adjacent hot food take-away and laundrette. The lay-by will extend to the rear of 10 and 12 Primley Close and 317 Wolverhampton Road. The parking provision is considered acceptable as a result of Red Route changes and

would have a negligible impact on the amenity of occupiers of adjacent dwellings.

The proposal incorporates provision for refuse collection and storage from the rear of the site.

The site's retail frontage would be refurbished to provide a new ramp entrance with brickwork to provide space for shrub planting and to house a refuse bin, with a ramped access with hand rails to allow for disabled access. All of these alterations are within the application site and do not impinge on the public highway, overcoming the previous reasons for refusal.

The proposed development is therefore considered satisfactory.

Summary of Reasons for Granting Planning Permission

The proposal would vent fumes and odours via an existing chimney and provide parking at the rear of the site which will have little impact on the amenity of the occupiers of nearby dwellings. The hours of opening are unlikely to attract antisocial behaviour and satisfactory provision is made for access, litter, refuse management and parking. The proposed development is therefore considered to comply with the relevant policies of the development plan, in particular policies GP2,3.6, ENV10 and S7 and S10 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Recommendation: Grant Subject to conditions

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

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

2. Notwithstanding the submitted plans, no development shall be carried out until details of ventilation and fume control equipment have been approved in writing by the Local Planning Authority. The approved details shall be implemented before this development is brought into use and thereafter retained in working order.

Reason; To ensure the satisfactory appearance of the development.

3. No development shall commence until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented. The approved equipment shall

thereafter be retained and maintained in accordance with manufacturer's or installers requirements.

Reason; To ensure the proposal does not cause pollution to drainage networks.

4. No development shall commence until details of the refuse collection system and its location have been approved in writing by the Local Planning Authority.

Reason; In the interests of the amenity of adjoining occupiers.

5. The premises shall not be open for business outside the hours 1130 to 2200 hours, Monday to Saturday only.

Reason; In the interests of the amenity of adjoining occupiers.

6. No development shall commence until details of the proposed surfacing for the rear car park area, fencing thereto, design of the refuse store, as well as details of any access gates for vehicular and pedestrian use, shall be submitted to and approved in writing before development commences.

Reason; In the interests of the amenity of nearby occupiers.

7. The parking and access areas, refuse store and amenity space shall be available for use by the occupiers of the premises and flat before the development is opened for business.

Reason; To ensure satisfactory provision in the interests of amenity and highway safety.

8. The vehicle parking area shall not be used for vehicles delivering food to customers of the premises.

Reason; In the interests of the amenity of nearby occupiers.

9. The development hereby approved shall be in accordance with the applicant's statement, dated 16th April 2009 and the additional information dated 2 June 2009.

Reason; To ensure satisfactory provision in the interests of amenity and highway safety.

Note to Applicant

The proposed access at Primley Close for the car park will require a Road Opening Licence and Dropped Crossing Permit from Walsall Council. Please contact Marion Parry (01922 653781)at Walsall Council, for further information.



ITEM NO: 5.

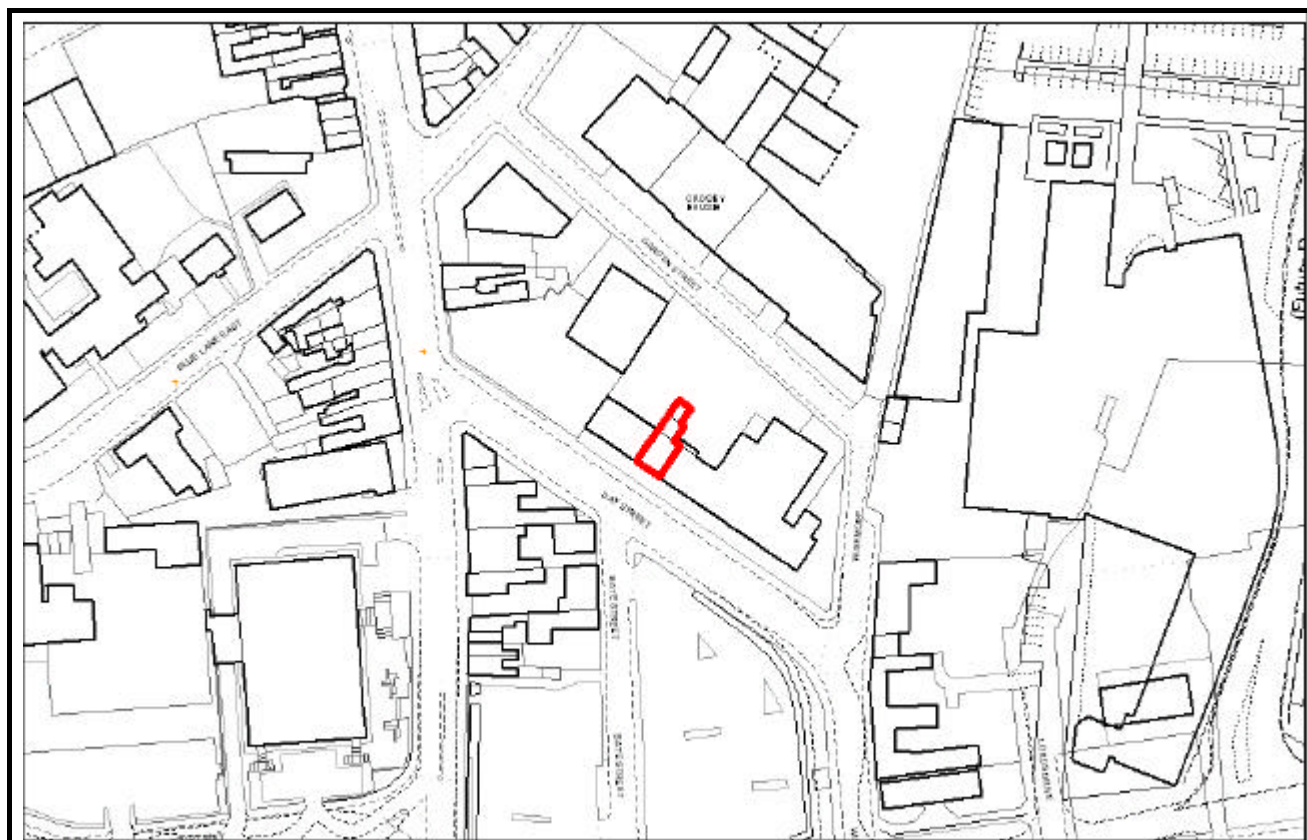
To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on 18 Jun 2009

**REASON FOR BRINGING TO COMMITTEE: Significant Community
Interest**

Application Number: 09/0331/FL
Application Type: Full application
Applicant: Mr D. Gilbert
Proposal: Change of use to
Restaurant and Takeaway (Use Class
A3 and A5). (No external changes)
Ward: Blakenall
Recommendation Summary: Refuse

Case Officer: Andrew Thompson
Telephone Number: 01922 652403
Agent: Tyler Parkes
Location: DAY
STREET, WALSALL, WS2 8EJ
Expired: 29/05/2009



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Application and Site Details

The application is for the conversion of part of the former car showroom on Day Street to a restaurant and takeaway. The submitted floor plans show a trade counter with seating for 22 covers.

The applicant indicates that they will create 5 full time and 8 part time jobs. The proposals include the use of 2 existing car parking spaces. The opening hours proposed are 11.30 to 23:00 hours Monday to Saturday and 17:00 to 23:00 on Sundays and Bank Holidays.

The applicant has included a supporting statement which outlines the following points:

- the proposed use would provide a high quality facility currently lacking in the area.
- the property is well located with a public car park directly opposite and service yard at the rear for servicing and delivery.
- the principle of mixed use has been established in this location.
- the proposals will include fume and extraction with the applicants experienced in this regard.
- the proposals provide off-street parking for staff
- the applicant has considered premises in Stafford Street and Bridge Street (although no details are given of which) and considers these are inappropriate because rentals and business rates are too high
- where lower rents can be achieved properties are too shabby and do not have servicing and parking facilities.
- the proposal would bring a beneficial use to the area and involve an investment of around £100,000.

Relevant Planning History

Application Site

BC55770P Rebuilding of existing car showroom and service area. Erection of new car showroom and rear service area. Granted June 2000.

In a different part of the same building

06/1595/FL/W2 – Change of Use to A3/A5 - Restaurant and Take-Away Combined – refused (2006) for the following reason:

The proposal is in an edge of centre location it should therefore comply with the tests set out in Unitary Development Plan policy S7 and Planning Policy Statement 6 which state that there must be evidence to demonstrate the need for the facility; it must comply with the Sequential Approach; it must not have an adverse impact on the town centre; it must not have an adverse impact on existing or planned provision to meet local needs; it must offer good access by public transport and other modes; it should contribute to the need to reduce car travel; and should not have an adverse impact on the highway network. The application does not demonstrate that it complies with those tests, the proposal is therefore contrary to Unitary Development Plan policy S7 and PPS6.

It should be noted that this area is now as a Subway outlet, relying on shop status, as a sandwich bar, rather than takeaway status..

Wider regeneration proposal – Walsall Gigaport – 08/0951/OL – approved in outline.

Relevant Planning Policy Summary

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

Walsall Unitary Development Plan

Policy GP2 – seeks to ensure that development occurs in a sustainable manner

Policy GP7 - guides on development on designing out crime.

Policies S1, S2, S3 and S4 define the sequential approach, the hierarchy of the town centre/local centres and the general principles for development within centres.

Policies S6 (Local Needs) and S7 (edge and out of centre development) also apply.

In terms of S6 the following tests apply

- I. The proposal is of a scale and kind to meet a local need for improved facilities.
- II. The local need cannot be better met by investment in a nearby centre.
- III. There will be no likelihood of an adverse impact on the vitality and viability of any established centre in the Borough or elsewhere within the affected catchment area.
- IV. There will be no impact on existing local provision such as to leave some local needs unmet, contrary to efforts to promote social inclusion.
- V. The proposal will improve accessibility to facilities by means other than the car and, in particular, will be within convenient, safe walking distance of the community it is intended to serve.
- VI. The proposal will help to reduce the need to travel, especially by car.
- VII. There must be no significant loss of amenity for neighbouring homes. To ensure this, the establishment of shops or other uses that attract the public in terraced properties adjoining dwellings will not normally be permitted.
- VIII. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

In terms of S7 the following tests apply:

- I. There must be evidence to demonstrate the need for the facility, taking into account not only existing provision, but also committed developments, and also proposals - i.e. the proposals of the UDP but also evidence of the adequacy of existing provision in the area.

- II. The development must be shown to accord with the sequential approach, there being no more centrally located sites, buildings or opportunities which could be used to serve the catchment area of the use proposed.

III. The proposal must not, individually or in combination with other schemes be likely to have an adverse economic impact upon the vitality and viability of any existing Town, District or Local Centre (within or outside the Borough) through the diversion of trade and/or deterrence of investment which would help sustain and enhance that centre.

IV. The proposal must not have an adverse economic impact on existing or planned provision to meet local needs.

V. The proposal must offer genuine and realistic safe and easy access by public transport, walking and cycling for all sections of the community.

VI. The proposal should not be designed and located so as to be reliant primarily on access by car and should, insofar as possible, contribute to the objective of reducing the need to travel, especially by car. Again, consideration must be given to whether an alternative location in a centre would facilitate multi-purpose trips and help reduce car use.

VII. The proposal must not have an adverse traffic impact on the local highway network.

Part VIII is not relevant at this time.

Policy S10 considers hot food takeaway, restaurants and other A3/A4/A5 uses and indicates that proposals, subject to compliance with policies S4, S6 and S7, will be appropriate if they do not cause harm with regard to noise, disturbance, smells or traffic impact, particularly with regard to residential amenity.

WA13 – defines the Walsall Town Centre boundary with the site considered (in relation to Walsall Town Centre) as out of centre for retail and edge of centre for all other uses and that retail uses will need to comply with policies S3, S4 and S7 in particular.

Regional Spatial Strategy

Sets a regional strategy for strengthening town centres. There are no policies relating to hot food restaurants.

National Planning Policy

Planning Policy Statement 6 – sets out the sequential approach and town centre first policy.

Consultations

Transportation – Object to the proposal:

The proposal does not comply with UDP policy T13 A1 because the developer has failed to demonstrate that the development will provide adequate off-street parking to meet its own needs and that there will be no adverse affect on highway safety.

The development does not provide the required level of car parking, the UDP requires 7 car parking spaces and this only provides 2. Therefore the site is deficient by 5 spaces and is contrary to policies T7 and T13.

If approved, this is likely to lead to a demand for on street parking on Day Street, to the detriment of road safety and the free flow of traffic.

Environmental Health - The information supplied suggests that the extraction system will be fitted with grease filters and a purified air system: This should be sufficient to ensure that cooking odours do not give rise to complaints.

It is strongly recommended a grease trap, or other suitable means of preventing fat and oil entering the drainage system, is installed to prevent a build up of fat blocking the drainage system.

Police – No objection - no issues with the layout of the premises but the type of takeaway and its opening hours will affect the levels of security required, as such premises do attract drunken or aggressive people if open late at night.

The premises is in a somewhat isolated location with little in the way of natural surveillance from other properties and security measures should be considered. The Police would recommend that a CCTV system is installed to deter anti social behaviour/criminal activity and to provide reassurance to staff and customers.

Pollution Control (Scientific Team) – No objection.

Pollution Control (Contaminated Land Team) – No objection

Public Participation Responses

Three letters of objection from local residents

The seepage of odours and smells from this type of use would be absorbed into stock in the showroom and potentially render stock unsaleable. The building has suspended ceilings and stud partitioned walls we thus consider that it would be impossible to contain the odours.

There is an excess of fast food outlets in the area which is already leading to litter in the area and parking would be an issue particularly with regard to access for disabled persons.

Think students should be encouraged to have healthy eating habits whereas a Fish and Chip premises next to college is not a healthy option.

Due to recession all other food business in the area already struggle to survive and believe opening another will even make more difficult for everyone.

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

Determining Issues

- Sequential test approach
- Availability of other premises
- Impact on highway safety and the free flow of traffic
- Impact on neighbouring businesses
- Compliance with Walsall Gigaport planning permission
- Impact on safety and security

Observations

The sequential test approach

The site is on the edge of Stafford Street Local Centre and outside Walsall Town Centre boundary. Policy S10 considers therefore that policies S6 and S7 should be satisfied in the first instance, i.e. locate in the town centre first.

The application site was part of a car showroom. Subway and the carpet showroom (formerly Soundblasters) was changed to retail under the permitted development regime which allowed car showrooms to change to retail uses. In light of a number of out of centre retail uses without planning permission, contrary to the national direction of town centre development, which was subsequently altered under the revised to exclude this permitted change.

Also in 2006, the Council issued a refusal against A3/A5 on the subway site (06/1595/FL/W2). That is a significant factor in the present case.

Considering policy S6 (local needs). The proposals would need to meet the tests outlined in the Policy section as follows.

Part I.

The scale of the proposal is suitable to meet a local need. This is therefore not an issue.

Parts II and III.

Considering the number of large number of vacant premises in and on the edge of Walsall Town Centre and in Stafford Street local centre the proposals could be located in this area. The proposal fails this test.

Part IV.

The premises are likely to be directed at meeting the lunchtime and evening trade from the new college which adjoins the site. The staff, students and visitors that use this facility should instead be using, and supporting the Stafford Street shops or the town centre. Allowing this application would divert money from those shopping centres. The proposal therefore fails this test.

Parts V to VIII are not relevant in this instance.

Considering the tests of Policy S7 (edge of and out of centre proposals). The proposals would need to meet the tests outlined in the Policy section, again as follows.

Part I

There is no evidence submitted to suggest that there is a need for a restaurant/takeaway in this location. Equally, if there is a need there is no evidence that this cannot be satisfied through the use of existing premises in the town centre or Stafford Street. Indeed the applicant themselves indicate that there is sufficient supply of takeaway facilities in the town centre and that this is one of the reasons that they are trying to locate out of the town centre. There are also available premises on the Waterfront which have not been considered by the applicant or their agent. There are 7 vacant new premises adjacent to the new ASDA store and proposed Tesco store in the town centre will also develop ancillary stores as part of the new Wisemore street/pedestrian link. Therefore the proposals fail this test.

Part II – The proposals do not accord with the sequential approach. There are suitable, available and viable sites in the town centre.

Part III - The proposal would have an adverse economic impact upon the vitality and viability of existing Town, District and Local Centres through the diversion of trade and would act as a deterrent to investment which would otherwise help sustain and enhance the town centre and Stafford Street Local Centre. The proposals could result in Day Street being the location for students, staff and visitors to the college rather than this trade being directed towards the town centre. This would be of detriment and result in the closure of further businesses in the town centre.

Part IV - Considering the growing vacancy rate in the town centre and Stafford Street and planned retail and eating and drinking units in both these areas the proposals would potentially cause harm to the centres and proposed cafes and restaurants that may be attracted to the town.

Overall, the proposals are an opportunistic development seeking to establish a trade from the College to the detriment of the town centre and Stafford Street and established retail units. It is therefore considered that it the

proposal fails parts II, III and IV of Policy S6 and conflicts with parts I, II, III, and IV of Policy S7. Part VII of Policy S7 (impact on traffic safety), in light of transportation comments, are dealt with later in this report.

Availability of other premises

There are approximately 75 units in or on the edge of Walsall Town Centre that are vacant with retail permission. A significant number of these have permission for A3, A4 and A5 uses (takeaway, restaurant and or pub). The Stafford Street Local Centre has approximately 15 vacant units with retail permission. It is the view of officers that investment should be targeted at these units before additional food outlets are created in out of centre locations.

Whilst there are a number of hot food takeaways on Bridge Street there are no significant restaurants within Walsall with the exception of Sofias opposite ASDA and Pizza Hut on Crown Wharf Retail Park. There is also McDonalds and Burger King established on Park Street with cafés/tea rooms in the Crossing and Victorian Arcade and one in the Saddlers Centre. Relatively new additions to Walsall include Costa Coffee in the Art Gallery and Starbucks in Crown Wharf Retail Park. Walsall has not benefited from the growth in eating premises and café culture. A number of established high street firms (commonplace in other town centres of a similar size) are not located in Walsall town centre and establishing this precedent of retail uses outside the town centre would act against attracting premises to the town centre.

In addition there are a number of other opportunities coming forward. With the initial landscaping works well underway on the Waterfront in front of Crown Lofts and the Art Gallery this vacant unit (which has been vacant for some time) becomes more tenable and viable. In addition, it is likely that Wharfingers Cottage will also come forward as an A3/A5 use in the short term. The Waterfront South proposals (planning permission reference 07/0618/FL/W7) will also include a minimum of two A3 uses in the first phase. There is also the reserved matters submission for the new Tesco town centre store which is due shortly. This proposal, as shown on the outline planning application, will also include several ancillary shops and services with completion of the first phases of this project due at the end of 2010. This proposal will work against the future investment in these sites and therefore be contrary to policy and harm proposed investment in the town centre.

This application site is located within the Walsall Gigaport project boundary which included a small element of retail use (621sqm). This is dealt with later in this report.

There is also the additional consideration of the College students. It would be plausible to suggest that many students would be attracted to the proximity of the campus to the proposed use. In this regard large numbers of students would not move into the town centre and would congregate in this area. The

comments of the Police with regard to surveillance are noted. It is the view of officers that with students not being directed into the town centre or Staff for their lunch would cause significant harm to the vitality and viability of the nearby centres.

Impact on highway safety and the free flow of traffic

Although there is a public car park situated near-by, which is a pay and display car park between the hours of 07:00 and 18:30, Transportation consider that due to the nature of the proposed use customers will park indiscriminately on street and will not be willing to pay to park for a short period of time e.g. 5 or 10 minutes.

Parking along Day Street is prohibited by a Red Route Traffic Restriction Order which has been introduced to ensure the free flow of traffic along this strategic route. Transportation Officers consider that previous experiences of similar uses have shown that customers are still willing to park on street and take the risk of being fined. Transportation Officers consider that this will occur in this location and will be to the detriment of the safety and free flow of traffic and therefore unacceptable.

Whilst Officers note the comments with regard to the issues of parking provision, it is not considered that this would be a sustainable reason for refusal in this instance

Impact on neighbouring businesses

The applicant has submitted details of the proposed ventilation and flues and it is noted that Environmental Health Officers raise no objection in this regard subject to an appropriate condition. Whilst the comments of neighbouring businesses are noted and are fully assessed it is not considered that it would be sustainable to refuse a scheme on this issue and that a suitable condition would safeguard the amenities/stock of neighbouring commercial occupiers.

With regard to litter Officers are satisfied that litter bins and waste management could be satisfactorily overcome by an appropriate condition.

Compliance with Walsall Gigaport planning permission

The application lies within the Gigaport site area but is not in the initial phase of development. Members may recall that Walsall Gigaport framework included a small element of retail use (621sqm). This was largely to service the needs of the proposed 3,500 workers and could therefore potentially satisfy Part 1 of Policy S7. There are also the established retail uses on the southern portion of Stafford Street which forms part of the Gigaport proposals and where this floorspace could be equally located. Any proposed retail, as part of the Gigaport would need to come forward as part of a co-ordinated masterplan and strategic approach taking into account the needs and environmental constraints of the project. Therefore due to the piecemeal nature and being in advance of any office development, the submitted proposal is not compliant with the Gigaport proposals.

Impact on safety and security

Officers share the concern of the Police, and note that the premises do not benefit from a large amount of natural surveillance from other properties and agree that security measures should be considered. However, the site is located on a busy public highway and as such would benefit from some natural surveillance. It is noted however that the premises, despite being vacant have not been the subject of vandalism or criminal activity. It would be to the rear of the property (Garden Street) that any such activity may take place with this area being more industrial which late at night may be a target for antisocial behaviour and compromise the safety of staff. Therefore officers consider that should the proposals be considered to be acceptable a condition proposing CCTV system is installed to deter anti social behaviour/criminal activity and to provide particular reassurance to staff and any customers who may use Garden Street.

Conclusion

Whilst the proposed investment to the Borough would be welcomed the applicant does not appear to have adequately considered more suitably located sites and has readily dismissed other options without due consideration. The proposals are also considered to compromise highway safety and the free flow of traffic. The proposals are therefore contrary to policy and should be refused.

Recommendation: Refuse

1. The proposals are in an edge of centre location in relation to Stafford Street Local Centre and out-of-centre in relation to Walsall Town Centre. Having regard to the vacancy rate in both centres and available premises the applicant has failed to adequately demonstrate that the business cannot be located in either centre. As such the proposals would harm the vitality and viability of Stafford Street Local Centre, Walsall Town Centre and regeneration projects in the town centre which would also provide units capable of accommodating the use. It is therefore considered that it the proposals are contrary to parts II, III and IV of Policy S6 and conflicts with parts I, II, III, and IV of Policy S7, paragraph 5.49 and Policy S10 of Walsall Unitary Development Plan 2005.
2. The proposals, due to the nature of the proposed hot food takeaway use, will result in indiscriminate on street parking, and lead to a demand for on street parking on Day Street, to the detriment of road safety and the free flow of traffic. As such the proposals are contrary to Part VII of Policy S7, Part III Policy S10 and Policy T4 (b).



ITEM NO: 6.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on 18 Jun 2009

**REASON FOR BRINGING TO COMMITTEE: REQUIRES DELICATE
JUDGEMENT**

Application Number:

09/0458/AD

Case Officer: Jan Scrivens

Application Type:

Advertisements

Telephone Number: 01922 652436

Applicant: Gallagher UK Limited

Agent: Signature Outdoor Ltd

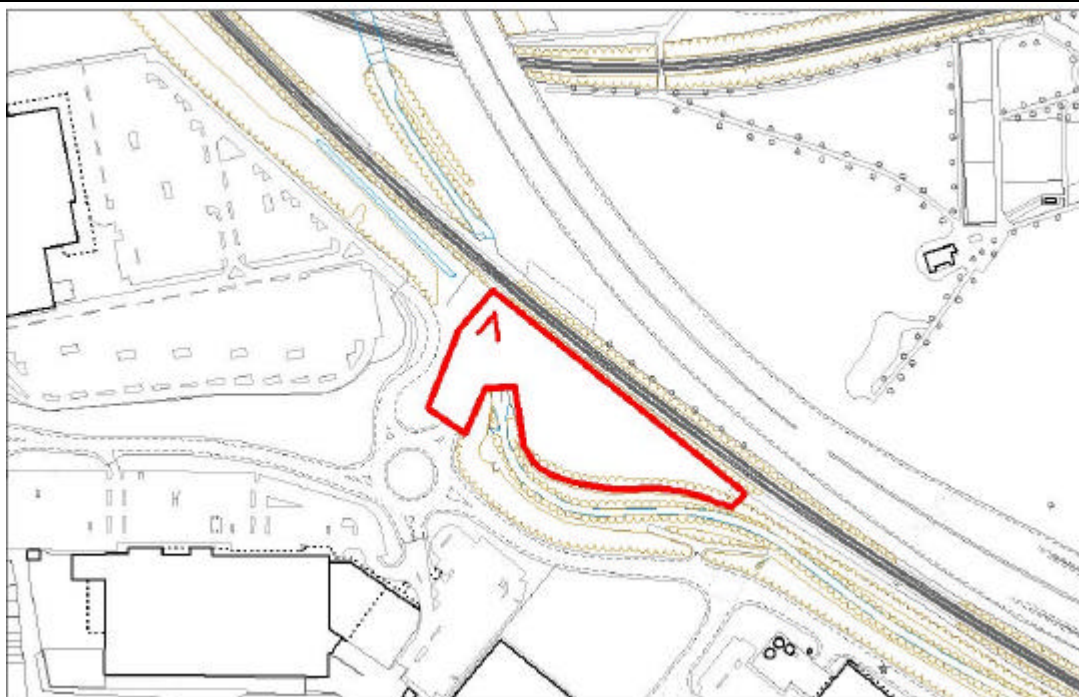
Proposal: Two 98 sheet posters
on a monopole.

Location: AXLETREE WAY (ADJ. IKEA
ENTRANCE), WEDNESBURY, WALSALL

Ward: Bentley & Darlaston North

Expired: 03/06/2009

Recommendation Summary: Refuse Advert



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Application and Site Details

This application proposes the display of a double sided (v-shaped) internally illuminated advertisement on vacant land on the Gallagher Retail Park. The majority of the vacant land is within Sandwell MBC.

The advertisement would be located adjacent to the roundabout and access road to IKEA and approximately 5 metres from an operational railway line, although at a higher level. The site is adjacent to a culvert of the River Tame.

The site lies just to the north west of junction 9 of the M6 motorway, which curves away from it at this point, at a distance of approximately 60 metres. The motorway is elevated in the vicinity of the site. The advertisement would be located approximately 175m north west of the start of the northbound merge and southbound diverge tapers for junction 9.

The advertisement display faces would be mounted on a monopole. Each would be 4.5m high and 18m wide and the height from ground level to the underside of the adverts would be 15m. The luminance levels would be 400cd/m². Illumination would be static.

The advertisement is intended to replace a sign advertising Gallagher Retail Park, in a position slightly closer to the motorway. The existing sign does not have advertisement consent.

Relevant Planning History Between Junctions 9 and 10.

To the north west of the application site

BC57202P Erection of 4 no. internally illuminated pole mounted poster hoardings. Refused 11.6.01
02/1925/AD/W3 Display of 96 sheet illuminated advertisement hoarding. Granted subject to conditions 16.12.02
09/0006/AD Display of 96 sheet internally illuminated 'light box' sign. Refused 4.3.09 Ministry appeal lodged but not yet determined.

To the northwest of the application site adjacent to James Bridge Gas Holders

06/0445/AD/W5 Erection of two no. internally illuminated adverts. Refused 2.5.06 Ministry appeal dismissed 3.10.06

07/0176/AD/W5 1 no. internally illuminated 96 sheet advertisement. Refused 13.4.07

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in

*the Civic Centre, and on the Planning Services Website
www.walsall.gov.uk/planning).*

Unitary Development Plan (UDP)

GP2 and 3.6 state that the Council expects all development 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. Schemes should, as far as possible, help to improve the environment.

ENV32 states that poorly designed development which fails to take account of its context or surroundings will not be permitted.

ENV36 states that poster hoardings will not be permitted where they would have a detrimental effect on the amenity of the area and its residents or public safety. The most appropriate locations are likely to be areas of mainly commercial character. Hoardings are unlikely to be permitted on sites visible from motorways and on prominent sites on classified roads.

National Policy

Planning Policy Statement (PPS) 1: Creating Sustainable Communities 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.

Planning Policy Guidance 19: Outdoor Advertising states that advertisements should be considered only in terms of visual amenity and public safety. Paragraphs 15 and 16 suggest that ‘LPAs will consider the likely behaviour of drivers of vehicles who will see the advertisement ... the vital consideration in assessing an advertisement’s impact is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers people in the vicinity who are taking reasonable care for their own and others safety’.

Circular 3/2007 sets out the guiding principle that in making decisions on adverts ‘Local Planning Authorities are required to exercise their powers under the Regulations with regard to amenity and public safety, taking into account relevant development plan policies in so far as they relate to amenity and public safety, and any other relevant factors’ (para.5)

Appendix B sets out relevant considerations to be taken into account with regards to the effect of advertisements on public safety. The key passage in the context of this application is:-

MOTORWAYS

'6. Land alongside motorways is landscaped for reasons of safety and appearance. Only prescribed or authorised traffic signs are permitted on land acquired for motorways. Advertisements may, however, be permitted within a motorway 'service area'. Local Planning Authorities should ensure that on other land alongside motorways no advertisements which could adversely affect amenity, or constitute a danger to traffic are allowed...'

'148. As here are road safety issues in displaying advertisements alongside motorways and other trunk roads the Highways Agency is unlikely to support any application for an advertisement which could distract drivers. The road safety and amenity issues raised by these advertisements mean that it is unlikely that express consent to display them would be given '.

Consultations

Highways Agency: Express serious concerns regarding the implications of this application for the safety of users of the M6.

This urban stretch of motorway is elevated. It is one of the busiest in the country and is used by upwards of 150,000 vehicles per day (two way flow), which equates to a yearly total of 54.8 million vehicles and has a higher than average accident record. The advertisement would be sited between an overhead gantry sign (informing drivers that a junction is approaching) and the northbound 'on slip' merge. These particular characteristics make this a particularly complex and hazardous stretch of motorway where driver concentration is paramount.

The advert is deliberately designed to attract the attention of motorway users. Its size, angle to the road, appearance on the skyline, illumination and location mean that it will represent a significant source of distraction to drivers.

The introduction of this level of additional driver distraction into an already complicated and hazardous motorway section undermines highway safety and increases the risk of an accident occurring. Active Traffic Management will be implemented between junctions 8-10a therefore it is even more important on this section of motorway that drivers are not subject to external distraction. The greatly increased levels of instructional signage in such sections will also increase the potential for advertising to conflict with essential motorway signage.

The Council's own UDP policy and national policy in Circular 03/2007 makes it explicitly clear that advertisements by motorways that could constitute a danger to traffic should not be allowed. Annex B to the Circular lists the main

type of advertisements that could cause a danger to road users. In our view, the position of this advertisement tower is such that it, along with the advertisement panels it supports would be so distracting as to cause a danger to road users who are paying due care and attention to their own and others safety. In such circumstances advert consent should be refused.

Planning Inspectors have previously concluded on at least three previous occasions that advert hoardings in comparable locations locally are detrimental to highway safety.

Pollution Control:

Contaminated Land Team has no objection, however as the site is a former landfill site it will have resulted in localised contaminated soils and may present Health and Safety implications for persons undertaking ground works. The site also produces elevated methane concentrations (an explosive gas). Advice and conditions have been provided to address these issues.

Scientific Team has no objection.

Environment Agency: No objection. Prior written consent of the Environment Agency is required for proposed structures in, under, over or within 8 metres of the top of the bank of the River Tame.

Structures: No objection.

Network Rail: No objection in principle to the proposal. Due to its proximity to the operational railway the Outside Parties Engineer will need to consider the proposal to assess any excavation, drainage, demolition, lighting and building or other works which may affect the safety, operation, integrity and access to the railway. It will be necessary to ensure that the proposal does not impact on any sighting of the train drivers either via proposed lighting or imagery used on the monopole or the monopole itself. Similarly any lighting used, including vehicle lights must not interfere with the sighting of signal apparatus and /or train drivers' vision. The developer should obtain Network Rail's approval of their detailed proposals regarding lighting. There are also other issues to be taken into account, and which may require Network Rail's approval, such as demolition, drainage, use of cranes and plant, vibro-impact machinery, scaffolding, excavations, security and boundary fencing, method/safety statements, boundaries and access to the railway and restrictive covenants. It should be a condition of any planning permission that the Outside Parties Engineer must be consulted, in the interests of the safety, operational needs and integrity of the railway.

Representations

Two letters have been received from residents of Slaney Road and Hough Road which are to the north east of the motorway. The writers object to the

proposal on the following grounds:

- the structure will be obvious when driving around the area
- it is hard enough to see the sky in this urban environment without the construction of an enormous advertising hoarding; will be an eyesore viewed from bedroom windows, with flashing lights
- rather than an Angel of the North, the gateway to Sandwell will be a gigantic advertisement for 'whatever'
- could be a dangerous distraction to drivers
- waste of money and materials

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

Determining Issues

- Visual amenity
- Public safety

Observations

Visual amenity

The advertisement would be seen against the backdrop of the retail park but quite separate from it. There would therefore be no conflict of scale between the display and the buildings. This situation might change if the adjacent vacant site is developed but this cannot be assessed at this stage.

The appearance of the structure is acceptable. The rear face of the display would not have a significant impact on the view from the retail park since the V- shape of the display would obscure most of it.

The applicants propose the removal of an existing sign close to the site. However the appearance of this sign is not sufficiently poor as to justify its replacement by the application sign.

The retention of the existing sign in addition to the proposal would give a cluttered appearance which would be detrimental to visual amenity. The removal could be made a condition of any approval for the application.

The nearest sign adjacent to the motorway and the application site is to the south of the James Bridge gasholders but separated from them visually by a belt of trees. This sign is sufficiently separated from the application sign to avoid advert clutter.

There have been several refusals of advertisement consent between the application site and the gas holders to the northwest, on the grounds of visual amenity. The grounds of refusal have been based on size, proximity to the

motorway and visual conflict with the gas holders. They have also been refused consent as detrimental to highway safety.

Public safety

The proximity of the display to the River Tame and the railway would necessitate the Environment Agency and Network Rail giving further consideration to the details of the scheme. Neither organisation has raised any objection to the scheme and their approval of its details will ensure public safety in relation to their responsibilities.

The main issue of public safety is the effect of the advertisements on the operation of the motorway.

There is a clear presumption in both national and UDP policy that any advertising alongside motorways, which has the potential to distract drivers to the detriment of highway safety should be refused.

The position, size or design of advertisement displays all have the potential to distract drivers but these factors need to be considered against particular road conditions and characteristics in the vicinity of the site.

The proposed advertisement display is large and being illuminated will have a greater impact than the sign currently displayed near the site. The proximity of the display to the merge slip from junction 9 would distract drivers at a point where lane changes are likely to be taking place and all their concentration is required. Southbound drivers will see the display in conjunction with overhead gantries which split the lanes (identifying the nearside lane for the M5 only) so that their attention could be divided between the proposed advert and important information regarding lane selection. These problems will be exacerbated because the motorway at this point is elevated and will experience more adverse weather conditions, restricting visibility. Views of the adverts can be blocked intermittently by high sided vehicles which will tend to cause drivers to try to pay more attention to the poster. The M6 is heavily trafficked and any increased risk to driver safety is unacceptable.

It is proposed to introduce Active Traffic Management between junctions 8 and 10a in the near future. This will involve variable speed limits and the use of the hard shoulder in times of heavy congestion. Additional gantries will be needed to provide a variable message system and drivers will need to be particularly alert to cope safely. This poster will compete with that need.

The display of advertisements adjacent to elevated sections of the motorway such as this, if they create incidents due to distraction, cause greater difficulties for the drivers and rescue services involved since there is less scope for them to be clear of the carriageway. Such incidents are more lengthy and difficult to resolve and Ministry appeal decisions in respect of advertisements adjacent to elevated sections have accepted that this type of

location exacerbates problems of highway safety and is detrimental to the functioning of the motorway.

Recommendation: Refuse Advert

1. The proposed advertisement display would

unacceptably increase the risk of accidents on this heavily trafficked and elevated section of the motorway due to its size, illumination and location because it would constitute a significant distraction to drivers

distract northbound drivers because of the proximity of the display to the merge slip from junction 9, a point where lane changes are likely to be taking place

distract southbound drivers at a point where they need to pay particular attention to information provided by overhead gantries.

be likely to conflict with essential motorway instructions and form an unacceptable distraction in a location where greater than usual driver attention will be required because of the proposed introduction of Active Traffic Management between junctions 8 and 10a which will require drivers to obey mandatory variable speed limits, variable message systems and to use the hard shoulder in times of heavy congestion. This will involve additional overhead gantries to supply these instructions and the amount of signage that a driver needs to be aware of will be greater than on a standard motorway section.

These problems will be exacerbated by the reductions in visibility due to elevated sections of the motorway being more exposed to adverse weather conditions and to views of advertisement displays being partially obstructed by high sided vehicles.

In addition, the location of the advertisement adjacent to an elevated section of the motorway, where there is less scope for vehicles, their occupants and rescue services to be clear of the carriageway in the event of an accident, will exacerbate the effect of any highway safety problems.

The approval of this application would be detrimental to highway safety and contrary to policies GP2, 3.6, ENV32 and ENV36 of Walsall's Unitary Development Plan, Planning Policy Guidance 19 and Circular 3/2007