



## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011

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2	27	10/1624/RM	Grace Academy Darlaston, Herberts Park Road, Darlaston, Wednesbury, WS10 8QJ	Reserved Matters following permission 09/1130/OL for 1500 place school (including submissions on various matters required by conditions 1,2,3,4,5,6,7,8,9,10,11,12, 13,14, 15,16,17,18,20,21,22,23,24,27,28,29,34,35,36,37,38, 40 relate).	Approve Reserved Matters with Conditions and Delegate to Head of Planning
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5	85	10/1173/FL	FORMER WALSALL WOOD LIBRARY, LICHFIELD ROAD, WALSALL WOOD, WS9 9NT	Demolition of library and erection of convenience store with 7 flats above.	Grant Permission Subject to Conditions
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8	123	11/0018/FL	86 STAFFORD STREET, WALSALL, WS2 8DU	Retain use of building as cafe with take out facility and include new extract duct	Grant Permission Subject to Conditions
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13	177	11/0091/FL	39 LECKIE ROAD, WALSALL, WS2 8AW	Rear first floor bedroom extension (Resubmission of 10/0771/FL).	Grant Permission Subject to Conditions
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## Planning Committee

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### Reason for bringing to committee: Major Application

**Application Number:** 10/1650/FL

**Application Type:** Full application

**Applicant:** Mr D Stone

**Proposal:** Demolition of existing building and construction of 14 no. two bedroom apartments

**Ward:** Paddock

**Case Officer:** Alison Deakin

**Telephone Number:** 01922 652487

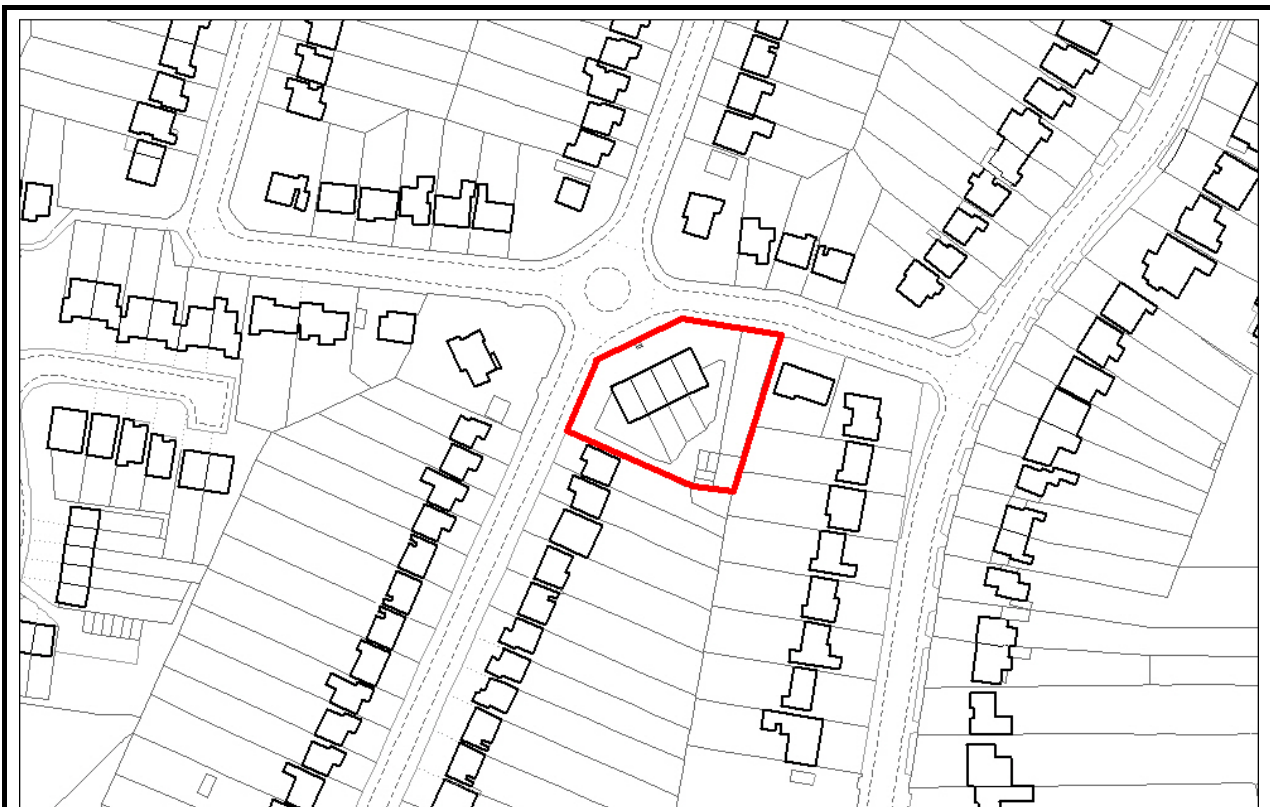
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Pegasus Planning Group

**Location:** 1 WOODSIDE CLOSE, WALSALL, WS5 3LU

**Expired Date:** 18/03/2011

### Recommendation Summary: Grant Permission Subject to Conditions



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## **Application and Site Details**

The site is situated on the southern side of Woodside Road on the corner of Woodside Close. The existing two storey building has a pitched roof and is set at an angle across the corner of the junction opposite a small traffic island. The building was originally constructed as four retail shops with living accommodation above but has subsequently been converted for entirely residential purposes. There are 6 x 1 bed flats and a two storey house in the block. The frontage of the site has an extensive tarmac surface used for parking. There is an MEB sub-station at the side of the existing building fronting Woodside Road in line with the frontage of 1A Woodside Road and there is a vehicular access to a detached double garage at the rear of the application site alongside this. There is a large beech tree within the rear garden of 56 Skip Lane to the side and rear of the site which is protected by a Tree Preservation Order. An amenity area for the existing residential accommodation is set to the rear of the building. The site is located in a residential area characterised by two storey detached houses set back from the road in relatively large plots. Overall the area has an open and spacious appearance.

This application is a resubmission following refusal of four previous applications for:

- 16 x one and two bed apartments
- 15 x two bed apartments
- 13 x two bed apartments plus one apartment which was specifically designed for disabled occupancy with ancillary carers accommodation and
- 14 x two bed apartments

The first two applications were taken to appeal and were both dismissed by a Planning Inspector in May 2008. The third and fourth applications were also taken to appeal and both dismissed by a Planning Inspector in October 2010.

This application proposes the demolition of the existing buildings and erection of 14 x 2 bed dual aspect apartments within three separate blocks, set around the corner. Blocks 1 and 2 would in effect be 2.5 storeys and have 5 apartments in each block. Block 3 would be 2 storeys and have 4 apartments. Blocks 2 and 3 would remain the same in terms of position and design as the last application 10/0038/FL, the position and design of block 1 has been amended since the previous application, in order to accommodate the relocation of the existing electricity substation on the site.

The electricity substation would be relocated to land at the back of pavement on the frontage of block 1, to be adopted by Central Networks. The new substation structure would measure approx 3m x 3.2m with a maximum height of 1.8m, with the transformer set within a structure approx 1m lower in level than the street. The substation would be accessed from within the site via a bollarded grasscrete driveway across the frontage of block 1. A low level retaining wall would bound the access ramp and ensure a level access remains for block 1.

The three buildings would be set back between 6m and 8.2m from the back of the pavement. Each block would have a width of approx 12m and a depth of between 12m and 13m. The overall heights would range from 8m to 9.4m high.

The amendments to block 1 since the previous application include; setting the building back by 0.6m, repositioning of the communal entrance and stairs, repositioning of the

living room window and amendments to the kitchen window within flat A on the front elevation.

The building design includes bay windows and gable features, with facing brickwork and pitched tiled roofs.

The layout includes 18 parking spaces. 16 spaces (including 2 disabled spaces) set to the rear accessed via a gated driveway set between blocks 1 and 2, off Woodside Road and a further 2 spaces would be provided in front of block 2.

Cycle and refuse storage facilities would be provided to the side of block 2, adjacent to the access drive. A total of approximately 213 sqm of amenity space would be provided to the rear and between blocks 2 and 3.

The site area is 0.16 hectares which gives a density of 87 dwellings per hectare.

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

Design and Access Statement

Looks at the history of the site in terms of the previous applications and appeal Inspectors decision, it provides an analysis of the site and its surroundings and describes the approach to and the design of the current proposals in overcoming the previous reasons for refusal and appeal decisions.

Planning Statement

Provides background to the site and planning history, planning policy analysis and discusses the key issues of the case identifies by the Planning Inspector in the most recent appeal decision.

Bat Survey

Concludes that there was no evidence of bats observed during the inspection and the development of the site is unlikely to have an impact upon bat populations.

**Relevant Planning History**

**07/0774/FL/E11** - Erection of 16 x one and two bedroom apartments – Refused 12/7/07.  
Reasons for refusal:

1. The design of the proposed development is inappropriate in the area in that it fails to respect the local character in terms of fenestration, including; lack of bay windows, cat slide roof and the scale of the proposed dormers. Furthermore, the frontage parking is visually intrusive within the street scene and the outlook from the proposed dwellings due to the lack of soft landscaping and proximity of the parking spaces to the building.
2. The development would result in unacceptable demand on limited educational capacity and public open space provision in the locality in the absence of any financial contributions to address the shortfalls.

Subsequent appeal dismissed 21-05-08 because of the unacceptable adverse effect on the character and appearance of the area in failing to take account of the context and surroundings and compromise the quality of the local environment.

**07/1815/FL/E11** – Erection of 15 x 2 bed apartments – Refused 15-10-07.  
Reasons for refusal:

1. The proposal would appear incongruous in the street scene due to its three storey appearance, design and scale; and the lack of adequate parking provision would lead to unacceptable on street parking.
2. The development would place undue pressure on limited education and public open space provision in the locality.

Subsequent appeal dismissed 21-05-08 because of the unacceptable adverse effect on the character and appearance of the area in failing to take account of the context and surroundings and compromise the quality of the local environment.

**09/0617/FL** – Demolition of existing shops/flats and construction of 13 new 2 bed flats and 1 flat for person with disabilities with associated carers accommodation – Refused 14-10-09. This was for one large apartment block building.

Reason for refusal:

1. The proposed development would be over dominant in the street scene by virtue of its massing and appearance, which would be detrimental to and not in keeping with the openness and character of the surrounding area, which consists of detached dwellings.

Subsequent appeal dismissed 28-10-10 because due to the scale and mass the development would create a dominant feature in the street scene which would be out of character with and detrimental to the surrounding area.

**10/0038/FL** – Demolition of existing building and erection of 14 x 2 bed apartments.

Appeal against non-determination submitted, no decision made by Walsall MBC. This was for three separate apartment buildings on a similar footprint to the current application.

Appeal dismissed 28-10-10 because the position and appearance of the relocated substation would create an incongruous feature which would detract from the openness of the area to the detriment of its character.

### **Relevant Planning Policy Summary**

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

### **Core Strategy Policies**

The JCS was adopted by the Council on 3<sup>rd</sup> February 2011 and now forms part of the statutory development plan. It replaces certain “saved” policies in the UDP.”

#### **CSP4: Place Making**

Development will be required to demonstrate a clear understanding of the historic character and local distinctiveness. Design of spaces and buildings will be influenced by their context.

#### **HOU2: Housing Density, Type and Accessibility**

Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

All developments will aim to achieve a minimum density of 35 dph, except where higher densities would prejudice historic character and local distinctiveness

#### ENV2: Historic Character and Local Distinctiveness

All development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country.

e) areas of extensive lower density suburban development of the mid 20<sup>th</sup> Century, including public housing and private developments of semi detached and detached housing.

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

#### GP2: Environmental Protection

The Council will not permit development which would have an unacceptable adverse impact on the environment.

Policy 3.6 seeks environmental improvement resulting from development.

Policy 3.9 high priority will be given to maximising the re-use and reclamation of derelict and previously developed land.

#### GP3: Planning Obligations

These will be used, as appropriate, to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by the development.

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

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

#### ENV13: Development near Power Lines, Substations and Transformers

To protect the general amenity of occupiers development in close proximity to substations will not normally be permitted.

#### ENV14: Development of Derelict and Previously-Developed Land.

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

#### ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Detailed criteria are listed for consideration when assessing the quality of design of any development proposal including:- the appearance, materials, height, proportion, scale and mass of the proposed buildings, the visual relationship of the proposal with adjacent areas, the street and the character of the surrounding neighbourhood, the effect on the local character of the area.

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

#### LC1(d): Urban Open Space

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

#### T7 – Car Parking

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

#### T13: Parking Provision

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

#### Flats with Communal Parking 1.5 spaces per unit

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

Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452,

Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234



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

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

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

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

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

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

DW5: Ease of Movement – connections to existing routes

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

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

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

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

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

Local Character Guidance: East – Gillity Village, Park Hall and Pheasey

The areas display a local vernacular of medium to large sized semi detached and detached housing. New development should reflect the quiet residential character of these areas and their communities in their design. Future development should respect the spacious and low density form of development.

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

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

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

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

Sets out the contributions that developers will be required to make towards the provision and improvement of local education facilities.

## **National Policy**

**PPS1:** Delivering sustainable development emphasis the need to reject poor design and the need for sustainable development.

**PPS3:** Housing, the objective of the revised guidance is to:

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

**PPG13:** Transport, promotes more sustainable patterns of development for housing development and encourages assessment of the location and accessibility of jobs, services and transport choices and to reduce travel, especially by car. Local Authorities should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances, for example where there are significant implications for road safety which cannot be resolved through on-street parking controls.

**PPS23:** Planning & Pollution Control advises a Precautionary approach of a 5m exclusion zone around substations, transformers etc.

## **Consultations**

**Transportation** – No objections subject to conditions relating to access, layout and cycle storage and Travel Planning. The scheme provides 18 parking spaces (including 2 disabled spaces) for 14 flats. This equates to 128.5%. Policy T13 would require 21 spaces therefore the proposal are 3 spaces short. This is considered acceptable on the basis of recent Inspectors decisions on appeals where the Inspector considered that the level of parking provision was appropriate and the site was not in an unsustainable location.

With regard to UDP Policy T12 relating to accessibility of the site to public transport, the Highway Authority has taken due account of the statements by the Planning Inspector contained within the Planning Appeals for two previous schemes on this site namely 07/0774/FL/E11 and 07/1815/FL/E11. Although these schemes proposed a higher level of parking (150% and 131%) in the determining statement the Inspector made reference to local concerns about the sustainability of the site insofar as the accessibility of local services and public transport are concerned. The Inspector noted the distances to the nearest local shopping centre (1.1km) and bus stops in Birmingham Road and Skip Lane. Whilst it is accepted the proximity of the site to bus stops with frequent services is considerably above the UDP T12 requirement of a maximum distance of 400 metres (it is approx. 700 - 800m to the bus stops in Birmingham Road near Walstead Road junction where the 51 service runs every 10 – 20 minutes) his conclusion was that that the site was not in an unsustainable location. The Inspector also considered concerns that parking would be inadequate and this would lead to on-street parking which would impair highway safety. The Inspector concluded that there was a high level of on-site parking in the locality and no parking restrictions and as such did not consider that the highway safety would be unduly affected.

The proposals would utilise the existing access off Woodside Road and the redundant crossing in Woodside Close would be reinstated with full height kerbs.

The proposed cycle store shown on the submitted plans is unacceptable as there is insufficient space to store cycles without them obstructing the pedestrian route to the rear of the development (as the average cycle is 1.8m long and would project over the path). However, an alternative cycle shelter could be provided in an appropriate location at the rear of the development.

**Pollution Control (Scientific Team)** –No objections. The proposed location of the transformer is acceptable subject to its orientation is such that the positions where field strengths are highest are furthest away from the residential development having regard to survey data previously provided by E-On. As matters presently stand, it is feasible to condition the siting of the transformer and to impose a noise condition.

**Pollution Control (Contaminated Land Team)** – No objections subject to works being carried out to investigate and remediate any localised ground contamination and ground gas issues associated with the historic filled ground from a former pond or marsh. Details are required prior to commencement of any development.

**Central Networks** – No objections to the latest revised plans. The extra 100mm increase in level above the general site level and removal of the slope down to the substation should help prevent any possible flood problem. There are no foreseen problems in terms of security or safety issues.

**Landscape Officer** – No objections, no details of the proposed planting (species, numbers and size supplied) have been provided nor associated landscape features such as boundary/screen fencing, steps paving etc. Relocation has over come the previous landscape objections and supports the proposals subject to a condition to ensure the provision of full landscape details.

**Arboricultural Officer** – No objections subject to condition to ensure submission of method statement detailing all construction methods within the root protection area (RPA) of the protected Beech tree. The presence of the large mature TPO Beech tree situated off site should not prove to be a constraint to the proposed development. Whilst the RPA encroaches into the proposed development site car park it represents only a small percentage of the RPA and damage to the roots could easily be avoided by using appropriate work methods and materials (e.g. 'no dig' construction and porous surface).

**Natural Environment** – No objections. Conditions are recommended to ensure bat roosting features are incorporated and to control external lighting to avoid disturbance to the local bat population.

**Urban Design** – No objections subject to condition to ensure approval of building materials. The scheme is considered acceptable in terms of its impact upon the character and appearance of the area. The three apartment blocks reflect the built form of detached housing in the area. The substation relocation below street level will minimise its visual impact. It is therefore considered that the scheme overcomes the previous reasons for refusal and reason for dismissal of the recent appeal. The Inspectors decision made it clear that the substation form in Appeal A (09/0617/FL) was acceptable and the built form of apartments in appeal B (10/0038/FL) was acceptable. This application takes both of these elements and combines them together.

**Walsall Children's Service - Serco** – A contribution to both secondary and primary school provision would be required in this area. However in this case notice has been taken of the comments made by the Planning Inspector in the previous appeal decision (May 2008) regarding financial contributions and a reassessment of the application has been made and in light of this a contribution is no longer required.

**Housing Strategy** – No objections. The development is below the affordable housing threshold. The application is supported as it provides 2 bedroom flats which are more sustainable than 1 bed flats.

**Fire Service** – No objections as there is satisfactory fire service access.

**Police Architectural Liaison Officer** – No objections in principle. Encourage the applicant to design and build to achieve Secured By Design accreditation and ensure that minimum security standards are installed from the outset. Specific design and security guidance provided and forwarded to the agent.

**Building Control** – No objections. Notification of demolition to Building Control would be required.

**Drainage** – No objections. Structure and Geotechnics keep no records of areas within the Borough with ground water issues.

### **Public Participation Response**

There are 51 letters of objection received including one from Cottage Farm Residents Association, One from Park Hall Residents Association and one from Councillor R Martin.

#### **Objections:**

- By virtue of its size, height, massing and excessive density the development is out of keeping with the character of the area
- New detached houses are more appropriate for the area than flats
- No demand for apartments in the area
- Designing Walsall guidance for the area calls for low density development, family homes, reflecting the spacious character of the area
- Inadequate parking provision, conflicts with policy T13
- Overspill parking in surrounding narrow streets, detrimental to residential amenities.
- The proposed parking area causes noise and nuisance to surrounding neighbours
- New Government guidance removes the previous limit on car parking provision and the Localism Bill, both are significant.
- No visitor parking provided
- Unsustainable location, fails to meet policy T12, only 1 bus per hour and no Sunday service
- Inevitable on street parking will block the street and create access issues for emergency vehicles. Previous accidents in this vicinity.
- Parking on the frontage against Inspectors ruling.
- Excessive traffic in quiet residential streets resulting in safety implications for residents and pedestrians
- Lack of amenity space

- Proposals fail to address issues raised by the Inspector in the previous appeal decision.
- The intentions of the Localism Bill are to allow “communities to make their own decisions about what homes are needed in their area and no longer be the victims of a system designed to maximise profits and minimise choice” A petition signed by 85% of homes on the estate (*objectors statement*) makes the views of the local community clear.
- Residents do not oppose the principle of redevelopment, but do oppose this application.
- Location and level of substation unacceptable from a Health & Safety perspective, high water table creating flooding
- Substation an incongruous feature in the street scene detracting from the openness of the area.
- No comments from Central Networks
- The substation relocation position is impractical
- Impact on structural integrity of 1A Woodside Rd, previous subsidence issues 20 years ago and the substation was previously relocated as it was sinking in the wet ground.
- The level of the substation could be a security risk, allowing access to the roof.
- Position of the substation at back of pavement will be vulnerable from being struck by cars
- Does the location of the substation meet statutory requirement distances to residential properties and the pavement?
- No other substations in the area at back of pavement, forward of the building line
- Yet another application, previous objections should stand
- Whilst three buildings reduce the visual impact, the accommodation is still over three floors, over dominant. The third floor should be deleted, which would improve the parking and density.
- Will hold the Council responsible for any damage to adjoining properties caused by the development
- Overlooking and loss of privacy
- Trees already removed
- Risk of damage to protected Beech tree and its root system
- Park Hall school already over subscribed
- Comments vary between the two Planning Inspectors regarding the current building.
- Do the applicant's own all the land?

A petition objecting to the proposals containing 248 signatures has been submitted.

Reasons provided:

- Only the relocation of the substation has changed
- Still over development
- Third storey in the roof
- Out of character with the area
- Unsustainable location
- Insufficient parking
- Parking on the frontage
- Inadequate amenity space

As a result of the changes to the roof design and finished level of the substation, 18 further representations have been received: -

- original objections about overdevelopment, the scale & height of the buildings, parking and traffic issues, amenity space have not been addressed
- yet more amendments to the scheme which is considered unacceptable
- the substation position is still prominent due to its position in front of adjacent houses and is obtrusive to their outlook
- health and safety concerns due to the proximity to housing
- lowering the roof will make it accessible from the drive of the adjacent property
- concern over potential flood problems for the substation
- does not address the Inspector's earlier concerns
- raising the floor level makes the substation prominent

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

### **Determining Issues**

The Council is required to have full regard to the Inspectors findings in the previous appeal decisions for this site as a material consideration in the determination of any future applications.

The key issues raised by the Planning Inspector in the most recent appeal decisions relating to planning applications 09/0617/FL and 10/0038/FL are :

- The street scene and character of the area
- The siting of the substation

Other material considerations discussed by the Planning Inspector in the most recent appeal decision:

- Density
- Sustainability
- Demand for Housing
- Parking
- Impact on amenity of neighbours
- Trees

Additional issues to be considered

- Localism Bill
- Amenity Space
- Demand on Education and Urban Open Space Provision

### **Observations**

**Key issues raised by the Planning Inspector in the most recent appeal decisions relating to planning applications 09/0617/FL and 10/0038/FL**

#### **Street Scene and Character of the Area**

The area surrounding the site consists of two storey detached houses fronting the street with front driveways and gardens, private rear gardens and incorporating bay windows, gable features, pitched tiled roofs and following a well established building line. There are variations between the size of the dwellings and the size of the plots they occupy. Other design features include cat slide roofs, two storey bay windows and dormer windows.

Skip Lane provides a more varied range of house designs and includes some semi detached properties as well as detached houses, with plot widths varying between 9 and 19m. Woodside Road has predominantly detached houses with plot widths varying between 8 and 13m, Woodside Close has plot widths of between 8 and 10m and Calthorpe Close between 8 and 12m wide.

The existing building on site is one large block set across the corner with a large expanse of hardstanding to the frontage and surrounding the building and is therefore not characteristic of the surrounding area and pattern of development. The proposals would provide three separate buildings, 12.8m, 11.6m and 11.6m wide which is more characteristic of the area and has the appearance of three large houses.

The Design and Access Statement includes an existing and proposed 'Nolli-plan' which shows the built form in the immediate vicinity and clearly shows how the proposed building footprints sit comfortably within the surrounding pattern of development. The proposals therefore provide three buildings of a size and scale consistent with dwellings in the immediate vicinity.

The proposed development incorporates key design features of properties in the surrounding area, including facing brickwork, tiled pitched roofs, gable features, two storey bay windows, porch details and dormer windows.

Objectors still consider the size, height, massing and density of the development is out of keeping with the character of the area and contrary to Council policies. They also refer to the earlier appeal decisions for 07/0774/FL/E11 and 07/1815/FL/E11 where the Inspector stated *"the area comprises modest detached dwellings"* and that *"the proposed building..would dominate the roundabout and disrupt the cohesiveness within the estate"* and that *"because of its scale and design, appear out of keeping with the character and appearance of the area."* However, these comments were made on the basis of an earlier scheme for one larger apartment building rather than three separate buildings as now proposed.

The latest appeal decision for 10/0038/FL related to three separate apartment buildings on a similar footprint to that now proposed. The Inspector concluded that the *"the separation between the blocks themselves would create a sense of spaciousness within the site and reflect the pattern of development within the area."* She also stated *"all three blocks are a similar size and the ridge heights would not be out of character in the street scene"* and that *"the design of the blocks would be more akin to a domestic dwelling than an apartment block"*. In the circumstances the principle of the buildings now proposed has already been considered as acceptable by the Inspector. As this scheme differs from the earlier proposals for a larger apartment building it is inevitable that the two Planning Inspectors have reached different conclusions regarding the scale, massing and design of the proposals.

The proposed layout includes landscaping to the frontage and private amenity space to the rear, with 2 parking spaces on the frontage, also reflecting the character and appearance of the surrounding area and taking into account the comments made by the Planning Inspector regarding parking on the frontage.

In light of the above comments it is considered that the proposed apartment buildings overcome the previous reasons for refusal in terms of their dominance, massing, appearance and are more characteristic of the area.

### **The Siting of the Substation**

The replacement sub-station is at the back of footway in Woodside Road in front of Apartment Block 1. It is set at a lower ground level than the footway so is partially screened by the proposed boundary wall, brick piers and railings that runs around the front perimeter of the site. The roof of the substation has been reduced so that it does not project above the railings. Access to the substation is from the side where a grasscrete driveway is to be formed with locking bollards at the entrance. Planting is proposed in front of the driveway behind the boundary wall and railings that will further screen the driveway. In the circumstances, although forward of adjacent buildings, due to its sunken position, amended roof design and proposed screening the proposed substation is not prominent within the street scene and has no significant impact upon the visual amenities of the area. The exact details of the design and materials of the sub-station are to be sought and a condition is recommended.

The sub-station is 4.4m in front of the kitchen of the ground floor flat in apartment block 1 and 3m in front of the lounge area. However, the kitchen has a high level window and the sub-station building stops short of the lounge window so will not adversely affect the outlook for future occupiers. There is also proposed planting around the sub-station that will screen it further. Whilst usually residential buildings should be 5m or more away from electricity sub-stations, Central Networks are satisfied with the position of the sub-station and conditions are recommended to ensure the substation plant complies with ICNIRP and to restrict noise generated by the electricity plant in order to protect residential amenities of surrounding occupiers.

Although objectors are concerned that the lower ground level of the substation may give rise to potential flooding problems the floor level has been amended so that it is now at almost the same level as the apartment block. Central Networks confirm that the substation is acceptable in all respects including operationally, in terms of potential flooding and from a safety and security perspective.

Objectors state the position of the sub-station in front of surrounding housing is incongruous and obtrusive, vulnerable to being struck by vehicles and its sunken position could allow access to the roof which is a safety concern, particularly for children. However, the proposed wall with railings and landscaping will screen the sub-station from view in most instances. There will be a view of the sub-station from higher ground in Woodside Road but this will be mainly of the boundary treatment surrounding it and of the roof and is not sufficient grounds to be considered incongruous in the street scene. The sub-station building would be behind a wall and railings which would reduce the potential full impact of vehicles striking it. In terms of safety concerns, regarding children who may climb the wall surrounding the sub-station, it is a well observed position so there will be natural surveillance policing by residents to discourage this.



The previous appeal Inspector's stated *"although the sub-station would be in a frontage location, it would be set below the level of the adjacent footway....its sunken position relative to the footway would reduce its impact on the street scene to an acceptable level"*. The current proposal also shows the sub-station in a sunken position below the level of the footway and so does not conflict with the Inspector's views on this matter.

In light of the above comments it is considered that the revised position and design of the sub-station overcomes earlier concerns and is acceptable.

## **Other material considerations discussed by the Planning Inspector**

### **Density**

The density of the development is 87 dwellings per hectare which objectors consider is overdevelopment as the surrounding context is 25 dwellings per hectare. However, policy HOU2 of the JCS states all developments should aim to achieve a minimum net density of 35 dwellings per hectare so the proposals accord with this aim. It also states density and type of new housing will be informed by the need for a range of types and sizes of accommodation to meet sub regional and local needs, the level of accessibility and the need to achieve high quality design and minimise amenity impacts. Although recent changes to PPS3 has removed the 30 dwellings per hectare national indicative minimum density, it still requires the efficient use of land and states the density of existing development should not dictate that of new housing by stifling change and requiring replication of existing style and form.

The Appeal Inspector accepted that PPS3 states that imaginative design and layout of new development can lead to more efficient use of land without compromising the quality of the local environment. Over development results in designs which impact unduly on the character and amenity of the locality. The amended design approach addresses these concerns and demonstrates that overdevelopment of the site would not occur.

Policy CSP4 states that design of spaces and buildings will be influenced by their context and the current scheme is more reflective of the local character and surrounding area. The layout shows appropriate building sizes and position that achieves appropriate gaps between the buildings, separation distances, provides shared private amenity space and bin and cycle storage facilities to accord with Council requirements. Although parking provision is below UDP requirements, similar provision has been accepted by the Appeal Inspector and the Transportation officer is satisfied that provision is adequate to cater for the development.

On balance the accommodation provides a satisfactory layout that is considered not to be over-development and would provide a mix of housing types and size to the area, where apartments are not over represented and therefore comply with policies CSP4 and HOU2 of the JCS, ENV32 of the UDP and PPS3.

Designing Walsall local character guidance indicates that new development should respect the spacious and low density form of development in the area. Whilst the proposals provide a higher density than the surrounding area, this is as a direct result of the provision of apartment accommodation, which is under represented in the area. The spacious form of development is respected through the provision of three separate blocks with significant gaps between the buildings and landscaping to the frontage, reflecting the character of the area.

## **Sustainability**

The Inspector noted that the site lies within an established urban area and was not convinced that this was an unsustainable location for proposed residential development despite objector's concerns. It is also noted that there is already residential accommodation on the application site and the sustainability of the proposals is no different to that of established housing in the area.

With regard to policy T12 relating to accessibility of the site to public transport, the Appeal Inspector in dismissing the previous appeals made reference to local concerns about accessibility of the site to local services and public transport noting the distances to the nearest local shopping centre (Park Hall shops) (1.1km) and bus stops in Birmingham Road and Skip Lane. The Appeal Inspector concluded that the site was not in an unsustainable location.

The site is located within an established urban area and is not an isolated site in a remote location and the level of accessibility is considered satisfactory.

## **Demand for housing**

PPS3 requires provision of a variety of house types in an area to suit families with children, single households and older people. Despite objections that there is a need for family housing not flats in the area, the Appeal Inspector found that as family housing was the predominant house type in the area an apartment scheme to cater for smaller households would accord with PPS3 as it provides a variety of house types.

## **Parking**

There are 18 parking spaces, including 2 disabled parking spaces, proposed. Sixteen spaces would be in a parking court at the rear and 2 spaces in front of block 2. Policy T13 requires 21 spaces for 14 flats plus disabled parking. The Transportation officer is satisfied with the level of parking proposed (128.5%) despite being 3 spaces short of the maximum parking requirement (excluding disabled provision) given in policy T13, particularly as the site is in a sustainable location. The Appeal Inspector highlighted that the parking standards were maximum standards and the Council did not object to the shortfall and was satisfied that the development would not result in a level of on-street parking which would impair the safety of road users. The Inspector also considered resident and visitor parking on street could be addressed through on-street parking controls. PPG13 states developers should not be required to provide more spaces than they themselves require, without good reason.

Transportation is satisfied that the level of parking, which is 3 spaces below the number recommended in policy T13, is appropriate as the site is not in an unsustainable location. Although objector's state there is no visitor parking provided policy T13 does not require visitor parking for residential plots. Objectors are also concerned regarding overspill on-street parking that could restrict emergency access or cause increased congestion in the area. Nevertheless the Transportation officer highlights that the Inspector concluded that there was a high level of on-site parking in the locality and no parking restrictions and as such did not consider that the highway safety would be unduly affected.

The scheme includes 2 parking spaces on the frontage with additional landscaping. Objectors consider that any parking on the frontage is against the appeal Inspector's ruling on this matter. However, although the previous Inspector considered that car parking for 6 vehicles on the frontage would create a cluttered appearance the current scheme includes

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only 2 spaces on the Woodside Road frontage. This is significantly less than proposed on earlier schemes and is characteristic of the frontage parking at surrounding houses. There is provision for secure cycle storage that would encourage occupiers to consider alternative means of travel and a condition is attached to ensure the submission of a residential Travel Plan.

Objectors consider the proposed parking area at the rear would cause noise and nuisance to surrounding neighbours. However, the first appeal Inspector stated *“the rear of the site contains a garage and so vehicles manoeuvring close to the neighbouring property are already a possibility”* and he concluded that whilst the proposals increase the parking at the rear he *“did not consider that this would be likely to result in an unacceptable increase in noise and disturbance”*. Provision of a retaining wall and retention of planting along the boundaries of the car park will also provide screening to reduce the potential impact.

Although neighbours are concerned that there is insufficient on-site parking that would lead to on-street parking and cause congestion in the vicinity to the detriment of highway safety the Inspector’s view is a material consideration and has been given considerable weight in determining whether the level of parking provision is acceptable. For the reasons stated above the level of parking and means of access which utilises an existing vehicular access is on balance considered appropriate.

### **Impact on amenity of neighbours**

The position of the proposed building does not project excessively beyond the front and rear elevations of the nearest dwellings in Woodside Close and Woodside Road and so would have no adverse impact upon outlook from these dwellings or lead to unacceptable overlooking resulting in loss of privacy. The outlook from the properties surrounding the site would be different from the existing but the size and separation of the buildings and the distance separations involved would result in no unreasonable adverse impacts upon outlook. Use of the parking area at the rear of the site should not generate activity of a type and level that would cause a nuisance. The Appeal Inspector considered the height and scale of the development and proximity to the side boundaries of the site in relation to the adjacent occupiers, particularly 5 Woodside Close, and concluded that it would not result in a significant reduction in light and consequent effect on living conditions of the occupiers of 5 Woodside Close sufficient to warrant refusal.

The revised design and position of the substation ensure that it is screened by the wall and railings around the front perimeter of the site. This reduces the appearance of the substation so that it does not appear unduly dominant in the street scene and is considered not to be detrimental to the outlook of surrounding occupiers.

The only side facing windows within the development face into the site and provide overlooking and surveillance of shared areas. These windows would create no overlooking issues for surrounding occupiers. The Inspector found that whilst there could be a potential loss of outlook and loss of privacy due to overlooking from the apartments to the rear of neighbouring properties and their gardens, as the appeal site is a lower level than most of the adjoining properties and given the separation distances and significant tree planting within gardens, the outlook and privacy of existing residents would not be unduly affected including during winter months.

## **Trees**

The Beech tree within the garden of 56 Skip Lane is protected by TPO (15/2007) and remains unaffected by the development. The previous Inspector noted that whilst it may be possible that the roots to the tree extend into the proposed parking area only a small percentage of the root protection area extends into the site. A condition is attached to ensure that a 'no-dig' construction technique and permeable surface is provided in the proposed rear parking area which overlaps the root protection area of this tree, to ensure the long term health of the tree. Objectors are concerned that development may affect the water table to the detriment of the health of the tree. However, a permeable surface is proposed which allows water to permeate the roots which overlap the site so as not to starve them of water and retain the stability of the tree. The proposal includes additional tree planting throughout the site to enhance the setting of the buildings.

## **Additional Issues to be considered**

### **Localism Bill**

Objectors state the intentions of the Localism Bill are to allow *"communities to make their own decisions about what homes are needed in their area and no longer be the victims of a system designed to maximise profits and minimise choice"*. They point out the petition signed by 248 residents, which they claim represents 85% of homes on the estate, but "the estate" is undefined by them. They assert that this makes the views of the local community clear in resisting this development.

The Localism Bill was published on 13 December 2010 and is a material consideration. There have also been a number of Ministerial statements on Bill, and these too are material considerations. However, officers' advice is that only limited weight can be given to the Bill and to related statements when making planning decisions. The reason for this is that the Bill has not yet passed through all of its stages in Parliament and amendments may yet be made. The Planning Inspectorate has advised its Inspectors that the weight that can be attached to an emerging Bill will be affected by the stage reached by the Bill in comparison for the timescale to resolve the particular planning case being considered. This approach is endorsed by your officers.

The Bill is drafted in broad terms, to be brought into effect through future regulations. It includes clauses proposing that community groups may seek designation by Local Planning Authorities as *"neighbourhood forums"* to be able to undertake neighbourhood planning. It is important to recognise that neighbourhood forums are proposed to be constituted formally and that neighbourhood planning is proposed to be through specific mechanisms: neighbourhood development plans and / or neighbourhood development orders. None of these arrangements is in place, nor can any be put in place until the relevant parts of the Bill come into operation. The arrangements for neighbourhood forums and neighbourhood planning are among those that have been the subject of possible amendments discussed during the Bill's passage so far through the House of Commons.

The statement cited by the objectors relates to an announcement by the Decentralisation Minister on 9 June 2010 that gardens were reclassified as greenfield land and density requirements on new housing developments were relaxed. However, in relation to the Localism Bill, on 2 February 2011 the Minister said:

*"We want to restore the reputation of planning as a service that works for the public, and that the public feel is on their side. Instead of being principally a means of arbitrating disputes, it should be a positive process, where people come together and agree a vision for the future of the place where they live. It should also - crucially - be a system that delivers more growth."*

*"... This is a Bill firmly anchored in the need for growth, and no man is an island. Neighbourhood planning isn't a way of a group declaring a Unilateral Declaration of Independance from the wider area they live in. Their plans must be consistent with the needs and ambitions of residents of the wider area too - including the need for economic growth...."*

*"And, to be explicit, if there's an overwhelming need for new homes in the local authority area, the neighbourhood plan is not a way for a neighbourhood to refuse to host its fair share. Though they can, if they wish, grant permission for a greater number of homes than the local authority expects. In other words, neighbourhood planning is not a way of saying "no" to any development. It can be a way of saying "yes" to more."*

This approach does not seem to appear in the Bill itself, but the Bill does propose that neighbourhood plans and development orders should be *"in general conformity"* with the statutory development plan. The Minister has stated, on January 24 2011, that *"well-designed local plans ... will matter more ....so those authorities who have complete or well-developed plans should continue to use them"*. The Black Country Core Strategy and UDP (with the Regional Spatial Strategy) are the adopted development plan for the Borough and it remains the case that, under Section 38(6) of the Planning and Compulsory Purchase Act 2004, *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

For the reasons set out in this report the proposals are considered to accord with the adopted policies set out in the Core Strategy and the UDP.

### **Amenity Space**

Approximately 213sqm of private amenity space would be provided for the development, together with additional amenity/landscaping situated on the frontage of all three blocks. This equates to just over 15sqm per flat. Whilst Appendix E of Designing Walsall seeks to achieve a minimum of 20sqm of amenity space per unit, which would require 280sqm of private amenity space, it recognises that smaller areas may be acceptable depending on design. There is also over 200m<sup>2</sup> of amenity space to the front and side of the buildings which, although not private will provide some visual amenity benefits for future occupiers.

The previous Appeal Inspector did not raise the level of private amenity space as an issue nor felt that there would be a need for a financial contribution towards off site provision of open space. This is a material consideration in the current application.

The level of amenity space is considered appropriate.

### **Demand on Education and Urban Open Space Provision**

Under the requirements of policies GP3, 8.8 and LC1 of the UDP and the SPD's for Education and Urban Open Space developers should, where appropriate, ensure provision and improvement of local education facilities and improvements to or provision of urban open space within the proximity of the application site on qualifying developments above the threshold of 10 units. In terms of education provision the level of surplus spaces in

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local primary and secondary schools is below 10% therefore a contribution towards these phases would normally be required. Objectors have also noted that Park Hall School is already over-subscribed. However, Walsall Children's Services – Serco has considered the Appeal Inspector's earlier decision where contributions were calculated on the net increase in the number of dwellings, which is relatively small, and has recommended that no contributions are collected in this specific case.

Similarly the Inspector commented on the net increase in dwellings in relation to calculations for an Urban Open Space contribution and concluded that no Urban Open Space contribution was payable. The SPD is silent on the issue of net increase in units in a redevelopment scheme and in this particular case regard must be taken of the Inspectors comments. It is recommended that no Urban Open Space Contribution be collected.

### **Other matters**

The updated bat report submitted is considered satisfactory and there are no ecological reasons for the refusal of this application.

The proposed layout shows an adequate size refuse bin storage facility for the development.

The developer must comply with building regulations for construction of the buildings on site so this will safeguard against potential adverse impacts on the structural integrity of 1A Woodside Road despite previous subsidence problems.

The applicant has served notice on Central Networks as part of the submission, recognising that not all the land within the redline boundary is in their ownership.

Each application is dealt with on its own merits and no precedent for the development of further blocks of apartments on street corners in the locality would be set by the approval of this proposal.

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

The size, scale, massing and appearance of the development are in keeping with the character of the surrounding area. The substation has been repositioned and redesigned so that it sits below the level of the proposed boundary wall and railings and is not prominent in the street scene. Central Networks confirm that they are satisfied with the design.

The density although higher than the minimum density recommended in policy HOU2 of the JCS does provide a mix of house types and makes more efficient use of previously developed land in the urban area. The accommodation provides a satisfactory layout considered not to be over-development.

The site is not in an unsustainable location as it is within an established residential area and is not an isolated or remote location. The apartment scheme to cater for smaller households will provide a variety of house types in this area which is predominantly family housing.

The parking provision, although below the maximum standard recommended in policy T13, is considered sufficient to cater for the needs of this development which is in a sustainable location. Potential overflow parking on-street would not result in a level of on-street parking that would impair highway safety. The provision of 2 car parking spaces on the frontage is considered not to detract from the character of the surrounding area.

The position of the proposed building does not unreasonably affect daylight, outlook or privacy of surrounding occupiers as there is adequate space and separation between dwellings. The substation is not prominent in the street scene and so does not adversely affect neighbours outlook.

The proposals do not adversely affect the root protection area and hence is unlikely to affect the water table of the TPO tree within the garden of 56 Skip Lane. Therefore the health of the tree is not adversely affected.

The Localism Bill has not been approved by Parliament so can be given little weight in determining this proposal which complies with the aims of the adopted policies within the Joint Core Strategy and Unitary Development Plan.

The scheme provides approximately 213 sqm of private amenity space plus landscaping/amenity space in front of the building which provide additional visual amenity value for occupiers. Despite the private amenity space being smaller than recommended in the SPD: Designing Walsall the guidance recognises that smaller areas may be acceptable depending on design. This amenity space is considered acceptable as it is convenient and useable.

Bearing in mind the Appeal Inspector's comments and as the net increase in the number of dwellings on site is relatively small it is considered that the additional demand on education and urban open space provision in the area is not significant therefore contributions towards such provisions are unnecessary.

The bat report is satisfactory therefore the proposals have no adverse ecological impacts.

The applicant has carried out necessary notices regarding ownership of the site.

In light of the above the proposals are considered to accord with the aims of policies CSP4, HOU2 and ENV2 of The Black Country Joint Core Strategy and saved policies 3.6, 3.9, GP2, GP3, ENV13, ENV14, ENV32, H3, 8.8, LC1 (d), T7 and T13 of Walsall Unitary Development Plan and Supplementary Planning Documents: Designing Walsall, Urban Open Space and Education.

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

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

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

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

- Location Plan (0917/P01) received 21/12/10
- Proposed Site Plan (0917/P05 Rev A) received 04/03/11
- Proposed First Floor Plan (0917/P06) received 13/12/10
- Proposed Second Floor Plan (0917/P07) received 13/12/10
- Proposed Block 1 Elevations & Sections (0917/P09) received 13/12/10
- Proposed Block 2 Elevations & Sections (0917/P10)
- Proposed Block 3 Elevations (0917/P11) received 13/12/10
- Proposed Boundary Treatment to Substation (0917/P14 Rev A) received 04/03/11
- Proposed Site Sections (0917/P12) received 13/12/10
- Existing Site Plan (0917/P02) received 13/12/10
- Existing Elevations (0917/P04) received 13/12/10
- Existing Site Sections (0917/P03) received 13/12/10
- Design & Access Statement prepared by Pegasus Planning Group received 13/12/10
- Planning Statement prepared by Pegasus Planning Group received 13/12/10
- Bat Survey Report prepared by Ridgeway Ecology dated 14<sup>th</sup> July 2009 received 13/12/10

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

3. Prior to the first occupation of the development, the alterations to the existing vehicular footway crossing at the access point in Woodside Road together with the removal of the existing vehicular footway crossing in Woodside Close made redundant by the development, shall be carried out to a specification to be submitted to and agreed in writing by the Local Planning Authority.

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

4. Prior to the first occupation of the development all parking, accesses and manoeuvring areas shown on the approved plan shall be fully consolidated, surfaced and drained. The car parking bays shall be clearly demarcated on the ground and shall thereafter be retained for this purpose only.

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

5. Prior to the commencement of the development revised details, including location and design of the proposed cycle storage facility, which shall be covered and illuminated, shall be submitted for approval in writing by the Local Planning Authority, and the approved details shall be fully implemented prior to first occupation and shall thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To encourage the use of alternative, sustainable modes of travel.

6. Prior to the commencement of the development a Travel Plan Statement, drawn up in accordance with Government 'Good Practice Guidelines: Delivering Travel Plans through the Planning Process' shall be submitted for approval in writing by the Local Planning Authority and then implemented in accordance with the agreed details.

*Reason:* To focus on site measures to encourage residents to utilise sustainable modes of travel.

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7. Prior to the commencement of the development full details of planting including species, size and location shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be implemented within 12 months of the development completed. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted, unless otherwise agreed in writing with the Local Planning Authority.

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

8. No development shall commence until proposals to incorporate bat roosting features into the proposed building has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on the proposals put forward by Ridgeway Ecology in the bat survey report dated 14 July 2009. The approved scheme shall be incorporated into the development before any part is first brought in to use and retained thereafter.

*Reason:* To conserve local bat populations.

9. Any external lighting shall be low level high pressure sodium with UV filters and directional shrouding/shields to prevent light spill. Floodlighting shall be avoided except at the front of the building. No lighting proposals which conflict with the requirements of this condition shall be installed without the written permission of the Local Planning Authority.

*Reason:* To avoid disturbance to local bat populations.

10. No development shall commence until a method statement detailing all construction methods within the root protection area of the protected Beech tree situated off site in Skip Lane have been submitted to and agreed in writing by the Local Planning Authority and carried out in accordance with the agreed details.

*Reason:* To safeguard the protected Beech tree situated adjacent to the site.

11. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development. The development shall be completed with the approved details and retained as such.

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

12. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

*Reason:* To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

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

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv) The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

14. Occupation of the apartments within block 1 shall not take place until it is verified or demonstrated that electromagnetic fields arising from the adjacent electricity substation plant fall within the current guidelines published by the International Commission on Non-Ionising Radiation Protection (ICNIRP).

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

15. Occupation of the apartments within block 1 shall not take place until it is verified or demonstrated that noise arising from the adjacent electricity substation plant does not exceed "Good" design range criteria stated for indoor ambient noise levels in British Standard BS 8233 *Sound Insulation and Noise Reduction for Buildings – Code of Practice* (1999) in regard to living rooms and bedrooms, together with Noise Rating (NR) that does not exceed 24 dB.

*Reason:* To ensure the safe development of the site and to protect residential amenities.

16. Prior to the commencement of the development full details of the design and materials to be used in the construction of the new electricity substation shall be submitted to and approved in writing by the Local Planning Authority and the development carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

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

17. No construction, demolition or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 13.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* In the interests of protecting residential amenity.

#### **Note to applicant regarding bats**

Although no bats have been found roosting in the building, any demolition should be carried out carefully with the expectation that bats may be found. All British bats are protected by law. The highest risk is during the removal of roofing material. If bats are observed within the buildings scheduled for development, either prior or during development, Natural England (Birmingham Office 0121 233 0399) must be contacted. Work must cease and it may be necessary to apply for a European Protected Species license from Natural England.

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

##### **CL1**

Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

## **CL2**

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

## **CL3**

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

### **Note for applicant regarding sound level measuring**

Sound level measuring instrumentation shall conform to either: 'Type 1' of either British Standard BS 5969: 1981 '*Specification for sound level meters*', and/or BS EN 60651: 1994 '*Specification for sound level meters*', and/or BS 6698: 1986 '*Specification for integrating-averaging sound level meters*', and/or BS EN 60804: 1994/2001 '*Specification for integrating-averaging sound level meters*' and/or 'Class 1' of BS EN 61672: 2003 '*Electroacoustics- Sound Level Meters - Part 1: Specifications*' (or any superseding standards as applicable). Instrumentation shall have been verified either in accordance with British Standard BS 7580 '*Specification for the verification of sound level meters*' Part 1: 1996 '*Comprehensive procedure*' or BS EN 61672: 2003 '*Electroacoustics - Sound Level Meters - Part 3: Periodic Tests*' within a preceding 2 year period of measurements being conducted, or else verified with a multifunction acoustics calibrator that has been UKAS certified within a preceding 2 year period.

### **Note for applicant regarding noise surveys**

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:  
Planning Policy Guidance Note PPG 24 'Planning and Noise' 1994.

Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England 2005.

British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to quantities and procedures.

British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 2: Guide to the acquisition of data pertinent to land use.

British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.

British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas

Calculation of Road Traffic Noise. Department of Transport 1988.

Calculation of Railway Noise. Department of Transport 1995.

(This is not an exhaustive list.)

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### Reason for bringing to committee: Major application

**Application Number:** 10/1624/RM  
**Application Type:** Reserved Matters

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652403  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

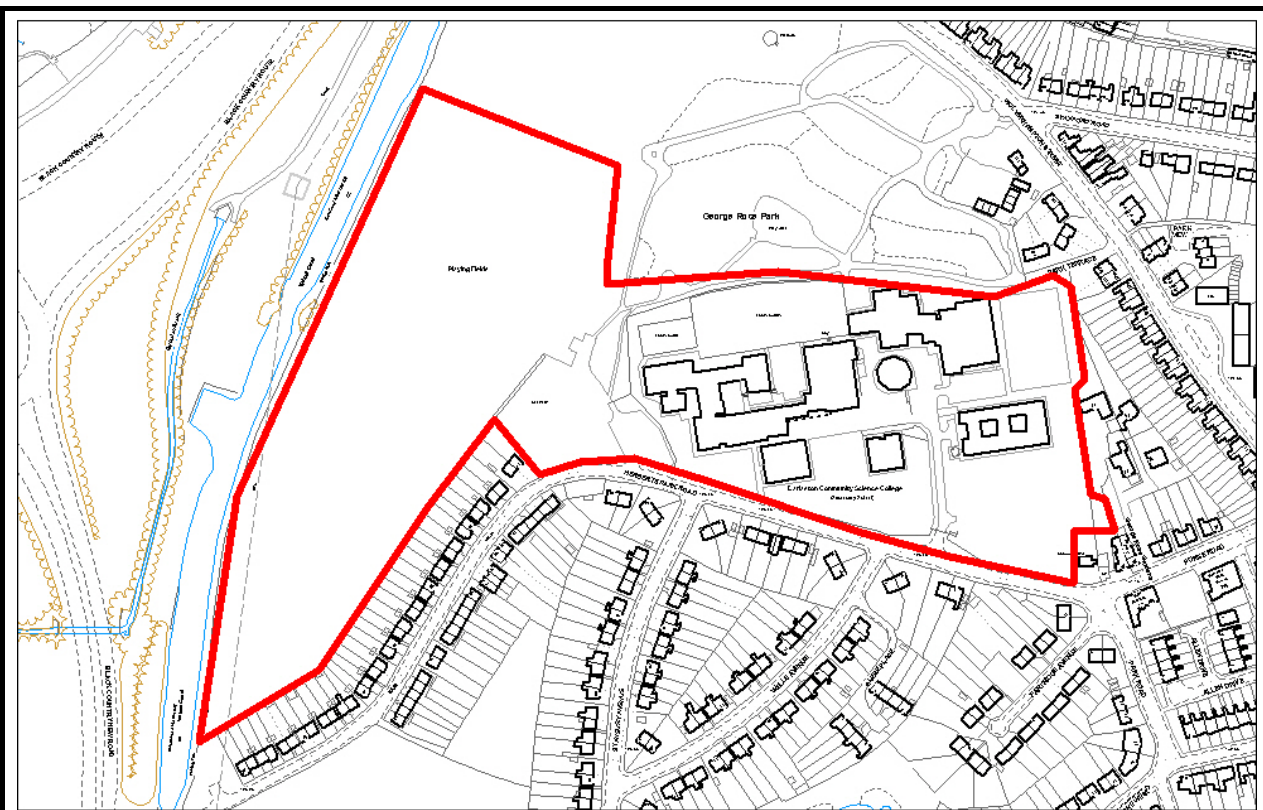
**Applicant:** Property Services - Walsall  
**Proposal:** Reserved Matters following permission 09/1130/OL for 1500 place school (including submissions on various matters required by conditions 1,2,3,4,5,6,7,8,9,10,11,12,13,14, 15,16,17,18,20,21,22,23,24,27,28,29,34,35,36,37,38,40 relate).

**Agent:** Sheppard Robson Architects  
**Location:** Grace Academy Darlaston, Herberts Park Road, Darlaston, Wednesbury, WS10 8QJ

**Ward:** Darlaston South

**Expired Date:** 07/03/2011

**Recommendation Summary:** Approve Reserved Matters with Conditions and Delegate to Head of Planning



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## **Application and Site Details**

The application:-

- is to build a new school
- it follows the grant of an outline permission
- is a Reserved Matters application, but includes submissions under a number of the conditions on the outline permission
- the site includes part of the current area of George Rose Park as the area of the proposed school

The Reserved Matters following the outline planning permission are:

- Layout;
- External Appearance;
- Scale;
- Access; and
- Landscaping.

A Reserved Matters submission is not an application for planning permission. Instead, it is part of the planning permission given at outline application stage. It must be consistent with that outline application.

The applicants are the Council. The school is to be operated as an Academy (as the existing school on the site already is).

Pupil numbers have been falling over the years. It was set out in the outline application that:-

- Current student levels were 858  
(758 pupils plus 100 sixth form students)
- Current school buildings were designed to accommodate 1400 pupils  
(1200 pupils plus 200 sixth form)
- The intention is to increase the numbers to 1500  
(1200 pupils + 300 sixth form) within the new building.

New fencing is proposed around the area to be added to the school, and much of the existing school boundary, wherever fencing is required to define the new school boundary.

The school has been making use of the part of the park included within the application boundary, but that use is limited because of safety issues and that there may also be insurance issues. The level of use will increase, if the site is fenced as proposed, and it will be used on a daily basis.

The academy has temporary use of alternative playing facilities at St Thomas More School, approximately 0.7 miles from the school, until such time as the Academy have on site facilities.

The opening times of the Academy will be

**Term time**

**Monday – Friday**

0700 – 0800     Staff prepare for student arrival and administration tasks

0730 – 0815	Students arrive at the Academy (through the period areas are available for study preparation and breakfast clubs)
0830 – 1520	Academy day - core teaching and learning
1520 – 1700	Academy Enrichment Programme & Extra-curricular – clubs etc.
1700 – 2200	Managed use for the community
1700 - 2100	External floodlit areas may be limited to 2100 hours

### **Saturday**

0900 – 2200	Managed use for the community
0900- 2100	External floodlit areas may be limited to 2100 hours

### **Sunday**

0900 – 2000	Managed use for the community
0900- 1700	External playing field and floodlit areas used in this period only

### **Non term time**

It is proposed that use of facilities will continue through vacation times with anticipated extended school uses, summer / vacation clubs & activities for both students and the community.

In addition, the applicants advise that Grace Academy will actively promote students and the community to utilise the facilities for a range of activities and extended school uses, both provided by the Academy and in partnership with third party providers. The managed use for the community will therefore be a mixture of activities delivered by the Academy and/or its partners and third party lettings (as is common to many school and publicly funded facilities).

### **Internal Facilities include:**

Learning spaces  
Lecture theatre  
ICT and Internet facilities  
Dance and Drama rooms  
Learning resource Centre  
Media centre  
Sports Hall

### **External Facilities include:**

#### ***Synthetic or hard surfaces***

All weather pitch (football plus other sports) - floodlit  
Multi use games area (MUGA) - floodlit

### **Grass**

Cricket pitch (summer option)  
Football pitches (plus rugby and hockey alternatives winter terms)

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Athletics track and associated activities (summer)

### **Car parking and cycle store – for users and visitors**

The outline application was supported by a range of information, and the relevant passages are set out below in grey text (edited for brevity and relevance to the present issues).

The Original Outline Planning Permission included the following information:

#### **Original Design and Access Statement**

The Masterplan aimed to improve the amenity of the school, its appearance and its relationship to the public domain. It also aimed to create a sense of identity for the new school, and for the school in the community.

The area of the school was shown to be significantly below DfES guidelines

it should have 94,000 to 107,000sq.m.

but only has 32,400

the proposed area is 82,479 sq.m.

The scheme was expected to retain mature site features including trees and hedging, where possible.

The existing school has developed over time, and is currently in poor condition. It is not well connected internally, which impacts on circulation times, and learning. It was found that it is not able to be refurbished to the necessary standard.

The school presently has the ability to use the park land, as playing fields, but they are not secure, and the school is competing with public access (making this hard to timetable). That area is not maintained to school grounds standards, and the use is subject to anti-social behaviour.

The majority of pupils arrive on foot along Herberts Park Road. In developing the design, there have been meetings with a range of stakeholders, including parents, staff and pupils.

Public consultation that has been carried out included:-

- meetings with the community, and local councillors
- meetings with council officers, community groups and leaders in the community
- meetings with the Friends of the Park
- stakeholder meetings
- parental engagement meetings (19/5/09, 20/5/09, 21/5/09 and 8/6/09) attended by 100 “sets of students and parents”.
- three staff focus group meetings
- two pupil events.
- three public consultation events (6<sup>th</sup>, 7<sup>th</sup> and 9<sup>th</sup> of July 2009). The public were invited to give comments on the project, and that the feedback has been very positive. Most of those questioned have been in full support of the Academy project. It also states that further consultation will be held, later.
- further consultations with key stake holders has also been undertaken.

Money has been set aside by the Council for improvement works for the rest of the park, and these works have been the subject of public consultation. It is a firm commitment, approximately £300,000.

Options for siting the new building(s) have been considered, but are complicated by the need to retain the existing school while the new is built.

The preferred option at outline stage was showed

- the school buildings (expected to be 3 storey) in the north of the site (adjacent to the canal),
- parking for 180 cars south of the building(s), and 155 secure cycle spaces
- access from Herberts Park Road, on the western end of the new frontage (also intended to be the service access)
- there would be two areas of playing fields / play areas / outdoor study, to east and west of the parking area – the western area would include floodlit playing surfaces
- landscape enhancement along the canal
- minimum 5 metre strip of landscaping adjoining the rear of the houses on Herberts Park Road, adjoining the site

The operator intended to promote community use of the indoor and outdoor areas.

### **The Original Bat study**

The buildings support several roosts (of common pipistrelles) used as a nursery or maternity roost (where female bats gather together in the summer months to give birth). Surveys also recorded bats in low numbers emerging from several other roosts.

The development would impact on the roost sites (through direct loss of roosting sites and indirect effects such as disturbance to commuting and foraging habitats).

The trees in the park and to the west of the site are used for foraging, and may also be commuting routes providing shelter and cover for bats moving to and from site.

The application needs to satisfy the following three tests:

- there is no satisfactory alternative;
- the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range (*mitigation*); and
- the action authorised preserves public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment (*the purpose test*)

**Outline Mitigation proposed** would require replacement planting on a 'like-for-like' basis with completion being planned for June 2012, and demolition for the following September at the earliest.

### **Tree Survey and Assessment at Outline Stage**

The trees in the existing school grounds were identified to be of poor quality. Recommendations for management (including some felling) have been made.

### **The Habitat Survey at Outline Stage**

The neighbouring canal was identified as a SLINC. Potential for water voles to be present around the canal was identified.

### **Outline Geo-environmental Desk Study**

The survey found that there was made ground and mine shafts present and that there may be ground contamination which would result in remediation being required.

### **Outline Transport Statement**

The school's existing Travel Plan shows a majority of students walk to school (80%). A new Travel Plan was proposed. The net increase in trips generated (13 extra per school hour). The proposals were identified to have no material impact on the local highway network. Reflecting the preferred layout option, drop off / pick up within the school boundary was proposed. The proposal showed 180 spaces whereas Development Plan standards called for 124 parking spaces for the school and 91 for the community use - due to this being outside school hours mostly - dual use of the car park was considered as logical.

### **The Reserved Matters Submission**

The Reserved Matters submission is supported by a new Design and Access statement, and other material.

The proposed building ranges up to 3 storeys, but some parts (while single storey) are as tall (e.g. the sports hall). The building is in the north of the site adjacent to the canal. There is a car park for 180 cars (also used for service access), in the centre of the site, taking access from Herberts Park Road. There are playing fields on the east and west of the car park. On the west, the artificial surfaced area is also floodlit as are the hard play areas near the canal.

The car park extends along the rear of some of the houses in Herberts Park Road. This is a feature that has led to an objection (as set out in the section on Representations, below). The applicants have done a noise study of this aspect of the application and that has concluded there is no significant change in the noise environment for the houses.

The building design is simple, using shape and massing to define the purposes of the building components. There is a strong entrance feature included in the building design. Materials are a simple palette of brick and cladding. Pedestrians mostly approach the building from Herberts Park Road along a wide boulevard / plaza, adjoining the car park.

There will be security measures on entrances, and pupils are not allowed to leave the site during school hours.

The vehicular entrance and exit gates will be kept open for a period at the beginning and end of day to allow unhindered access/egress for car park users at peak times and thus minimise impact on Herberts Park Road. During the school day the entrance gates will feature a bollard style card or fob reader for staff and an intercom system to allow the barrier gates to be controlled via the main entrance reception. The applicants argue that this system is currently in place at the Academy and works effectively. Vehicles exiting the car park during the day will trigger a pressure sensor for automatic gate opening. All service vehicles entering the academy will be requested by signage to use the intercom to report their presence on the site and will be met at the entrance to the service yard by

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management staff. As a fall back a rise and fall barrier will be placed at the service yard and a second intercom system in place.

The submitted drawings demonstrate how movement into and out of the car park can be achieved fluidly. Parent drop-off areas have been positioned in two locations. This should make drop off safe & efficient, but also provides a pedestrian footpath running parallel with the pull in area and leads directly towards the plaza. This ensures that students do not have to enter the carriageway or car parking area.

The Academy head has agreed that half of the 18 accessible car parking bays could be managed as dedicated drop off and pick up bays if acceptable by Walsall Council. An earlier response from the Academy on the provision of so many accessible spaces at the front of the building was that they had only ever seen 4 used at any one time. This dual use approach could provide a minimum total of 15 bays, 9 of which are oversized with safe access routes around them and out of the way of general traffic flow.

The application seeks approval, to the issues in conditions, some of which were required to be resolved as part of the Reserved Matters submission as set out below:-

### **Conditions 1 and 2**

Time limits for submission, implementation and definition of the Reserved Matters.

#### *Submission*

Application made within defined time. Commencement will also meet timing. Reserved Matters submitted.

### **Condition 3**

Advance bat mitigation scheme in advance of commencement of new development.

#### *Submission*

Details submitted of mechanism to achieve objective of condition without complying with timetable, as the condition requires this work to have been done by 10/8/2010, which has not been achieved. Instead, a built solution (fencing) has been incorporated, to achieve the effects of the advance landscaping, while the planting matures. The mitigation strategy covers the provision of replacement roost features, the exclusion of bats and the control of demolition works. Also included are landscape proposals to enhance the site for bats and controlling of works during development to minimise disturbance to roosting bats.

### **Condition 4**

Bat mitigation scheme in the new development.

#### *Submission*

A range of details provided of new school and provisions for bats in design. [highlighted above and in the main report]

### **Condition 5**

Requires details of all levels to be submitted.

#### *Submission*

Details provided. Shows levels to be generally at or about existing. An area of mound just outside the boundary is to be shaped as part of the work to the park, unless that is delayed, in which case, gradients will be made gentle as part of the school work.

#### **Condition 6**

Details of Boundary Treatment (including replacement and painting of existing fencing).

##### *Submission*

Details submitted. It includes a 2.4 metre acoustic fence at the bottom of gardens in Herberts Park Road, where these are on the edge of the site and a 5 metre landscaped strip. A noise study has been submitted of the relationship between the parking and the houses. This shows minor increases in noise levels.

#### **Condition 7**

Pedestrian access to park. Requires this access to be open at all times the school is open.

##### *Submission*

Gate shown on scheme. The Submission specifies that the gate will be open only at start and end of the school day. At other times, it will be locked but with an intercom / remote operation system to reception. (Uncontrolled access at all times is seen as a security problem.)

#### **Condition 8**

Vehicle accesses, and barriers.

##### *Submission*

Defined within the scheme. Includes a security barrier at main vehicle entrance, and access restricted by card or code which is the same system currently in place at existing Academy. Applicants highlight that operation of proposed school will be comparable to existing system. Parents will be allowed access to the car park at pick up and drop off times.)

#### **Condition 9**

Noise conditions inside classrooms.

##### *Submission*

The scheme will meet standards in Building Regs for such rooms, which are recognised as appropriate.

#### **Condition 10**

Control of construction noise.

##### *Submission*

Details submitted in Construction Method Statement..

#### **Condition 11**

Tree information and protection.

##### *Submission*

A range of information has been submitted on how this will be achieved. Sports pitch edges are close to trees and some trees may have to be removed to create safe over-run areas.

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**Condition 12**

Building materials.

*Submission*

Details and drawings submitted.

**Condition 13**

Cycle sheds / cycle parking.

*Submission*

Details provided showing 165 parking spaces for bikes.

**Condition 14**

Travel Plan Framework.

*Submission*

A working draft has been submitted with a co-ordinator appointed. Document will continue to be developed by Academy. Further versions to be submitted as the Academy becomes operational and evolves.

**Condition 15**

Lighting. The lighting should be designed to minimise impact on neighbouring properties and reduce glare to the canal so that ecological disturbance does not occur.

*Submission*

Details provided, though set out that further submissions may follow when contractor appointed.

**Condition 16**

Details of synthetic pitch and any lighting.

*Submission*

Details provided of layout and construction have been provided. On lighting, the lights are to be off at the closure time for the school site in the outline permission (2200, except Sundays and Bank Holidays when it is 1700).

**Condition 17**

Secured by Design.

*Submission*

Details provided of actions on this issue.

**Condition 18**

Ground conditions.

*Submission*

Sets out work done on the issue and further work that is proposed to be done.

**Condition 20**

Improvements to surface water system.

*Submission*

Poor ground conditions make the site dependant on sewers. Will be done to STW adoption standards.

**Condition 21**

Landscaping.

*Submission*

A substantive amount of information on plans and supporting documentation has been provided.

**Condition 22**

Construction hours.

*Submission*

Details provided to demonstrate compliance.

**Condition 23**

Management of construction traffic to reduce impact on neighbouring residents. Outline transport assessment agreed scope.

*Submission*

Details provided to demonstrate compliance.

**Condition 24**

Emissions to air to be carried out in compliance within the scope of the outline air quality assessment.

*Submission*

Details provided to demonstrate compliance.

**Condition 27**

Foul drainage.

*Submission*

Existing sewers to be retained. New connections will be made.

**Condition 28**

Surface water details if proposed to run to the canal.

*Submission*

Existing sewers to be retained. Ground unsuitable for soakaways. Structures under car park and in drainage system will control run-off rates.

**Condition 29**

Grass pitches to Sport England standards.

*Submission*

Scheme submitted including letter from Sport England setting out their satisfaction with scheme.

**Condition 34**

Retention of concrete fence alongside No. 70 Herberts Park Road.

*Submission*

Scheme includes this feature.

**Condition 35**

In long term, no changes to ground level in area of park (protects future users from any ground conditions).

*Submission*

Noted.

**Condition 36**

No further lighting without approval of LPA.

*Submission*

Noted.

**Condition 37**

Controls noise levels from plant, machinery and equipment on site after construction.

*Submission*

Will be designed to meet these levels. More information on machinery to follow after decision.

**Condition 38**

No access to canal towpath.

*Submission*

None proposed.

**Condition 40**

No building or paving works within 8metres of the canal.

*Submission*

Scheme meets this restriction.

**Relevant Planning History**

There is nothing relevant in the earlier planning history of the park or the school.

Application 09/0961/FL was for the change of use of part of the park (the same area proposed in the current application) to allow its inclusion in the school area. Members resolved to refuse the application at your meeting of November 2009 because of the loss of needed facilities in this disadvantaged area and reducing the amount of open space in the area. Before a decision could be issued, the application was withdrawn.

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Subsequently, outline planning permission 09/1130/OL was approved for a new school, including land in the park, and this is the permission which this Reserved Matters submission relies on.

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

**Black Country Joint Core Strategy (JCS)**

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

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

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

The above are supported by the following policies:

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

CSP4 – develops the need for high quality place making and design

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

HOU5 – Education and healthcare – seeks well design facilities providing a range of community services and community use.

TRAN4 – creating coherent networks for cycling and walking – seeks to maximise the potential for this is new development. Cycle parking provision should be made.

ENV1 – Nature Conservation – seeks to promote and protect.

ENV3 – Design Quality – seeks to promote this aspect of developments

ENV4 – Canals – seeks to maximise opportunities. Recording the history of the system is also relevant.

ENV6 – Open Space, Sport and recreation – seeks to promote well being and protect facilities.

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ENV8 Air Quality – seeks to locate new facilities like schools in areas of acceptable air quality.

WM1 – Sustainable Waste and Resource Management and WM5 – Resource management and New Development – seek to reduce waste and promote recycling.

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

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.

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

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

ENV18 seeks to protect existing woodland, trees and hedgerows.

ENV23 on nature conservation and new development, and ENV24 on wildlife corridors address these important features of the environment.

George Rose Park is designated as urban open space in the adopted Walsall UDP. LC1: on Urban Open Spaces states that proposals for development which would result in a loss of, or otherwise adversely affect, urban open spaces will not be permitted unless it can be demonstrated that, in particular, none of the following functions would be prejudiced

- Redressing or avoiding deficiency
- Providing for sport and recreation, both formal and informal
- Providing for children's play
- Contributing to biodiversity

though it also provides for the consideration of appropriate compensatory provision

LC6 controls the loss of playing pitches, seeking either a demonstration that there is no need for the facility, or compensatory provision.

T7: All development should satisfy the car parking standards. 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 also sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated.

### **Green Space Strategy Audit & Assessment Report (2006)**

George Rose Park is assessed as High Value but Low Quality and therefore the Council has a commitment to raising the quality of the park where possible and protecting the site through the planning process.

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

#### **Designing Walsall SPD**

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

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

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

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DW5 Ease of movement- create places that are easily connected, safe to move through;  
DW6 – Legibility - new development should contribute to creating a place that has a clear identity;  
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

### **Natural Environment SPD**

Policies N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees. Protection is proposed for protected animals, plants etc.

### **Regional Spatial Strategy (RSS)**

On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010.

The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Bill and will take time) should be a material consideration in decisions. That position was itself subject to a legal challenge.

On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration.

**Officer's advice is that the RSS remains part of the statutory development plan for the Borough** (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise.

However, the Government's proposal to abolish the RSS at some point in the future can be a material consideration. The weight to be given to this is for the local planning authority to judge, based upon such things as, for example, the extent to which a planning decision rests on the RSS and whether the implications of the decision might be felt before the RSS might be abolished. Each case must be considered on its merits in this context and a clear and reasoned view achieved.

The Regional Spatial Strategy was revised and republished on 15<sup>th</sup> January 2008 to reflect the first Phase of Review. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. The next phases of review are underway.

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

Overall the strategy 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.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 seek to regenerate urban areas and in particular the major urban areas.

Policies QE1, QE2, QE3, QE4 and QE5 seeks to improve the quality of the environment whilst preserving quality. The policies also aim to enhance public spaces and urban green space.

There is no need for this application to be considered under the Conformity Protocol.

### **National Policy**

Planning Policy Statement (PPS) 1: indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design.

Planning Policy Guidance (PPG) 17: Planning for Open Space, Sport and Recreation is of particular relevance, concerning maintaining an adequate supply of open space and sport and recreational facilities.

PPG15 on the historic environment seeks to protect these features, but also feeds into PPG16 on archaeology. The industrial archaeology interest of the site is relevant.

PPG9 on Nature Conservation and Geodiversity, the Government Circular: Biodiversity and Geological Conservation on statutory obligations and their impact within the planning system and Circular 06/2005 set the scene on these issues.

PPG24 on noise identifies that the *" impact of noise can be a material consideration in the determination of planning applications. The planning system has the task of guiding development to the most appropriate locations. It will be hard to reconcile some land uses, such as housing, hospitals or schools, with other activities which generate high levels of noise, but the planning system should ensure that, wherever practicable, noise-sensitive developments are separated from major sources of noise (such as road, rail and air transport and certain types of industrial development). It is equally important that new development involving noisy activities should, if possible, be sited away from noise-sensitive land uses. Development plans provide the policy framework within which these issues can be weighed but careful assessment of all these factors will also be required when individual applications for development are considered. Where it is not possible to achieve such a separation of land uses, local planning authorities should consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions or planning obligations."*

PPS25 on flooding identifies that flood risk should be considered at all stages of the planning and development process in order to reduce future damage to property and loss of life. It sets out the importance the Government attaches to the management and reduction of flood risk in the land-use planning process, to acting on a precautionary basis and to taking account of climate change. It summarises the responsibilities of various parties in the development process. The planning system should ensure that new development is safe and not exposed unnecessarily to flooding by considering flood risk on a catchment-wide basis and, where necessary, across administrative boundaries. It should seek where possible to reduce and certainly not to increase flood risk. It should

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help ensure that flood plains are used for their natural purposes, continue to function effectively and are protected from inappropriate development. The guidance also outlines how flood risk issues should be addressed in regional planning guidance, development plans and in the consideration of planning applications.

Circular 1/2006 sets out the position on the use of Design and Access Statements.

The Wildlife and Countryside Act 1981, and related material, offers protection to a range of species. These are legally protected under both European and domestic legislation and they are, therefore, a material consideration when determining a planning application.

Environmental Impact Assessment Regulations are also relevant a consideration.

## **Consultation**

### **Transportation**

Condition 23 – construction traffic - not satisfied – more detail requested.

### **Pollution Control**

#### **Contaminated Land**

Further work is identified as being necessary in the submitted Geo Environmental report. Parts (ii) to (v) of condition 18 should remain undischarged, as should condition 19.

### **Scientific Team**

No objection, conditions on outline should continue to apply. Condition 9 on internal noise – submission satisfactory subject to implementation. Condition 10 on construction noise – ditto.

### **Coal Authority - no objection**

However, site investigation works failed to confirm the location and presence of one mine in the site. The applicant should ensure that appropriate procedures are in place should the mine entry or any other unrecorded historic coal mining hazard be encountered during construction. Recommend an Informative on the issue.

### **Greenspaces -**

No objection in principle.

- Only want 19 trees in the bat mitigation corridor (not the 33 proposed)
- Welcome the potential to create a landmark building overlooking the park and canal, whilst minimising the building's footprint on the open space
- Concerned about the potential loss of mature trees which provide character and wildlife value
- Support additional tree and shrub planting within the site
- Support enhancement of existing habitat zone in south west corner of site

In response to the bat study submissions, they advise:-

1. The proposed 10m wide planting belt running from east to west within the new fence line is similar (albeit less ornamental) to proposals for screen planting contained within the emerging Landscape Improvement Plan for the remainder of George Rose Park. Therefore, the idea of advance planting for bat mitigation inside the boundary of the retained park is acceptable in principle.

2. Additionally, the proposal to plant a buffer strip of vegetation along the boundary with the Walsall Canal ties in with plans to enhance this important wildlife corridor and is also acceptable.
3. However, the 10m wide bat commuting route needs to perform a wider function than just being bat friendly. It would be good to see a structured native woodland mix of tree and shrub species for human as well as fauna benefit.
4. In order to provide a winter visual screen between the Park and the Academy, the planting mix should include an evergreen element, e.g. holly. It could also include some stands of Pinus - as a setting for future adventure play.
5. A 10 metres wide planted belt sounds OK when fully grown, but it is going to take 5-10 years to get near to that stage. A linear mound about 3m high would give instant screening. It would be a bit tight south of MUGA/Skate area, so might have to be lower there - though not if a retaining structure is built on the Academy side.  
*The Council's Natural Environment officer expresses some concern about this concept because they could not be installed early in the process unless material is brought in, spread and shaped very quickly. The matter can be explored through the details to be agreed under the conditions.*
6. Presumably there will be a lot of excavated subsoil which could form mound core material, then cover this with topsoil or site manufactured soil to plant into.
7. The planting belt will need serious protection for at least 3 years - even security fencing on the park side to make it out of bounds until established - otherwise we can see the plants being mostly ripped out within a few weeks and motorbike ruts all over the area, plus the odd burnt out car crashed into Academy fence
8. Greenspaces would like the developer/contractor to be responsible for the post contract establishment period (minimum 3 years) as Anti-Social Behaviour issues within the Park are likely to make this a costly exercise.

In addition, Greenspaces, in relation to the change of use application, made comments relevant to the present application, as below:-

- George Rose Park is identified in the Council's Green Space Strategy (2006) as being of Neighbourhood Significance and considered to be Low Quality but High Value on the Quality/Value Matrix. The Green Space Strategy also recognises the considerable importance of George Rose Park to the local community for formal and informal recreation, including children's play.
- Greenspace Services strongly supports the proposed improvements to secondary education provision in Darlaston and acknowledges the potential contribution of the redevelopment of Darlaston Community College to the wider regeneration of the area. However, the proposed incorporation of playing fields previously part of George Rose Park into the Academy site represents a significant loss of Unrestricted Accessible Greenspace for the local community, in an area that is already deficient in accessible high quality green space, and this is regrettable.
- Notwithstanding the above it is understood that a capital fund of up to £300,000 has been earmarked by Walsall Council to invest in George Rose Park following the establishment and ongoing development of the Academy and this is acceptable as part of the compensatory provision.
- Additionally it is understood that the Grace Academy intends to make its outdoor sports pitch provision accessible to the local community under the management of the Academy and this provides considerable comfort.
- In accordance with the Green Space Strategy and Greenspaces Service Plan 2009/10 Greenspace Services Officers will continue to work closely with the

Friends Group to produce a 10 year Management and Maintenance Plan for George Rose Park, in order to guide the investment of the capital fund and other external funding, and provide a blueprint for further improvements to the Park.

### **Regeneration Officer (Trees): Natural Environment**

It has recently come to light that some of the protected trees on the George Rose Park section of the application have been felled. Initial investigations revealed that this was undertaken by the Council. The trees concerned are marked on the submitted plans for removal. If the development proceeds as currently designed. If the Committee is minded to approve the application, there is little point in pursuing this matter further.

### **General Comments**

1. The submitted plans show different layouts for hard and soft landscaping. This requires clarification.
2. TPO trees (T15, T16 and T17) are missing from the plans. They should be annotated, and shown to be retained as they do not constrain the development.
3. T52 Maple (T39 on the TPO) is shown for removal. This tree does not pose a constraint on the development and should be retained.
4. T17 Sycamore (T33 on the TPO) is shown for removal. This tree does not pose a constraint on the development and should be retained.

### **In Summary**

Generally issues over levels have been overcome, however the method statement requires amendment and clarification.

**Urban Design** – no objection.

**Natural England** - no comments.

From the information provided with this application, it does not appear to fall within the scope of the consultations that Natural England would routinely comment on. The lack of comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment; other bodies and individuals may wish to comment. In particular, we trust that the council's in-house ecologists and arboriculturalists will be well placed to advise you and we offer them our full support in doing so."

### **Natural Environment**

No objections subject to Planning Committee being made aware of the implications of the 'three tests' set out in the Habitats Regulation 2010.

**Environment Agency** – Unable to recommend discharge of Condition 20 –

The proposed a sustainable drainage system incorporating permeable paving and an underground tank to restrict flows to a maximum discharge rate of 55.5 l/s.

The surface water proposed to discharge to a Severn Trent Water PLC sewer. This system is represented in principle on the drawings 2032-D-4000 and 2032-D-4001

Severn Trent have accepted that discharge in principle, but in order to discharge planning condition 20 and a reserved matters has been submitted, we should have received detailed calculations and modelling in support of the discharge of condition to show there is no risk to the site from the proposed on-site sewers.

#### **Walsall Children's Services - Serco**

This development will significantly enhance the education and life chances for the young people of Darlaston. It will also be of significant benefit to all members of the community and will make a real contribution to the regeneration of Darlaston. We fully support this application.

**Severn Trent Water** –satisfactory.

#### **Centro**

Condition 13 – cycle facilities – satisfactory.

Condition 14 – travel plan – broadly satisfactory but more work needed on public transport actions.

**British Waterways** – no objections.

**Seven Trent** – No objection

#### **Wolverhampton City Council - Planning**

no objections.

#### **Sport England**

Have been in discussions with the applicants regarding the size and surface type of the synthetic turf pitch, in the context of the Academy envisaging that the predominant use will be for football. In terms of size, new guidance from the Football Association has confused the matter and although we would like to see the facility extended to meet these guidelines and increase its functionality and sustainability, such an increase in size would appear to have other significant impacts on the surrounding area of the site.

With regard to the surface type, the multi purpose surface proposed is sufficient for football training and limited competitive use but if football really is the primary sport, the longer 3G pile surface may be more appropriate.

Our concern is that as far as is now possible, the significant investment being made into this facility responds to the envisaged user groups and maximises the potential for this to become a valuable school and community resource. However, we do acknowledge the impact of extending the pitch and the actual requirements of the planning condition.

The applicants have considered this response but advise that re-orienting the pitch creates new problems as basically it does not fit. Sport England have responded to this saying they:-

“... have flagged up the implications of the proposed facility size and surface type to have stimulated sufficient awareness of the issues as we see it in our role as a consultee.

In terms of the size, we would wish for a revision but acknowledge that the Council must also consider the implications of an extension.



With regard to the surface type, we have directed the applicant to the relevant guidance in selecting the right surface and challenged them on this matter on more than one occasion. We cannot prescribe the surface type for every new facility as we do not have the understanding of the local need and trust that the applicant has gone through the relevant process to determine the preferred surface. “

**Fire Service** – no comments to make.

**Public rights of way** – object – may be unrecorded rights of way across the site which would require closure. Information has been requested on the issue.

### **Representations**

One letter of objection has been received, that:-

1) In the context of Circular 01/2006, the application can not be determined as a reserved matters application for the following reasons:

- The proposed school building is now longer/wider than the maximum dimensions approved in the outline application.
- The proposed floorspace in the school building is now greater than the maximum dimensions/floorspace approved in the outline application.

*[Note – this is not the case – the floorspace remains the same.]*

- The proposed parking area is now radically/significantly larger than the ‘car park and drop off zone’ approved in the outline application. The RM proposed parking area now would extend significantly to the rear of Herberts Park Road houses (nos. 65 – 70) not by one or two spaces, but by a massive 70+ spaces on an area around 1,500 sq.m that was previously shown as soft/hard play in the approved outline application.

As such none of the OPA supporting assessments can be relied upon, such as the noise assessment, as the RM is proposing a radically different scheme to that previously assessed.

- The proposed school building is now located beyond the area of ‘Building Zone’ approved in the outline application, and would be closer to Herberts Road houses than previously approved.
- The ‘Nature Conservation Area’ approved in the outline planning application (to the south west of the site) has now halved in size in the current RM application.

*[Note – plans have been amended in this respect]*

- The RM red line application site plan includes a greater site area than the outline application site plan – an extra area of land to the south west corner is included in the RM application i.e. the RM site plans taper to around a 60 degree angle corner to the south west, whilst the OPA plans show a 90 degree angle to the OPA site boundary.

*[Note – plans have been revised in this respect.]*

The RM application proposals clearly do not fit within the approved outline parameters and are so hugely and significantly different that the current scheme must be resubmitted as a full application.

Taking the significant differences individually and cumulatively, to determine the proposals as a RM application would appear to be inviting a legal/ombudsman challenge.

- 2) The application fails to assess the impacts of lighting (especially sports pitch flood lighting) on the amenities of local residents. It is impossible to tell from downloaded RM plans from WBC's website as to what lighting is proposed where.

*[Note – submitted plan is clear but has dense detail. Hard copy has been passed to the objector.]*

- 3) The application fails to assess the impacts of noise and pollution arising from the detailed proposed layout of the parking area and vehicle access point being in too close proximity to existing residents.

*[The applicants have submitted more material on this aspect. Any new comments will be reported to the Committee.]*

A noise impact assessment should be submitted with the application, in accordance with PPS 24.

- 4) The parking areas are far too close to existing residents as is the proposed vehicle access point and will cause noise nuisance to existing residents. The outline plans showed a vehicle access point much further to the east on Herberts Road than the RM application proposes.

It is objectionable that the proposed school vehicular access point has moved from its existing position to now over 100m westwards to be immediately closer to a greater number of Herberts Park Road houses than currently exists.

The location of the vehicle access point a matter of yards from no. 70 Herberts Park Road will only create noise and disturbance harm to the amenities of that occupier, especially as the car-park will be open daily for extended hours for the community as well as school use.

- 5) The over-elaborate one way internal traffic flows in the car park will clearly discourage its use by parents dropping children to the school – this will lead to on street congestion to the detriment of highway safety/free flow of traffic and adversely harm the amenities of local residents.

*[The plans show a simple loop road arrangement and the applicants advise that drop off facilities are included in the scheme. They argue that drop off issues will be comparable or better than as existing at this school.]*

- 6) It is assumed that the application has been EIA screened and that no ES is required for the proposals? EIA screening is necessary even for RM applications.

- 7) The application is very confusing by being combined with condition compliance proposals – how, for example, is outline condition 34 being complied with?

The Design and Access Statement (page 65) merely refers to a fencing plan – this is an insufficient submission to discharge this condition – a more detailed explanation is required.

*[The applicants have submitted more material on this aspect. Any new comments will be reported to the Committee.]*

Unfortunately it is impossible to tell from downloaded RM plans from WBC's website as to what is being proposed on this fencing plan in the context of condition 34.

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

### **Determining Issues**

- Is this a valid Reserved Matters application?
- Principle of development
- Advance landscaping condition
- Noise impact on residents
- Lighting
- Construction impact on residents
- Wildlife
- Trees on site
- Size of car park and promotion of alternative modes of transport
- Pedestrian access to school from park
- Public access to the park
- Servicing of new school
- Access for parents at drop off / pick up times
- Vehicle access location

### **Observations**

#### **Is this a valid Reserved Matters application?**

The objector has argued (see Representations section) that the differences between the outline application and the Reserved Matters submission are so great that this can not lawfully be a Reserved Matters application.

The issue is the degree of variation between the plan in the Design and Access statement supporting the outline application, and the current site layout. The changes are:-

- building projecting to the south out of the building zone shown on the earlier plan
- car park projecting south behind the houses

The objector refers to a drawing in the Design and Access Statement in the outline application which shows the arrangement of the site as the design was envisaged at that time. It shows a Building Zone, and it is true that the present building extends beyond that zone. The objector refers to Government policy on Design and Access Statements (Circular 1/2006) as defining the role of those Statements (as set out below - certain words and passages which are seen as important in judging this issue are in bold):-

53. Design and access statements play a particular role in linking **general** development principles to final detailed designs. A statement accompanying an outline application must explain how the applicant has considered the proposal, and understands what is appropriate and feasible for the site in its context. It should clearly explain and justify the design and access principles that will be used to develop future details of the scheme.

#### *The Status of a Design and Access Statement and its Role in Decision Making*

72. Statements will explain and justify proposals already set in the planning application, but they will also set out the principles and concepts that will be used when that proposal is developed in the future. In particular, for outline planning permission, applicants and local planning authorities should consider how they will ensure the **relevant** parts of the statement are adhered to for the drawing up and assessment of future details. This may be as part of the consideration of an application for approval of reserved matters or any other matter reserved by condition such as materials or landscaping details.

73. Fixing the principles contained within the statement to future decisions will be particularly relevant in the case of outline planning applications. Here, **the local planning authority should ensure that the development approved by an outline planning permission is constrained to the parameters described in the design and access statement submitted with the application and that any future decisions relating to that outline permission are consistent with the statement.**

74. In some cases information provided may need to be amended as designs are worked up, especially where they are not only setting out objectives for the building or space, but also a process to achieve these objectives. For example, information on inclusive access may increase with the scheme from initial concept right through to building regulation approval. **Local planning authorities may feel that additional information, building on the original statement, is required at the reserved matters stage. In such cases the local planning authority should consider setting out such a requirement through a condition on the outline planning application.**

83. Amount cannot be reserved within an outline application, although it is common to express a maximum amount of floorspace for each use in the planning application and for this to be made the subject of a planning condition. The design and access statement for both outline and detailed applications should explain and justify the amount of development proposed for each use, how this will be distributed across the site, how the proposal relates to the site's surroundings, and what consideration is being given to ensure that accessibility for users to and between parts of the development is maximised. Where the application specifies a range of floorspace for a particular use, the reasons for this should be explained clearly in the design and access statement

*(Note - The floorspace proposed has not changed since the outline application.)*

In this case, in the outline application, layout was reserved for future decision and there is a further relevant passage in the same Circular:-

85. If layout is reserved at the outline stage, the outline planning application should provide information on the **approximate** location of buildings, routes and open spaces proposed. The design and access statement accompanying an outline application should explain and justify the principles behind the choice of development zones and blocks or building plots proposed and explain how these principles, including the need for appropriate access will inform the detailed layout.

**The use of illustrative diagrams are encouraged to assist in explaining this.**

It is clear, from this material, that these Statements are meant to set out parameters, and that those should be definitive. However, there is clearly also scope for a degree of movement in those definitions (e.g. the use of “*approximate*”).

In this case, the Statement included a zoning plan. It showed a building zone, a car park zone, and playing field zones etc. The building now proposed is in part outside the building zone, as is the car park. However, officers consider the present submission is within the legitimate range envisaged for the function of an outline planning application and its Reserved Matters submissions. The objection on this basis is not seen as justified.

It is important to note that the objector has the opportunity to challenge this conclusion (and any decision that is made based on it) by way of Judicial Review. In making a decision on this application, it is important to judge the question, and also to reflect on the risk of such a Review.

On a related matter, this application is a Reserved Matters application complicated by the submission of further material to comply with a number of the conditions on the outline permission. (Specifically, a number of the conditions on the outline require the Reserved Matters submission to include further information on relevant issues, so it can be properly judged.) This is seen, by the objector, as an impediment to the comprehension of the application. While it is unfortunate that the public (in at least one instance) find this a complicated case, it is inevitable in the terms of the outline planning permission that this happens. It is necessary, in order to properly determine such issues as layout.

**Principle of development**

The Development Plan seeks to improve education facilities. It also seeks to improve parks and open spaces. Loss of land in the park, and the effects of the proposed school were considered in detail in reaching a decision on the outline planning application. It follows that the scheme is acceptable as long as the submission is consistent with the outline permission (an issue examined in the preceding passages). *[Conditions 1A, 2]*

**Advance landscaping condition**

Condition 3 requires bat mitigation measures to be implemented by last August. That did not happen. The intention was to plant a tree belt suitable for bats to forage, early enough to allow useful growth before the demolition and other works affecting the existing bat population and its habits.

It has, fortunately, been possible to design a substitute for advance planting, a combination fence and planting scheme (and define how to implement it). The fence is accepted by the bat experts as an adequate foraging route marker, until the planting grows. It will meet the objectives of the condition, because as a mostly built solution it can be implemented in time to function properly.

The submitted scheme is supported. *[Conditions 2, 3 and 4]*

### **Noise impact on residents**

Pollution Control regard this scheme as proposing satisfactory arrangements. Having determined that the proposals are within the scope of the outline planning permission, it is considered that the levels of noise and disturbance to neighbouring residents is not considered material to warrant refusal of the Reserved Matters submission and that the mitigation included in the submission would reduce the impact to the minimal possible and appropriate level.

The submitted scheme is supported. *[Conditions 2, 9, 10, 22, 34, 37, 39]*

### **Lighting**

Lighting is proposed in the application. Some is needed for the sports areas. Other lighting is needed for the safety and convenience of pedestrians. This will have some impact on residents, but also on wildlife.

Floodlit sports areas can impact on residents by the effect of the lights. However, modern technology enables floodlights to be aimed, and the light controlled to prevent overspill onto housing areas.

Floodlit areas are in well segregated locations away from residents. The most sensitive part of the scheme is the Herberts Park Road frontage, where the existing school is currently. This is the artificial pitch and is floodlit. There are houses on the other side of the road. However, the scheme is judged to be acceptable in its impacts on residents (on current information – further details are to follow). The lights are required to be off from 2200, overnight most days (1700 Sundays etc).

In addition, protected species, notably bats, can be affected by lighting, so the relevant mitigation measures called for in the outline permission are relevant, as well as the more conventional lighting design issues. *[Conditions 2, 3, 4, 15, 16, 17, 36 and 39]*

### **Construction impact on residents**

Demolition and construction can impact on residents from:-

- Dust
- Noise
- Lights
- Mud on road
- Deliveries
- Construction worker parking

Conditions are in the outline on all of these issues.

Vehicle access during construction is of concern to Transportation, who feel access from the north, through the park, would improve the situation for the residents of Herberts Park Road.

The applicants have declined to make this part of the scheme on the basis that an access would put a hole in the bat foraging route across the north side to the site, and because the park improvements have been planned to be carried out at the same time as the main building works for the Academy, including improving footpaths, fencing and hard play areas etc prior to following up with a proposed landscaping scheme. A scheme has been

agreed with the stakeholders including the Friends of the Park group, and the park representatives do not wish the remaining park to be further undermined in any way.

It is clear that access through the park will benefit the residents of the street, but clearly that will be at a cost to the park (and indeed to the developers). Overall, access through Herberts Park Road is seen as the appropriate arrangement. [Conditions 2, 9, 10, 22 and 23]

## Wildlife

In assessing an application where a European Protected Species is present the council as Local Planning Authority has to consider the 'three tests' set out by European legislation and enshrined into UK legislation by the Conservation of Habitats and Species Regulations 2010. Failure by the council to properly consider these tests in determining the application could render any permission granted invalid. This was done at outline stage, but it is appropriate to give further consideration in the context of this application.

On this site common pipistrelle (*Pipistrellus pipistrellus*) has been found roosting in the existing school which is proposed for demolition and therefore the 'three tests' will apply. The tests which all applications affecting a European Protected Species have to meet are as follows:

1. The development proposed must be for the purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'. (The Purpose Test).
2. There must be no satisfactory alternative to the proposed development. (The No Satisfactory Alternative Test).
3. The proposed development must not be 'detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'. (The Maintenance of Favourable Status Test).

The applicant has previously supplied information to demonstrate all three tests can be met. A summary of the case put forward by the applicant to meet each of the tests is set out below:

### The Purpose Test

- The new school will solve problems associated with the poor condition of the existing school and its outdated design for modern teaching methods. The existing school is reaching the end of its useful life and refurbishment is not practical. The design of the current buildings makes security and supervision difficult and vandalism and anti-social activity are problems.
- The local community will benefit from the provision of an improved modern facility for 1500 students which will also extend its facilities to the local community. Employment will be created during both construction and post-construction phases.
- The new school will reduce carbon emissions by 60% together with a 'very good' BREAM status.
- The proposed school will incorporate landscape treatments benefiting invertebrate species as well as tree and shrub planting creating greater connectivity between the site and the wider landscape. Bird nesting boxes and new compensatory bat roosts will also be incorporated.

### The No Satisfactory Alternative Test

- Refurbishment of the existing building was not feasible and, would anyway have caused disturbance to the bat roosts present.
- The new school has to be provided in the immediate neighbourhood within the school catchment area. The site had to be sufficiently large to accommodate the necessary buildings and playing fields. The site chosen also allows the handover to the new school to be achieved without the need for temporary accommodation.

### The Maintenance of Favourable Conservation Status Test.

- The favourable conservation status can be achieved through the implementation of the mitigation strategy submitted as part of the current planning application.
- The mitigation strategy covers the provision of replacement roost features, the exclusion of bats and the control of demolition works. Also included are landscape proposals to enhance the site for bats and controlling of works during development to minimise disturbance to roosting bats.

Overall, it continues to be the case that the proposal is appropriate and consistent with the species conservation issues. *[Conditions 2, 3, 4, 5, 6, 11, 16, 21, 29]*

### Trees on site

Many are proposed to be kept, but the comments of the relevant officer points to risks to trees proposed to be retained.

The recommendation is to resolve those concerns before a decision is made, e.g. by minor revisions to levels, and / routes of services etc. The precise comments of the tree officer are noted and discussions are ongoing. *[Conditions 2, 3, 4, 5, 6, 11, 16, 21, 29]*

### Size of car park and promotion of alternative modes of transport

The car park proposed is for 180 spaces.

The UDP calls for 2 car spaces per classroom. There are 84 classroom spaces, calling for 168 car spaces.

The proposals also include details of management of the car parking, provision of cycle stands, and also promotion of walking and drop off facilities, including the provision of a framework for the delivery of the school Travel Plan.

The overprovision of 12 spaces is not seen as an issue that would warrant refusal. As discussed above the position of the car parking is within the scope of the outline planning permission *[Conditions 2, 8, 13, and 14]*

### Pedestrian access to school from park

At outline application stage the applicants identified that a small minority of students enter the school from the park side, and for security reasons, the application specifically excluded pedestrian access to the school from the park. A condition was imposed, despite this, that there should be such an access, as a means of promoting pedestrian activity.

A gate It is included in the design, but in the present application, the applicants have made clear that pupils are not allowed to leave the site during school hours. The gate into the park is therefore proposed to be secured during school hours (though with intercom and



remote operation, should it be appropriate to allow someone to use the gate when it is secured). This is seen as a reasonable position and officers support this aspect of the proposal. [Conditions 2 and 7]

### **Public access to the park**

Residents allege there are rights of way through the park. This is an issue which has attained greater significance after other decisions elsewhere in the Borough.

It is clear there are no definitive footpaths in the park. However, the terms of the objection from the Public Rights of Way team (and indeed the residents comments at outline stage) offer a prospect that there could be prescriptive rights of way (these are not recorded on the definitive maps). If they do exist, then the applicant can not close them without due process.

It is not an issue that can be resolved by the planning process, other than to note that a planning approval offers the prospect of closure, in order to implement the permission. Approving the outline application (and this present submission) could pave the way for closure (if that is necessary).

The value of the routes through the park needs to be weighed against the gains to the community from the creation of an improved school. Overall, the application is supported. [Conditions 2, 7 and 25]

### **Servicing of new school**

The service access shares the car park entrance, but then enters a fenced service by a further gate. The access is simple into the controlled service yard at the end of the car park. Service vehicles are shown turning with the yard. Given the relatively low volume of servicing traffic to a school, this is a reasonable approach. [Conditions 2 and 8]

### **Access for parents at drop off / pick up times**

Members will be aware that this is often a feature of a school which adversely impacts on residents and passers-by. In this case, the proposal allows use of the car park for these activities. While this will mean parents competing with staff for parking spaces, the slightly oversized car park will aid this. Also, there is scope for parents to obstruct the lanes in the car park, by parking badly. However, this will only impact on the operation of the car park, not the highway.

There is the potential for parents to choose not to enter the car park, if they see such things as a constraint, but overall improvements could only be achieved by significant increases in the size of the car park and this is not seen as justified. As such the proposals are considered acceptable. [Conditions 2, 8 and 14]

### **Vehicle access location**

The illustrative scheme at outline stage, showed a preferred location. Some of the objections at that time argued it is in a dangerous spot, on a bend. Officers judged then that the location was appropriate (while it is on a bend, it is on the outside of the bend, well placed for good visibility of approaching traffic).

The Reserved Matters continues with that general arrangement.

However, the objector argues that the position of the access has moved significantly towards the objector's house.

The outline application has two plans, one showing the access at 3 metres from the objector's property and the other at 20 metres (the latter is in the Design and Access Statement and see the comments above on the level of definitive information in that context).

The Reserved Matters plan shows the access as being 7 metres from the objector's boundary (for inwards only use, the exit point is 32 metres away).

This is seen as being acceptable in itself but also acceptable within the terms of the outline planning permission. *[Conditions 2 and 8]*

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

### **Reasons for approval**

The Development Plan seeks to improve education facilities, parks and open spaces. The conclusion is reached that the terms of this decision achieve those objectives.

The issues about security, wildlife, fencing, and the protection of an adjoining dwelling raised at outline stage are addressed through conditions on then outline and the details approved in this application, including the retention of a length of concrete fence, for the benefit of residents. Landscaping is appropriate as proposed.

There are possibly rights of way through the park. There are no definitive footpaths in the park. There could be prescriptive rights of way, but this is not an issue that can be resolved by the planning process.

The value of the routes through the park from Herberts Park Road to Wolverhampton Street (whatever their legal status) needs to be weighed against the gains to the community from the creation of an improved school, but the conclusion is reached that the proposal is acceptable in these terms. A pedestrian access into the school, from the north, is required by a condition of the outline permission.

Revisions to the school's Travel Plan are proposed, and this is controlled through a condition to deliver the related benefits to the environment. The noise emissions, and emissions to air have been tested for their impacts on residents and the area, and judged to be acceptable.

Ground conditions are recognised to be sensitive. Conditions are imposed to control this, and ensure satisfactory actions.

The proposed development is considered to comply with the relevant policies of the development plan, in particular The Vision, Strategic Objectives, policies CSP1, CSP4, CSP5, HOU2, ENV1, ENV2 and ENV3 of the Black Country Joint Core Strategy, saved policies 2.2, GP2, GP4, 3.6, 3.7, 3.16, 3.17, ENV18, ENV23, ENV32, ENV33, LC1, LC6, T7, and T13 of Walsall Unitary Development Plan and the provisions of the Greenspace Strategy Audit and Assessment report (2006), the Designing Walsall SPD, the Natural

Environment SPD, PPS25, PPG9, PPG15, PPG17, and PPG24 and, on balance, having taken into account all material planning considerations, the proposal is acceptable

**Recommendation: Approve Reserved Matters with Conditions and Delegate to Head of Planning**

Approve submissions under conditions:

1A, 2(a), 2(b), 2(d), 2(e), 3, 4, 5, 6, 7, 8, 11, 13, 17, 20, 22, 23, 24, 27, 28, 29 and 34

Approve partially (as set out)

2(c) external appearance - elevations - all elevations are approved except those of the tanks and machinery in the service yard area which are yet to be submitted for approval

5 levels - details are approved except those relating to the area of the park adjacent to the school building.

Within 2 months of the commencement of work on the school buildings, or such other period as may be agreed by the LPA, full details of those areas shall be submitted for the written approval of the LPA. Those approved details will be implemented concurrently with the construction of the school and completed before the school is brought into use.

9 noise inside classrooms

details are approved, and compliance will be achieved by the implementation of the approved details

10 construction noise

details are approved, and compliance will be achieved by the implementation of the approved details

12 materials

material submitted is acceptable, but more details are stated as to be submitted

14(a) travel plan

material submitted is acceptable, but more details are stated as to be submitted

15 lighting

material submitted is acceptable, but more details are stated as to be submitted and that further submission should give more consideration to the arrangements along the canal edge of the site

16 pitch details

material submitted is acceptable, but more details are stated as to be submitted and that further submission should give more consideration to the arrangements along the canal edge of the site

18 ground conditions

details submitted are satisfactory under part (i) of the condition but further submissions are called for under the remainder of the condition

21 landscaping

material submitted is acceptable, but more details are stated as to be submitted

33 mine shafts

material submitted is acceptable, but more details are necessary on the implications for British Waterways extraction of water (see also condition 33).

37 noise from plant

material submitted is acceptable, but more details are stated as to be submitted

Submissions outstanding / conditions continuing to apply in perpetuity 19, 25, 26, 30, 31, 32, 33, 35, 36, 37, 38, 39

## NOTES FOR APPLICANT

### A) The Coal Authority advise

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

### B) Severn Trent Water advise

For the use or re-use of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to Severn Trent Water under Section 106 of the Water Industry Act 1991. They may obtain copies of current guidance notes and an application form from either the website [www.stwater.co.uk](http://www.stwater.co.uk) or by contact with New Connections Team (Tel: 0800 7076600).

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### Reason for bringing to committee: Contrary to Policy

**Application Number:** 11/0005/FL

**Application Type:** Full application

**Applicant:** Darlaston Builders Merchants

**Proposal:** Proposed builders merchants

**Ward:** Pleck

**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652492

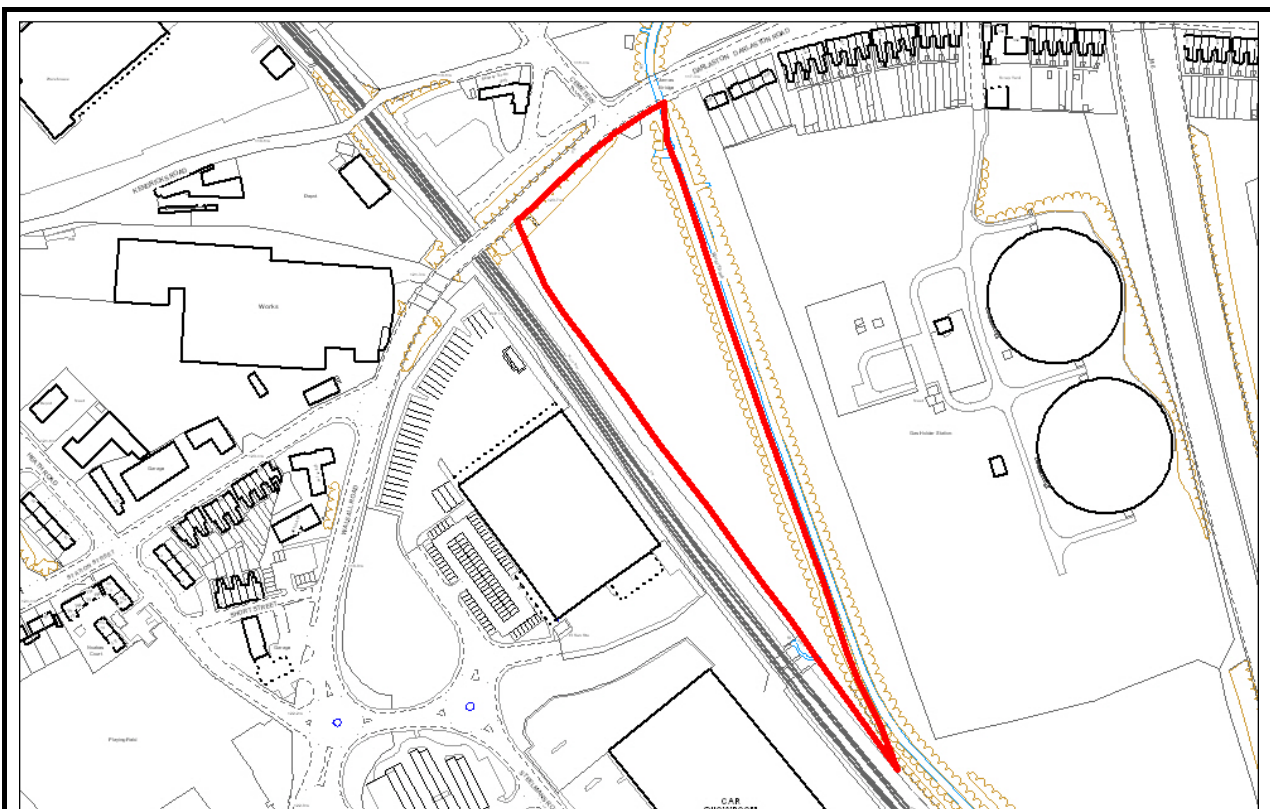
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Building Design Practice

**Location:** LAND BETWEEN RIVER TAME  
& RAILWAY, DARLASTON ROAD,  
WALSALL

**Expired Date:** 01/04/2011

### Recommendation Summary: Grant Permission Subject to Conditions



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## **Application and Site Details**

This application seeks consent to develop a vacant piece of land off Walsall Road, Darlaston for a new builders merchants.

The site would be accessed from off Darlaston Road improving the existing access into the site opposite the junction with Cemetery Road. The site has been worked recently by Severn Trent Water who installed associated equipment beneath the ground. The main Black Country Trunk sewer runs from west to east through this site following the bank of the river Tame which forms the other sites boundary, the main Wolverhampton Walsall Birmingham railway line runs along its southern boundary.

The proposed details include the construction of a new building (929 sqm.) within a 1.846 ha site to accommodate a sales area, trade counter and warehouse, external storage yard area to the rear, car parking to the front for 32 customer spaces and 7 van loading spaces and an external product display area.

The site is accessed from Darlaston Road opposite the junction with Cemetery Road.

The site is triangular in shape with its main frontage along Darlaston Road, it is an area of open land between the River Tame and the railway line off Darlaston Road, it is identified in the Unitary Development Plan as a best quality employment land. It is currently being used for horse grazing following the installation of Severn Trent Water equipment.

The site will employ 3 people working on the counter, a transport manager, 8 drivers who deliver materials to customers, 4 forklift drivers, 3 people within the yard area and a security guard, a total of 20 local people.

The following documents have been submitted with the planning application:

Design & Access Statement - explains how the site has been previously worked by Severn Trent Water which has restricted the amount of development on the site. The applicants proposals and in particular the position of the building, has been specifically designed so as to take into account the water companies installations. Landscaping, appearance and access principles are discussed.

Flood Risk Assessment – the conclusions drawn from the Flood Risk Assessment is that the site is located in flood risk zone 1 but surrounded by flood zone 2. the proposed building is to be constructed at least one metre above the 1 in 1000 year defended or undefended flood level with the area of the site within flood zone 2 remaining undeveloped.

Ground Investigations – the report makes recommendations for remedial measures. The site is a former landfill site but works have taken place on a number of occasions by Severn Trent Water to install sub surface storm water attenuation tanks. This is likely to have aided in the depletion of levels of ground gas on site and the current need now for only basic gas ingress protection measures to be installed in any proposed buildings.

Transport statement – the transport statement recommends that whilst in the interim period waiting for the council to carry out improvements to the exiting junction of Cemetery Road / Darlaston Road that the proposed access/egress arrangements to this site should be restricted, operating a left in/left out only basis. This would discourage crossing movements between the site and cemetery road opposite.

### **Relevant Planning History**

The site has been subject to works carried out by Severn Trent Water under permitted development rights.

### **Relevant Planning Policy Summary**

***(Note the full text version of the Joint Core Strategy and UDP are available from Planning Services Reception and on the Planning Services Website)***

#### **Black Country Core Strategy (JCS)**

The Joint Core Strategy was adopted by the Council on 3rd February 2011 and now forms part of the statutory development plan. It replaces certain “saved” policies in the UDP.

Vision: to include the creation of a network of sustainable communities’ right across the Black Country. This will be achieved, in part, by creating environments which offer opportunities for active lifestyles and healthy choices, including provision for outdoor recreation within the urban fabric of the Black Country.

CSP1 - sets out the targets for sustainable regeneration of the Black Country focusing on the town centres

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

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

This includes open space, areas of importance for biodiversity and areas and buildings of high design quality.

CSP4 - develops the need for high quality place making and design

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

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

EMP1 - seeks to provide for economic growth and to ensure a sufficient stock of employment land to meet demand and support the growth and diversification of the economy.

EMP2 - The Strategic High Quality Employment Areas will be characterised by excellent accessibility, high quality environment and clusters of high technology knowledge based sectors. The Black Country currently provides 526 ha of high quality land and we will safeguard them for manufacturing and logistics uses within Use Classes B1 (b) (c), B2 and B8.

Policy EMP3 seeks to provide for a portfolio of local quality employment land.

CEN1 and CEN2 highlights the importance of the Black Country Centres for the regeneration of the wider Black Country and the hierarchy of centres.

CEN3 sets out the need to ensure growth in the Strategic Centres (e.g. Walsall)

CEN6 - Local Shops and Services.

CEN7 - Controlling Out-of-Centre Development



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

TRAN2 requires development proposals to manage transport impacts of new development

TRAN4: Cycle parking facilities should be provided at all new developments and should be located in a convenient location with good natural surveillance

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

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

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

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

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.

ENV11: Applications involving external lighting will not be permitted unless they propose the minimum amount of lighting to achieve its purpose and minimise glare and light spillage. Consideration must be given to the effect of lighting on neighbouring land, premises, vehicle users, pedestrians and wildlife.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

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

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

ENV24: New development which would sever, or unacceptably harm the integrity of linear features such as rivers, streams, canals, field boundaries, tree belts, green lanes, road verges, lakes, reservoir, ponds and small woodlands will not be permitted.

3.113, 3.114, 3.115, H10 & ENV32: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

JP1: The Unitary Development Plan identifies the site as being a 'new employment site' as defined by policies JP5 and JP7: land allocated or safeguarded for industrial development, accessible by a choice of means of transport, good freight and local environment, a range of opportunities in terms of location, size and market sector.

JP6: Best quality sites to be safeguarded for core employment uses

JP7: Use of Land and Buildings in Other Employment Areas

(a) Uses that will normally be permitted in these areas include:-

I. Core Employment Uses.

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

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

## **Supplementary Planning Documents**

### **Designing Walsall SPD**

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

### **Natural Environment SPD**

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

Protection is proposed for protected animals, plants etc.

### **Regional Spatial Strategy (RSS)**

On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010. The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Bill and will take time) should be a material consideration in decisions. That position was itself subject to a legal challenge. On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration.

**Officer's advice is that the RSS remains part of the statutory development plan for the Borough** (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise. However, the Government's proposal to abolish the RSS at some point in the future can be a material consideration. The weight to be given to this is for the local planning authority to judge, based upon such things as, for example, the extent to which a planning decision rests on the RSS and whether the implications of the decision might be felt before the RSS might be abolished. Each case must be considered on its merits in this context and a clear and reasoned view achieved.

### **National Policy**

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

PPS4: Encourages sustainable economic growth and making the most efficient and effective use of land, prioritising previously developed land. It encourages location of developments which generate substantial transport movements in locations that are accessible.

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

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

PPS24: Seeks to minimise the adverse impact of noise.

National Policy Statements, which discuss significant infrastructure projects, are also a material consideration in the application process.

Circular 05/2005 (Planning Obligations) is of relevance with regard to the appropriate level of planning contributions that will be sought.

## **Consultations**

Transportation – no objections

Environment Agency – no objections

Natural England – no objections

Regeneration (landscape) – no objections

Regeneration (Natural environment) – no objections

Pollution Control (contaminated land/scientific team) - no objections

Fire Service - no objections

Network Rail - no objections

## **Public Participation Responses**

One letter of representation from occupier of Station Street, Darlaston regarding it being opposite a very busy junction on Walsall Road

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

## **Determining Issues**

- Principle of development
- Impact on Ecology, Landscaping and Drainage
- Access and Parking
- Impact on surrounding residential occupiers

## **Observations**

### **Principle of development**

The proposed site is allocated in the Unitary Development Plan, as a Best Quality Site (E16), and subject to saved policy JP6. This safeguards the site for core employment uses only, as defined in UDP paragraph 4.4, which include B1 (b&c), B2 and B8. The use is largely B8 wholesale distribution with a yard element which would be Sui Generis.

The proposed use is therefore not strictly in accordance with UDP Policy JP6.

It is in accordance with the Core Strategy policy, as the area in which it is situated is envisaged to form part of the local quality land supply, and Core Strategy policy EMP3 provides for this use in this area. However the Core Strategy is illustrative and diagrammatic only.

The Walsall Employment Land Review (ELR), published in November 2010, derives from the Core Strategy, and its purpose is to assess in a fine-grained and area/site-specific way how Walsall can manage its employment land supply to meet the requirements set out in

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Core Strategy EMP1 and a major consideration. In most cases it is in line with what is shown in the indicative corridor diagrams in Appendix 2 of the Core Strategy. In this particular case it advocates the retention of the site for potential high quality employment rather than local quality as in Core Strategy Appendix 2. The ELR considers that the site should be assessed against Core Strategy policy EMP2 – Actual and Potential High Quality Employment Areas. EMP2 safeguards the land for B1 (b) & (c), B2 and B8. Again, whilst the proposed use is B8, the Core Strategy does not consider builders merchants to be high quality development and provides for them in local quality areas only.

It is noted that the ELR considers the Borough has slightly more than enough potential high quality land to meet the Core Strategy requirement to 2026, by a margin of 36ha. The release of the site of 1.67ha to a local quality use would not adversely affect progress towards meeting the requirement, and would not dilute the overall pattern of the area envisaged in the ELR and the Core Strategy to be composed of a mix of local and high quality employment development. Another consideration is that the applicants need additional space to relocate and expand, and there are no alternative readily available vacant sites of the required size falling in the local quality (EMP3) or other employment land (JP7) categories in Darlaston. There is also the need to retain and promote employment in successful local companies. In this case the site will employ 3 people working on the counter, a transport manager, 8 drivers who deliver materials to customers, 4 forklift drivers, 3 people within the yard area and a security guard, a total of 20 local people. The proposal would bring a long-term vacant and rather unusually-shaped site into beneficial use and takes account of the Severn Trent installations on the site in its design.

### **Impact on Ecology, Landscaping and Drainage**

This site is part of a wildlife corridor following the River Tame. Whilst not being designated green belt it in effect provides a similar function and role by separating the built-up areas of Darlaston and Pleck. Development in landscape and ecological terms, should be considered to retain this function.

The site was extensively horse-grazed grassland and ecologically diverse. Extensive works by Severn Trent has removed much of the grassland and reinstated a much less diverse sward comprising mostly of earth which appears to be compacted and poorly draining. For most of the site the installation of Severn Trent Water equipment has blighted and restricted its development opportunities impacting on the layout of both built development and landscape treatment.

A landscape scheme has been submitted which proposes areas of ornamental gardenesque planting around the proposed car park area and along part of the Darlaston Road frontage. This should be reinforced by much stronger ecological dimension which retains and enhances the wildlife corridor visually as well as ecologically.

The planting along the embankment on the road frontage comprises native trees and shrubs this should also contain native species to this type of site.

The site is currently grazed by horses, in the event that this ceases parts of the site would become overgrown and the vegetation become very different as the short grassland is replaced with rank grassland, brambles and scrub. These areas would need to be managed. A management plan for the site should be required, that is based on a recent Phase 1 Habitat Survey.

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### **Access and Parking**

The proposal include improvements to the existing site access opposite Cemetery Road to include a left in / left out access / egress to the site only.

This is an interim measure whilst waiting for the Council to carry out improvements to the existing junction of Cemetery Road / Darlaston Road which it is proposed to be controlled by traffic lights.

The temporary arrangements would discourage crossing movements between the site and Cemetery Road opposite.

There are no objections subject to this arrangement being implemented and strictly adhered to in the interim period.

### **Impact on surrounding residential occupiers**

The nearest residential properties are side facing onto the site on the other side of the River Tame, the building would be approximately 90 metres away with the storage yard area some 110 metres away. It is considered that this distance/separation is adequate to protect the amenity of those residents.

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

The use of this currently vacant site for the proposed development would provide employment opportunities and economic activity in this area and would retain and promote the continued success of a local company. The applicants operations are considered to be predominantly B8 use with an element of Sui Generis and therefore in accordance with the Black Country Joint Core Strategy policy EMP3. The proposal would therefore bring a long-term vacant and rather unusually shaped site into beneficial use whilst taking into account the Severn Trent installations on the site in its design.

Furthermore, its redevelopment provides an opportunity to enhance the appearance of the site within the public realm namely from Darlaston Road with the buildings and site operations being specifically designed to fit the site and operations of the company. The temporary restricted access arrangements to control left in and left out vehicular movements will provide safe access in and out of the site thereby improving safe manoeuvring of both pedestrians and vehicles in, out and around the site.

As such the use of the site for employment is in accordance with policies CSP1, CSP2, CSP3, CSP4, CSP5, ENV 1, ENV 2, ENV 3, EMP1, EMP2, EMP3, CEN1, CEN2, CEN3, CEN6, CEN7, TRAN1, TRAN2, TRAN4, TRAN5, DEL2, ENV 1, ENV 2 and ENV3 of the Black Country Joint Core Strategy, saved policies 3.6, 3.7, GP2, ENV11, ENV10, ENV14, ENV23, ENV24, 3.113, 3.114, 3.115, ENV32, 3.117, ENV33, ENV40, JP1, JP6, T7 and T13 of the Unitary Development Plan, Designing Walsall Supplementary Planning Document and national planning policy documents PPS1, PPS4, PPS9, PPG13 and PPS24.

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

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

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

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

i) Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

ii) The remedial measures as set out in the “Remediation Statement” required by part i) of this condition shall be implemented in accordance with the agreed timetable.

iii) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part i) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

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

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

3. No development shall be carried out until details of proposed refuse and waste recycling facilities have been approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use, and shall be thereafter retained.

*Reason:* To ensure the visual amenity of the area.

4. 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 security of the development.

5. Notwithstanding the deposited landscaping scheme, no development shall be commenced until a management plan supported by a recent updated ecological survey is carried out, submitted to and approved in writing by the Local Planning Authority. The approved plan shall be implemented in accordance with any agreed details.

*Reason:* To ensure the satisfactory development of the site and protect

6. Prior to this development first being used, a scheme for lighting around the external areas of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the development being first used and retained in good working order.

*Reason:* To ensure the personal safety of its users is not compromised.

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 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. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the premises shall not be used for any purposes other than that which is the subject of this permission (builders merchant selling and /or hiring building materials and equipment to the building trade).

*Reason:* In order to comply with PPS4 policies EC17.3 and EC19.1, Core Strategy policy CEN7 and saved UDP policy JP7, to enable the Local Planning Authority to retain effective control over the site and to protect the amenities of the area and the site is not necessarily suitable for other uses.

NB. This permission allows for ancillary sales of DIY goods to the public.

9. The site shall return to a Core Employment use as defined in UDP paragraph 4.4 if and when the applicant / occupier vacates the site, unless otherwise agreed in writing by the Council.

*Reason:* In order to comply with saved UDP policy JP6 (b) in that this particular business is predominantly B8 use with an element of Sui Generis and as such its operations are in accordance with policy JP6 of the Unitary Development Plan and also the core strategy policy EMP3.

10. Operations including collections, deliveries and despatches to and from the development shall only take place between the hours: 07.00 to 21.00 weekdays; 08.00 to 18.00 Saturdays; and 10.00 to 17.00 on Sundays, Bank Holidays and Public Holidays unless otherwise permitted in writing by the Local Planning Authority.

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

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

11. There shall be no open storage other than in the rear storage yard area, product display area or unless otherwise approved in writing by the Local Planning Authority.

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

12. No industrial process shall take place in the open on any part of the site unless approved in writing by the Local Planning Authority.

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

13. All loading and unloading of goods shall take place within the curtilage of the site.

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

14. 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 approved access, without the prior submission and approval of a planning application.

*Reason:* In the interests of highway safety.

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

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

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

16. The materials used shall be those indicated on the approved plans.

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

17. For the duration of the reclamation of the site, and the construction period, the access to the site shall include wheel washing equipment in accordance with details previously agreed in writing by the Local Planning Authority.

*Reason:* To prevent mud being deposited on the public highway.

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Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452,  
Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234



## **Note For Applicant**

### **Contaminated Land**

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

CL3 - Validation reports will need to contain details of the "as installed" remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported "clean cover" materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports.

*This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.*

Network Rail have been consulted on this application and your attention is drawn to the following:

- no part of the proposal shall either encroach onto or over-sails the boundary with Network Rail. This includes any works during construction on site and after the completion of the proposal.
- No building or structure should be constructed less than 2m from the boundary with Network Rail
- The erection of any building on the site should be undertaken in such a way that any scaffolding which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. Cranes or jibbed machines used in connection with the works must be positioned such that the jib does not swing over Network Rail's property, and in the event of catastrophic failure does not fall within 3 metres of Network Rail's boundary.
- A drainage scheme has been submitted and although it appears not to affect Network Rail land may we remind the applicant that no water or effluent should be discharged from the site or operations on the site into the railway undertaker's culverts or drains, without Network Rail approval. Soakaways should not discharge towards and/or within 10m of railway infrastructure.

The management plan should be based on a recent Phase 1 Habitat Survey. Planting along the embankment on the road frontage comprises native trees and shrubs but not necessarily species native to this type of site. The privet and field maple would normally be rare in the Black Country if hadn't been so widely planted. This planting should incorporate a field layer. The planting of scattered birch and field maple along the river frontage would not provide a satisfactory screen to parked vehicles or the stored materials, a native hedge with scattered trees which continues along the extent of the river frontage would be preferable and a native hedge to the rear of the proposed storage yard would also be desirable.

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### Reason for bringing to committee: Major application

**Application Number:** 11/0172/TE  
**Application Type:** Extend Time Limit

**Applicant:** Upward Developments  
**Proposal:** Extend the implementation time limit of approved application for erection of 22 dwellings with associated car parking, landscaping and garages following demolition of existing buildings, for a period of two years to 2013

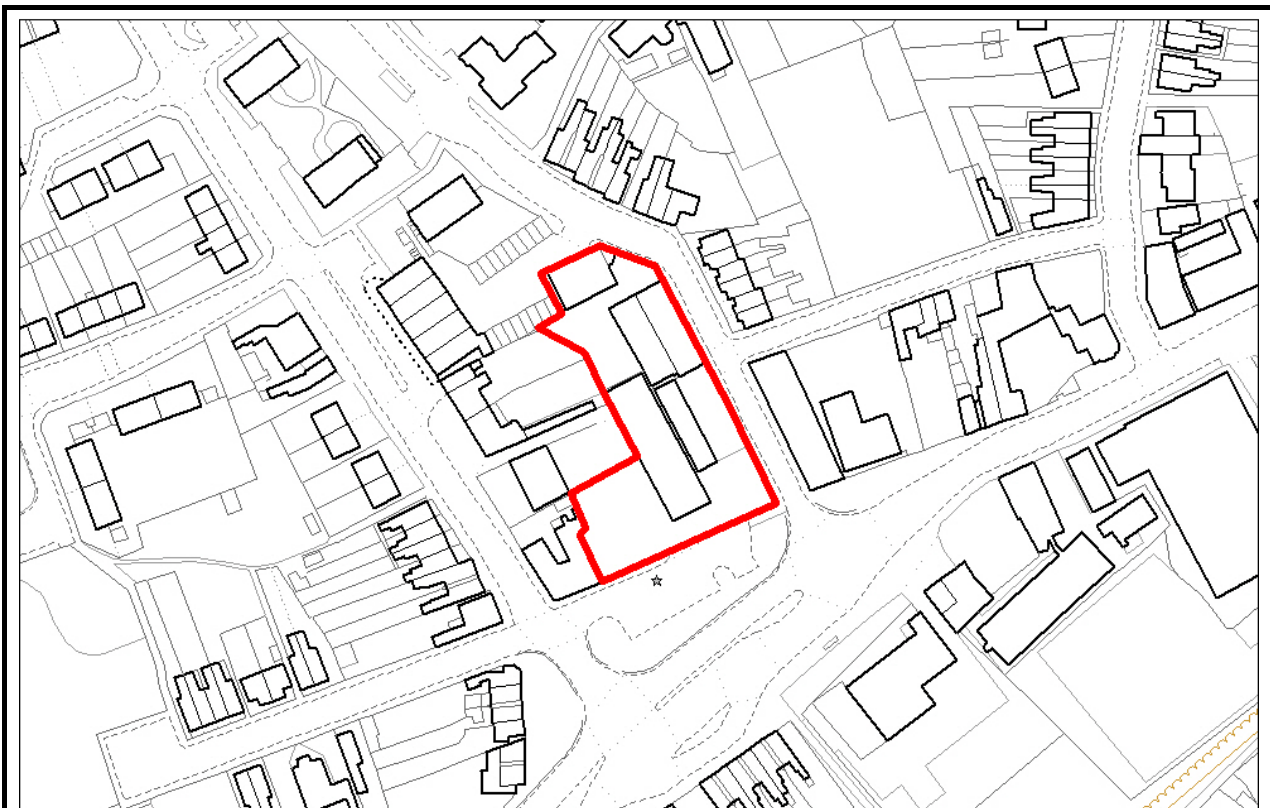
**Ward:** Darlaston South

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652403  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**

**Location:** LAND AT JUNCTION OF PINFOLD STREET AND MILL STREET, DARLASTON, WS10 8TH

**Expired Date:** 23/05/2011

### Recommendation Summary: Grant Permission Subject to Conditions



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## **Application and Site Details**

The application is for an extension of time to a previous planning permission under 08/0584/FL for an additional 2years.

The application site is located between of Mill Street and Wolverhampton Street, with the dead end of Pinfold Street between the application site and the main road which is at the point where Pinfold Street and Moxley Road meet. The site does not include the Staffordshire Knot public house which is on the corner of Wolverhampton Street and Pinfold Street.

The site currently comprises vacant industrial and commercial premises formally used for a railings and gates manufacturer and their show room. On the Mill Street frontage is a two storey brick built warehouse with other single storey modern industrial buildings also on the site.

The surrounding area is a mix of commercial and traditional employment premises mixed with residential properties of a variety of styles and ages. Opposite the site are traditional two-storey terraced dwellings which are of particular build a character to residential properties in the area. To the rear of the site is a 1970s, 3 storey building with its garage court being adjacent to the application site.

The proposals build around the perimeter of the site, with gardens facing into the centre of the site. A communal parking and garden area, accessed from Mill Street. Four properties (3 houses and the flat over garage) will obtain their access from the dead end element of Pinfold Street. The houses are a mix of 2 and 2.5 storeys in height whereas the apartments are 3 storeys in height.

The application comprises the following

- 1, 1 bed apartment (over the drive-thru into apartment courtyard,
- 2, 2 bedroom houses,
- 1, 2 bedroom Flat Over Garage,
- 9, 2 bedroom apartments,
- 6, 3 bedroom houses, and
- 3, 4 bedroom houses.

The application comprises 34 car parking spaces (154%). This is allocated with each apartment being allocated one space and one additional visitor space within a private courtyard; the flat over garage having 2 spaces; houses on plots 15 and 16 benefiting from 1 space each and a shared visitor space; and the remaining houses each having two spaces each. The bin store for the apartments would be located next to the drive-thru to the private courtyard.

The site area is 0.272ha which equates to a density of 80.9dph.

The size of gardens for the houses range from approximately 33sqm (Plot 1) to approximately 127sqm (Plot 22). The apartments have a communal garden area of approximately 80sqm (serving 10 dwellings). The 1 bedroom apartment, the FOG and one of the first floor apartments will benefit from recessed balconies with the remainder of the apartments having Juliet balconies.

## **Relevant Planning History**

08/0584/FL - Erection of 22 dwellings with associated car parking, landscaping and garages following demolition of existing buildings – Granted August 2008.

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

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

Adopted by Cabinet on 3<sup>rd</sup> February 2011. This forms the principle strategic policy document for the Borough. Site specific and other policies of the Unitary Development Plan are relevant.

CSP1 – sets out the targets for sustainable regeneration of the Black Country focusing on the town centres.

CSP4 – develops the need for high quality place making and design

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

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

EMP1 seeks to provide for economic growth

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

CEN1 and CEN2 highlights the importance of the Black Country Centres for the regeneration of the wider Black Country and the hierarchy of centres

CEN3 sets out the need to ensure growth in the Strategic Centres (e.g. Walsall)

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

TRAN2 requires development proposals to manage transport impacts of new development

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

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

### *Unitary Development Plan (UDP)*

The relevant planning policies include the General Principles for Development (Chapter 2 of the UDP) which encourage sustainable regeneration and seek to maximise the development of previously developed land in sustainable locations and promote high quality development. High quality design is at the core of the Principles for Development. The application site has no specific designation within the UDP therefore policy JP7 applies (seeks to protect employment land unless it would be more appropriate to consider alternative uses).

H3: Encourages provision of additional housing on previously-developed land, subject to (among other things) satisfactory residential environment, and no unacceptable constraint on the development of any adjacent site for its allocated or identified use. Policy H4 seeks to provide a level of affordable housing at 25% of the total dwellings proposed on the application sites. Policy H9 and H10 seek to encourage appropriate densities on developments with the proposed layout, design and mix.

Policy Env14 specifically encourages the development of previously developed land. Policy Env32 sets out design criteria and Policy Env33 seeks good landscape design.

Chapter 7 of the UDP (Transportation) seeks to encourage alternative modes of transport to the public car. Policies T7 and T13 seek a well designed scheme in relation to car parking provision and policies T8 and T9 seek to promote walking and cycling respectively. Accessibility for all members of the community is reflected in policy T10.

Policy LC1 of the UDP is an important consideration in the provision of open space within the development.

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

### **Designing Walsall SPD**

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

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

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

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

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

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

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

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

The Council's Supplementary Planning Documents (SPD) also include the Affordable Housing SPD (2008), Urban Open Space SPD (2006), Education SPD (February 2007), Conserving Walsall's Natural Environment SPD (2008) and Designing Walsall SPD (2008) are all relevant.

## **Regional Strategy for the West Midlands (RSS 11)**

### **Regional Spatial Strategy (RSS)**

The revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court.

The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation and will take time) should be a material consideration in decisions

There has been a legal challenge to that position

The Government has responded and now advises that in relation to the challenge:-

“ .... The Secretary of State is defending the challenge and believes and is advised that it is ill founded. Nevertheless, pending determination of the challenge, decision makers in local planning authorities and at the Planning Inspectorate will in their determination of planning applications and appeals need to consider whether the existence of the challenge and the basis of it, affects the significance and weight which they judge may be given to the Secretary of State's statements and to the letter of the Chief Planner.”

Officer's advice is that the RSS is again part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP and the adopted Joint Core Strategy, and decisions should be made in accordance with it unless material considerations indicate otherwise.

Clearly, the situation is in flux and whilst reliance can be placed on the RSS now, the position may change in future. Each case must be considered on its merits in this context and a clear and reasoned view achieved.

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

Policies QE1 and QE3 which seeks to improve the quality of the environment. The policies also aim to enhance public spaces and urban green space. Policy CC1, EN1, EN2 seeks to conserve energy and address climate change.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

### National policy guidance

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

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

Planning Policy Guidance Note (PPG) 13, promotes development accessible transport locations, reducing the need to travel by car and promoting walking, cycling and public transport. This is supported by Manual for Streets (published May 2007) which promotes a flexible approach to design and materials that build a high quality environment

PPS23 (Planning and Pollution Control) and PPS 24 (Planning and Noise) also apply seeking to appreciate and conserve the historic environment and deliver development which does not raise issues in terms of polluted environments.



## **Consultations**

**Transportation** – No objection

### **Pollution Control**

**Contaminated Land Team** – No objection subject to works being implemented to carry out additional investigation and to remediate any localised ground contamination and ground gas issues associated with garages and works. Conditions to address these concerns have been provided.

**Scientific Team** – No objection subject to conditions relating to noise attenuation.

**Centro** – No objection

**Housing Strategy** – No objection – the previous scheme was shown as not being cap

**Walsall Children Services - Serco** – A contribution of £42,968.13 is sought in line with the Adopted Education Space SPD.

**Built Environment Team** – No objection

**WM Police** – No objection

**Fire Service** – No objection

## **Representations**

None

## **Determining Issues**

Whether there has been any material change in circumstances since the original grant of permission. In particular in terms of:

- Principle of the proposed use
- Design and layout of the proposals
- Relationship to neighbouring residential properties and impact on the area
- Affordable Housing, Education, Open Space and Public Art contributions

## **Observations**

### **Principle of the proposed use**

The site has been in employment use and is currently vacant, but the site is not in a Core Employment Area. Consequently, policy JP7 applies. This generally safeguards employment land, but in part (d) recognises that there may be circumstances in which it will be more appropriate to consider other uses, such as housing.

With housing now surrounding the site the historic use of the site would now be considered to be poorly related to the surrounding residential properties and therefore the loss of employment land was not resisted in granting permission in 2008.

National policy remains unchanged in that applications for residential development on employment land could be given favourable consideration, even on sites allocated for employment uses where circumstances allow the release of land for housing. In the context of the adopted planning policy there is no overriding need for this site to be retained for employment use.

### **Design and layout of the proposals**

The overall layout of development proposed for this site offers a sense of legibility and security, wrapping around the perimeters of the site and enclosing the space.

The proposal contains two Flats over Garages (FoGs) in this instance, present acceptable frontages to the scene and include private amenity space in the form of first floor recessed balconies, as well as a well designed the private courtyard so that large blank walls do not dominate this area or the communal amenity space.

Designing Walsall requires that all residential units have attached private amenity space. The proposals have addressed this objective and satisfactory amenity levels will be achieved. The overall the design and layout is acceptable.

### **Relationship to neighbouring residential properties and impact on the area**

The proposals relate in a conventional manner of a street to properties opposite on Mill Street with the proposed apartment buildings forming a feature on the corner of the street. The proposed apartments include an entrance from the street generating activity to the street scene.

Plots 21 and 22 will also address the frontage to the garage court of the 1970s apartment block, improving surveillance and activity in this area and therefore reducing the opportunity for hiding places.

Therefore the relationship to neighbouring residential properties and the street scene remains acceptable and offers an improvement to the local environment.

### **Affordable Housing, Education, Open Space and Public Art contributions**

The applicant submitted a viability assessment with the original application which was evaluated by the District Valuers Officers.

As a result of investigation work and construction costs the applicant is proposing that no contributions will be offered as a result of the development.

The District Valuers Service (DVS), the considered that the scheme in the current market conditions, offered no scope to offer contributions. The overall development costs in the Developer's Appraisal were reasonable and it was difficult to see where savings could be made on this aspect of the appraisal.

Based on the continued position of the housing market, it is considered that there the original DVS assessment remains sound as a basis for recommendation of the viability of the scheme and contributions should not be sought in this case.

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

The proposals have been considered with the aims and objectives of the Development Plan (as set out by Section 38(6) of the Planning and Compulsory Purchase Act (2004). These are Regional Spatial Strategy for the West Midlands (RSS11) and the Unitary Development Plan (March 2005).

The Local Planning Authority having taken into account the original submission of design, the impact on the character of the area, the noise and disturbance to neighbouring and nearby residents, the highway impact, the impact on the amenities of nearby residents and continued operation of nearby businesses. The proposals would not have a detrimental impact due to the design applied and continues to be supported.

As such, the proposed development, having considered all relevant public participation responses and consultation comments is considered to comply with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. In particular the the relevant policies of the development plan, in particular policies CSP1, CSP2, CSP3, ENV3, DEL2 and HOU2 of the Black Country Joint Core Strategy, saved policies GP2, GP3, T7, T12 T13, ENV29, ENV32, ENV33, and JP7 of the Adopted Walsall Unitary Development Plan (March 2005) and Policies QE3, QE4 and QE5 of the Regional Spatial Strategy for the West Midlands (RSS11), and adopted Supplementary Planning Documents on balance, having taken into account all material planning considerations, the proposal is acceptable.

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

1. This development must be begun not later than 2 years after the date of this decision.

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

2 a) Following the demolition of existing buildings and prior to built development commencing additional site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken. A copy of the findings of the additional site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

b) Prior to built development commencing details of remedial measures to deal with any identified and potential hazards of any land contamination and/or ground gas present on the site (identified as a result of Condition 2a) and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

c) Agreed remedial measures (Agreed under Condition 2a and 2b) shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

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

3. This development shall not be carried out until samples of the facing materials to be used have been approved in writing by the Local Planning Authority.

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

4. The landscaping scheme shown on the approved plans shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

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

5. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be hardsurfaced in materials 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, the satisfactory appearance of the development and the satisfactory functioning of the development.

6. 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 approved scheme shall be implemented before the development is brought into use and shall be thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

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

7. No development shall take place until suitable noise mitigation measures as recommended in report reference NTAX0225/PM/Ver1 in respect of this site from Bureau Veritas to protect internal areas have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully completed.

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

8. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 07.30 to 18.30 weekdays and 08.00 to 13.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* In the interests of the amenity of adjacent occupiers.

#### NOTES FOR APPLICANT:

A) Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites –

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Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings(Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

B) When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

C) Party wall and floor structures should have reasonable resistance to airborne and impact sound in accordance with Approved Document E of the Building Regulations 2000, (As Amended).

D) As your application includes demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the Building Act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Helpline number 01922 652408.

E) Bank and Public holidays for the purpose of condition 8 shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).

F) With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

a) internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(8 hours), of 35 dB together with a maximum instantaneous level of 45 dB LAFmax, between the hours 23.00 to 07.00;

b) internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(16 hour), of 45 dB between the hours 07.00 to 23.00.

Sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards as applicable) which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.

G) Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in: Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994; Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005 British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise". British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures; British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits. British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas Calculation of Road Traffic Noise, 1988 Calculation of Railway Noise, 1995. This is not an exhaustive list.

H) Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

I) Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The Verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

J) Please also be advised that due to the presence of commercial premises such as the Staffordshire Knot public house adjoining the site on Pinfold Street and the garage premises at the rear of the site on Wolverhampton Street, the views of Environmental Health must be canvassed in respect of this proposal.

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### Reason for bringing to committee: Disposal of Council Land

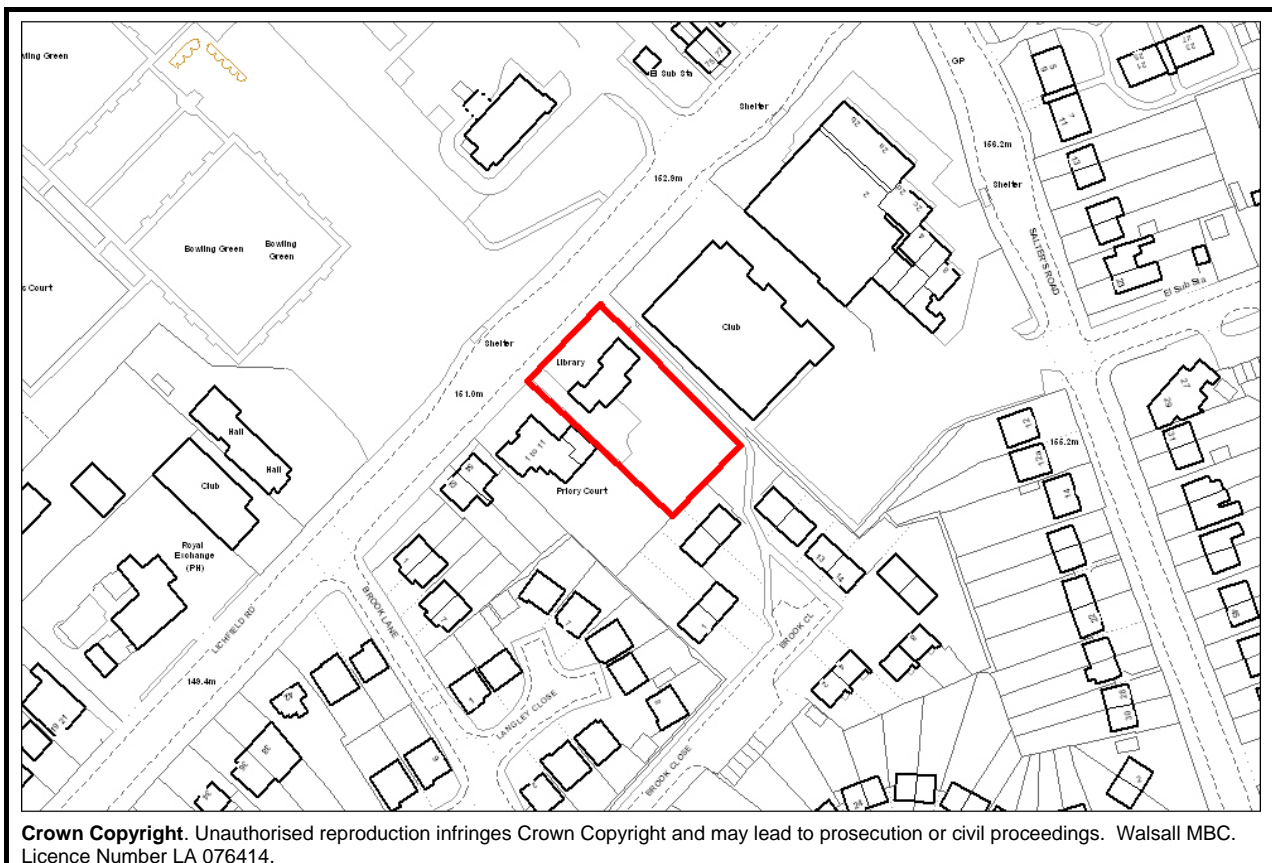
**Application Number:** 10/1173/FL  
**Application Type:** Full application

**Applicant:** Mr Parmjit Dhillon  
**Proposal:** Demolition of library and erection of convenience store with 7 flats above.

**Ward:** Aldridge North and Walsall Wood

**Case Officer:** Alison Deakin  
**Telephone Number:** 01922 652487  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr Maurice Cotton  
**Location:** FORMER WALSALL WOOD LIBRARY, LICHFIELD ROAD, WALSALL WOOD, WS9 9NT  
**Expired Date:** 25/11/2010

### Recommendation Summary: Grant Permission Subject to Conditions





## **Application and Site Details**

The proposal is to demolish the single storey former library building and erect a three storey building with Class A1 retail convenience store on the ground floor and 7 apartments (4 x 1 bed and 3 x 2 bed) at first and second floors above the shop. The proposed ground floor is 20m wide and 18.7m deep and includes shop area, internal trolley storage, secure store and storage/delivery area, staff room, toilet, cycle store and refuse store plus the entrance lobby for the apartments. The first and second floors are reduced to 13.3m deep and 8.1m deep respectively with roof terraces at the rear above the lower floors with parapet walls around the edges. There are individual roof terraces for the rear facing apartments 1, 3, 4 and 7 and a shared roof terrace for the remainder.

The layout utilises the existing vehicle access to the west of the building which leads to the parking area for the apartments and shop servicing area at the rear. The car park accommodates 12 vehicles including 2 disabled spaces and there is a 6m deep landscaped amenity area beyond this at the boundary with the public footpath and 7 Brook Close. There are 2m high gates along the access to restrict access for residents and deliveries only. The current proposals show two disabled parking spaces at the front of the shop plus a taxi drop off point.

The proposals includes provision of 1.8m high hoop iron railings along the boundary with the public footpath and 1.8m high close boarded fencing along the rear boundary.

The site is within Streets Corner Local Centre. It lies between Fitness First gym and Priory Court flats on Lichfield Road. There is a public footpath along the north-eastern boundary between the site and the gym (that leads to bungalows at the rear of the site in Brook Close).

The proposed shop opening hours are 07.30 – 18.30 hours Monday to Friday, 07.30 – 18.00 hours on Saturdays and 08.00 – 12.00 hours on Sundays. It is anticipated that there will be 4 full time and 1 part time employees.

The Design & Access Statement explains how the layout of the site, scale and appearance of the proposed building respects the surrounding context. It also discusses insulation and heating to reduce energy consumption, the sustainable location of the site within the local centre with good public transport links and availability of parking, access and landscaping.

The Transport Statement explains how trip generation will not adversely affect highway safety as there is adequate parking for the flats, servicing arrangements at the rear and the proposed store is to serve the immediate catchment area which is accessible on foot or cycle or from adjacent bus stops. It also highlights car parks within the local centre within walking distance and discusses safety and access issues.

## **Relevant Planning History**

08/0589/FL – Demolition of existing building and erection of three storey block of eleven 2 bed flats and parking and crossover – Refused August 2008. There were 6 reasons for refusal broadly relating to (1) inconsistent drawings (2) close proximity of the building to habitable room windows of Priory Court giving a poor outlook (3) remote private amenity space likely to discourage use and lead to reduced maintenance (4) design and layout detrimental to highway safety (5) failure to maximise environmental sustainability by

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incorporating sustainable measures (6) unacceptable demand on education and public open space provision in the locality in the absence of financial contributions or other measures.

### **Relevant Planning Policy Summary**

***(Note the full text version of the Joint Core Strategy and UDP are available from Planning Services Reception and on the Planning Services Website)***

#### **Core Strategy Policies – Joint Core Strategy**

The Joint Core Strategy was adopted by the Council on 3<sup>rd</sup> February 2011 and now forms part of the statutory development plan. It replaces certain “saved” policies in the UDP.

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

2b: Encourages sustainable management of material resources through minimising waste.

CEN5: Supports a network of vibrant District and Local Centres for day to day convenience shopping and local service needs. Within District and Local Centres, individual convenience retail developments of up to 500 square metres net will be permitted where they satisfy local requirements and are appropriate to the scale and function of that particular centre.

CSP3: The areas outside the Strategic Centres and Regeneration Corridors will provide a variety of opportunities including a mix of good quality residential areas where people choose to live, a strong network of centres and community facilities and a constant supply of small-scale development opportunities.

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

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

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

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

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

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

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

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.

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

GP5: Ensure the needs of all sections of community are properly taken into account.

GP6: Developments to which the public will have access will only be permitted if designed to provide good access for disabled people.

3.116 & ENV32: Seeks well designed development that takes into account the context of surroundings and respects the local character of the area.

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

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

S1: Retailing including convenience stores is defined as a town centre use.

S3: Seeks to ensure the development is of a scale and nature appropriate to the size and function of the centre and sensitively integrated in functional and visual terms.

S5: Encourages retention, enhancement and further development of shops, services and other town centre uses in local centres.

S8: Investment in housing in local centres will be encouraged provided a satisfactory residential environment can be achieved and it will support the centre's retail, commercial and leisure functions, including growth of the evening economy.

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

T4 (a): Gives high priority to improvements and traffic management measures to assist traffic flows on the Strategic 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

Food & Convenience Goods Shops – 1 car park space per 14m<sup>2</sup> of gross floorspace, 1 bike stand for every 20 spaces (2 bike stands minimum) and taxi facilities.

Flats with communal parking - 1.5 spaces per unit.

LC8: Proposals involving loss of community facilities will only be permitted if it can be demonstrated that there are existing facilities in an equally or more convenient location, a replacement facility could be provided, there is no longer a need for the facility or it would not be possible to retain the facility because it is not financially viable.

**Supplementary Planning Document: Designing Walsall** (February 2008) Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process. It identifies key urban design principles for consideration, Local Character Guidance, Public Art Guidelines and Numerical Guidelines for Residential Development. The latter identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **Regional Spatial Strategy (RSS)**

On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010.

The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Bill and will take time) should be a material consideration in decisions. That position was itself subject to a legal challenge.

On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration.

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**Officer's advice is that the RSS remains part of the statutory development plan for the Borough** (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise.

However, the Government's proposal to abolish the RSS at some point in the future can be a material consideration. The weight to be given to this is for the local planning authority to judge, based upon such things as, for example, the extent to which a planning decision rests on the RSS and whether the implications of the decision might be felt before the RSS might be abolished. Each case must be considered on its merits in this context and a clear and reasoned view achieved.

### **National Policy**

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

PPS3: Promotes sustainable development and the efficient use of previously developed land. It promotes the need for well designed new housing developments. Consideration of design and layout must be formed by the wider context.

PPS4: Encourages sustainable economic growth and making the most efficient and effective use of land, prioritising previously developed land. It encourages location of developments which generate substantial transport movements in locations that are accessible.

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

### **Consultations**

**Transportation** – Concerns about the level of parking proposed for the convenience store but no objections in principle to the residential element.

The 12 secure parking spaces at the rear are adequate to serve the residential element of the development. Policy T13 requires a Class A1 food store of 360sqm gross floor area to provide a maximum of 26 parking spaces (1 space per 14 sqm gross floor area). The applicant currently proposes only 2 disabled spaces and taxi drop-off at the front of the shop which would encourage on-street or footway parking and is unacceptable. However, this could be partly addressed by making better use of the space available in front of the building where up to 4 customer parking spaces could be provided. A revised plan is recommended to accommodate this.

Convenience stores attract more frequent, shorter trips at a higher turnover than other Class A1 shops. If 4 additional parking spaces were provided as recommended this could be considered adequate taking into account the site is located within a local centre where there are public car parking areas with close proximity that could be utilised by customers. There are also good pedestrian and public transport links.

**Pollution Control (Scientific Team)** – No objections in principle subject to measures being put in place to address potential or actual noise and dust issues arising. Conditions are recommended to address these matters.

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

**Environmental Health** – No objections in principle. Appropriate noise insulation works may be necessary to control the transmission of noise between the proposed commercial premises and the flats above. In addition to the noise from plant and equipment within the proposed business, consideration needs to be given to potential noise disturbance from delivery vehicles and personnel, and customers and their vehicles for example. Restriction of opening hours may not minimise noise and disturbance to an acceptable level for nearby residents. Any floodlight system has the potential to cause light nuisance to local residents and therefore it is recommended that prior written approval of the Local Planning Authority is sought beforehand.

**Housing Services** – The Housing Needs and Demand Study suggests there is no additional need for 1 bedroom flats and that 2 bedroom flats should be sought as they are more sustainable and meet need.

**Public Rights of Way** – No objections.

**Urban Design** – No objections in principle. Although the design of the building is not innovative or distinctive it does fit within the character and appearance of the street scene. The position of the building reflects the surrounding context.

**Local Access Forum** – Objects. The building is overbearing on the adjacent footpath leading to Brook Close due to its height and would overshadow it. The convenience store is likely to be open later in the evenings and would attract youths to loiter on the footpath. No additional lamp posts are shown which is likely to encourage anti-social behaviour. The 1.2m high chain link fence is not secure. Stronger perimeter security is required and better lighting. The proposals are over-development of the site with too many small flats and inadequate facilities for refuse, drying washing and external amenity space. Parking used by shoppers would cause problems for future residents.

**Police Architectural Liaison Officer** – No objections but recommend replacement of the chain link fencing at the rear of the site with railings to improve security. There should be access control to prevent shop customers using residential parking spaces.

**Fire Service** – No objections.

**Severn Trent Water** – No objections subject to provision of drainage details which is recommended as a condition.

### **Public Participation Responses**

There are 5 letters of objection including one from Councillor Flower. These are summarised below: -

- No need for another convenience store as there are already too many in the area
- There are vacant stores available and an alternative vacant site that could accommodate the proposed shop
- A new store has opened 100m away from the proposed shop on the corner of Salters Road/Lichfield Road so the proposed shop is totally unnecessary
- Shops should be located in a centre
- Another store will force existing stores to close
- Additional noise from customers/visitors, parking and servicing

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- Commercial signage has an adverse visual impact upon the outlook from residential properties
- Shops encourage anti-social behaviour such as youths loitering, graffiti and damage to property
- The proposed shop compounds existing problems in the area such as litter, increased traffic, nuisance from youths loitering, noise, and poor outlook
- Litter
- Increased traffic congestion and queuing on Lichfield Road would affect Streets Corner junction
- Inadequate parking
- Customers likely to use Priory Court car park as the access to parking at the rear of the site is for residents and deliveries only
- Incompatible flats and shop use on the same site
- Poor outlook for adjoining flats at Priory Court due to the height and size of the proposed building
- An entirely residential use is preferable for the site
- No objection to redevelopment of the site in principle
- Loss of property value (*not directly a material planning consideration*)

Consultations on revised plans have been carried out and any further objections raising new material issues will be reported in Supplementary Papers.  
All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

- Principle of retail and residential development
- Layout and Design
- Relationship to surrounding properties
- Access and Parking

### **Observations**

#### **Principle of retail and residential development**

The site is within Streets Corner Local Centre where there is access to local facilities and public transport and the location is therefore highly sustainable. It is an appropriate location for redevelopment for retail (and residential) purposes.

The application site was previously occupied by a library and is in a mixed area of commercial and residential uses. Policy H3 encourages the provision of additional housing through re-use of previously developed windfall sites where a satisfactory residential environment can be achieved. PPS3 further encourages the development of brownfield sites for residential purposes. Proposed residential use is appropriate.

There is no evidence to demonstrate compliance with the tests in policy LC8 regarding loss of a community facility. However, the library has been relocated in nearby Walsall Wood Local Centre therefore the community facility is not lost.

Policy CEN5 of the Joint Core Strategy permits individual retail convenience retail developments up to 500m<sup>2</sup> net in the local centres where they are appropriate to the scale and function of the local centre. The proposal is for 332m<sup>2</sup> floor area for the retail shop which is within this limit and the site is within the local centre. The retail shop is of an appropriate scale.

Although there are objections that there is no need for another convenience store in the area as there are already an adequate supply, the site is within the Streets Corner Local Centre and Class A1 retail uses are considered appropriate in accordance with policies S1, S3 and S5. There are no policies to prevent competition between retailers within an established centre and whilst closure of competing stores would be regrettable the proposals comply with the Council's centres policies.

Objectors consider an entirely residential use more appropriate for the site but nevertheless a combined use of retail and residential is acceptable in policy terms and would make more effective use of an existing developed site in the local centre.

In conclusion the principle of a convenience store with flats above is acceptable and accords with the aims of policies CEN5 and CSP3 of the JCS and saved policies ENV14, S3, S5 and H3 of the UDP.

### **Layout and Design**

The proposed building is broadly in line with the adjacent Fitness First gym and Priory Court flats and a similar depth to the latter. The proposed three storey building also reflects the height of these adjacent buildings. The design has a hipped roof with central gable feature to provide some interest and relief to the elevation. A condition is recommended to ensure the central gable is rendered in an appropriate colour to enhance its appearance. The design is similar to the design of Priory Court adjacent and is in keeping with the area. The incorporation of roof terraces at the rear would add further interest to the design of the building. A separate entrance for the flats is incorporated on the front elevation of the building to maintain a relationship with the street scene.

The existing chain link fencing around the side and rear of the site is to be replaced with 1.8m high hoop top railings to the side and close boarded fencing erected within the site boundary to the rear. This would ensure surveillance of the adjacent public footpath and provide improved security for the site and privacy for the bungalow in Brook Close at the rear. The proposed car parking and servicing area at the rear of the building was formerly used for parking for the library so the proposals would not have a greater impact on surrounding properties.

There is a 6m wide landscaped amenity area at the end of the car park and a path leading from this to the building to encourage its use but this is not private space. This landscaped garden is approximately 156m<sup>2</sup> which allows just over 17m<sup>2</sup> per flat, below the recommended 20m<sup>2</sup> per flat. There are also individual roof terraces for the 4 flats and a shared roof terrace for the remaining 3 flats which provide adequate private amenity space. The amenity space overcomes the third reason for refusal of application 08/0589/FL.

The use of upper floors above shops for residential accommodation is encouraged by policy S8 provided a satisfactory residential environment can be achieved. Objectors are concerned that flats and shops on the same site are incompatible. The policy supports use of upper floors and in this instance the provision of noise mitigation measures would reduce potential for noise and disturbance from the commercial activities in the building where necessary and restrictions on the hours of servicing would help further. The outlook is onto open space opposite and despite overlooking a car park at the rear, each flat has ample private and usable amenity space. It is recommended that open storage is restricted outside the buildings to ensure parking is available at all times and prevent the shop from storing goods outside to the detriment of the visual amenities of the area. In the circumstances the proposed design and layout does not adversely affect amenities to such an extent as to warrant refusal.

The Local Access Forum considers the proposals would be over-development of the site with too many small flats. However, policies support a mix of house types and sizes and as there is adequate amenity space and parking for each flat the proposals are considered acceptable. The scale and height of the building are similar to those adjacent so are considered not to be over-development.

The proposal does not identify environmental measures such as conservation of water resources or how the design would maximise the use of resources. Nevertheless it is recommended that these details can be agreed prior to commencement of any development and a condition is recommended to ensure the flats are built to Code 3 for Sustainable Homes. This would address a reason for refusal of the earlier application 08/0589/FL.

### **Relationship to surrounding properties**

The position of the proposed building is larger than the former library as it extends further back into the site and is three storeys high. There are habitable room windows in Priory Court facing the proposed side elevation of the new building at a distance of approximately 4.8m at the closest point. There are facing windows proposed including secondary lounge, bedroom and kitchen windows plus a hallway. The plans indicate that these windows are fixed and obscurely glazed and are narrow which reduces potential overlooking towards Priory Court flats. The windows are also not the main aspect for the proposed flats which face front and rear. In the circumstances, despite the separation distance being below that normally required it is considered that there is no loss of privacy for the adjacent neighbours. The windows in Priory Court are also already overlooked from the access and this situation would not change.

There has been an objection that the height and size of the building would result in a poor outlook for the adjoining flats in Priory Court. There is a minimal distance between the facing elevations of the buildings and as the windows in Priory Court presently look out onto the flat roof of a single storey library building inevitably the outlook would be different. Nevertheless there would still be an outlook across to the open space opposite in a northerly direction for the majority of the windows in the side of Priory Court. In order to maintain a 24m separation would sterilise any form of development on the library site which would deteriorate and detract from the character of the surrounding area and restrict a valuable financial investment and new jobs in the locality.



This application addressed the second reason for refusal of application 08/0589/FL as the proposed building is moved further away from the facing elevations of Priory Court and allows separation of the access to maintain an outlook for the Priory Court flats.

There is over 31m distance between the rear elevation of the building and bungalow at 7 Brook Close to the rear which exceeds the recommended distance and would not have any adverse impact upon residential amenities in terms of loss of light, overlooking or loss of privacy.

The commercial frontage of the shop would not be directly visible from the flats in Priory Court so any new signage would be out of view and despite the fact that there are habitable room windows overlooking the access this is an existing situation. Although objectors are concerned that there would be additional noise from customers/visitors and servicing the shop and flats the former library would have attracted similar activities albeit normally restricted between the daytime hours. A condition is recommended to restrict the servicing between daytime hours.

Objectors are also concerned that the proposed shop would attract youths and encourage anti-social behaviour such as graffiti, litter, noise and damage to property as already evident at nearby premises in the vicinity. The Local Access Forum also considers that the convenience store will attract youths and anti social behaviour, particularly loitering on the adjacent footpath, and that security fencing and lighting along this boundary should be improved. It is considered that the presence of the flats above the shop would provide additional surveillance and help discourage this behaviour. The chain link fencing along the boundary with the footpath is to be replaced with 1.8m high hoop top railings providing added security. There is over 7m between the Fitness First building and proposed flats which is considered adequate to ensure the buildings do not enclose the footpath or have an over-bearing presence and should not require additional lighting. The potential for noise disturbance has been considered by Pollution Control and conditions recommended as a safeguard.

On balance, although the proposed building is in close proximity to the side facing windows of Priory Court, it does not entirely mask the windows so there would still be an outlook across to the park. The facing windows of the proposed building are to be fixed and obscure glazed restricting potential overlooking. The proposed use of the car park and servicing area at the rear is not dissimilar to its former use and conditions are recommended to restrict hours of servicing to further protect residential amenities.

### **Access and Parking**

The proposal utilises the existing access and car park along the side and rear of the building. The car park is for use by residents of the flats and servicing for the shop only and gates are included to restrict access for these purposes. The layout also includes disabled parking and a drop-off point at the front of the building for shop customers. Whilst the disabled parking and drop-off point is new the access along the boundary with Priory Court and parking at the rear is unchanged therefore these proposals should have no greater impact upon the surrounding properties. Disabled parking and access on the frontage replaces a lawned area but there is landscaping proposed and brick paving to give sufficient space for pedestrians.

The Transportation officer is concerned that there is inadequate parking for the proposed convenience store and this would lead to on-street parking or parking on the footway in Lichfield Road to the detriment of highway safety and free flow of traffic on the strategic highway network. However, there is scope to provide up to 4 additional customer parking spaces in front of the building. Amended plans have been requested and a condition to secure additional parking recommended. It is also considered that as the site is located within Streets Corner Local Centre where there are other local shops and amenities within walking distance, convenient access to bus stops and alternative parking (at Oak Park opposite and at Walsall Wood shops off Salters Road) that the shortfall of on-street parking is acceptable in this instance.

Although objectors are concerned that the proposals may cause congestion at Streets Corner junction it is considered that the shop would not lead to significant increases in traffic sufficient to warrant refusal of the proposals or cause problems at Streets Corner junction. Given that the site is within a local centre, near to existing bus routes and other facilities it is a highly sustainable location.

The proposals include 12 car parking spaces at the rear of the building (including 2 disabled spaces) for use by residents and currently include 2 disabled parking spaces and taxi drop off at the front of the building. The car park access remains the same as existing and there is ample room for manoeuvring and servicing. There is also a cycle store located within the building which is secure and offers residents and staff an alternative means of travel. There is no reason to suspect that customers would use Priory Court car park as access to this passes beneath the building itself and is clearly private.

The Local Access Forum are concerned that the parking at the rear would cause problems for future residents if used by shoppers but as this is gated for residents and servicing use only this is unlikely to create nuisance. There is also more than adequate number of spaces for the 7 flats proposed.

Highway safety issues raised on the earlier refusal 08/0589/FL have been addressed as the proposal is to utilise the existing vehicle access which is of adequate width, pedestrian access is adequate, disabled parking, bin storage and cycle storage has been included. Subject to provision of an amended plan to create up to 4 additional parking spaces for the shop the proposed access and parking provision is considered adequate given the sustainable location of the site in Streets Corner Local Centre.

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

The site is within Streets Corner Local Centre and the scale and nature of the Class A1 shop is appropriate to the role of the centre. Although there are vacant units and other convenience stores in the local centre policy S5 does support new retail and does not prevent competition between retailers. The former library has been relocated to Walsall Wood so its loss has already been compensated for. The use of the upper floors for residential purposes with this sustainable location is supported by policy S8.

The position, scale and design of the building respect the surrounding context and there is adequate amenity space for each flat. The proposal achieves adequate separation to the bungalow in Brook Close at the rear. Although there is a reduced distance between facing elevations of the proposed flats and existing flats in Priory Court, the windows are narrow and would be fixed and obscurely glazed to prevent potential overlooking. A northerly

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outlook is maintained from Priory Court and the proposed building doesn't entirely mask the windows. On balance it is considered that the proposals do not adversely affect the outlook or privacy sufficient to warrant refusal of permission. The proposal also addresses an earlier reason for refusal as the building is further away from Priory Court and no nearer than the existing library, albeit larger.

The potential noise and disturbance issues are not significantly greater than when the site was a library and can be controlled by adequate mitigation and by controlling hours of servicing operations. The proposed flats above the shop would help discourage anti-social behaviour as there would be greater surveillance. New fencing along the boundary to the footpath would also improve security and provide increased privacy.

Access and car parking to the rear of the building is broadly the same as existing but offers improvements by including disabled spaces. Cycle parking and bin storage is also incorporated. Although the parking for the shop in front of the building does not achieve the maximum standard recommended in policy T13 there is scope to provide additional parking and an amended plan is recommended. The proposals do not result in significant increase in traffic sufficient to have an adverse effect on highway safety and the site is in a local centre close to bus stops and car parks therefore highly sustainable.

The proposals address the reasons for refusal of application 08/0589/FL.

In light of the above the proposals are considered to accord with the aims of policies 2a, 2b, CEN5, CSP3, CSP4, TRAN2, ENV2, ENV3 and HOU2 of the Black Country Joint Core Strategy and saved policies 3.6, 3.7, GP2, GP5, GP6, 3.116, 3.117, ENV14, ENV32, ENV33, ENV40, H3, S1, S5, S8, T4 (a), T7, T13 and LC8 of Walsall Unitary Development Plan and Supplementary Planning Document: Designing Walsall.

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

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

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

2. Prior to development commencing, a noise impact assessment shall be undertaken to the written satisfaction of the local planning authority. The results of this survey, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the local planning authority within 2 months of completion.

*Reason:* In the interests of the amenities of existing and potential occupiers.

3. No development shall take place until suitable noise mitigation measures to protect internal areas of the residential part of this development have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented.

*Reason:* In the interests of the amenities of potential occupiers.

4. Prior to any demolition or construction operations and activities commencing, a method statement shall be agreed in writing with the local planning authority for the purposes of controlling grit, dust and fume. The agreed method statement shall be implemented and thereafter maintained throughout the duration of these operations and activities.

*Reason:* In the interests of the amenity of the surrounding residents of the proposed development.

5. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

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

6. Prior to the commencement of the development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented within 12 months of the development completed. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted, unless otherwise agreed in writing with the Local Planning Authority.

*Reason:* In order to define the permission and to safeguard the visual amenity of the conservation area, green belt and natural environment of the site and the immediate vicinity.

7. Prior to the first occupation of the development full details of the gates to the residents car parking and servicing area at the rear and method of access control for these purposes only shall be submitted to and agreed in writing by the Local Planning Authority and retained thereafter unless the Local Planning Authority agrees otherwise in writing. These areas shall be clearly indicated by appropriate signage at the access point onto Lichfield Road in accordance with details which shall be first agreed in writing by the Local Planning Authority and maintained thereafter.

*Reason:* To clearly define customer and residents/delivery parking and ensure the satisfactory operation of the development.

8. Prior to the first occupation of the development, all car parking and vehicle manoeuvring areas shall be fully hardsurfaced and drained and the parking bays shall be clearly demarcated on the ground. These areas shall thereafter be retained and used for no other purpose.

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

9. The proposed additional vehicular footway crossing on Lichfield Road shall be constructed to a specification to be submitted to and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements. The crossing shall take the form of a dropped crossing rather than a bellmouth with radii kerbs.

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

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

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

11. No external lighting shall be installed on the site unless details have been submitted to and approved in writing by the Local Planning Authority. Approved lighting shall be implemented and retained in accordance with agreed details thereafter.

*Reason:* To safeguard the visual amenities of the area.

12. Plant and equipment used for the purpose of heating, ventilation, air conditioning, refrigeration and/or freezing shall be situated within building structure(s), or acoustically designed enclosures, or at suitable locations approved in writing by the local planning authority, and thereafter retained in accordance with any approval for the period of their use.

*Reason:* In the interests of the amenities of surrounding occupiers.

13. Collections, deliveries or despatches to and from the premises shall only take place between the hours of 07.00 to 19.00 Monday to Saturday and 08.00 to 16.00 Sunday and at no time on Sundays or Bank Holidays unless otherwise permitted in writing by the Local Planning Authority.

*Reason:* In the interests of the amenities of surrounding occupiers.

14. The windows in the side elevations of the building facing Priory Court shall be fixed and obscurely glazed and shall remain so throughout the life of the development unless the Local Planning Authority agrees otherwise in writing.

*Reason:* To prevent overlooking.

15. No open storage shall take place within the application site at any time.

*Reason:* In order to safeguard the visual amenities of the area and ensure availability of parking and manoeuvring space within the site.

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

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

17. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 16.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

*Reason:* In the interests of the amenity of the surrounding residents of the proposed development.

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

- Location Plan received 02/09/10
- Proposed Site Plan (Rev B) received 23/03/11
- Ground Floor Plan (A101 Rev B) received 23/03/11
- Proposed First Floor (A102 Rev B) received 23/03/11
- Proposed Second Floor (A103 Rev B) received 23/03/11
- Views (A104 Rev B) received 23/03/11
- Elevations 1 (A105 Rev B) received 23/03/11
- Elevations 2 (A106 Rev A) received 23/03/11
- Roofs (A107) received 23/03/11
- Sections (A108) received 23/03/11
- Survey Drawing received 02/09/10
- Design & Access Statement received 24/03/11
- Transport Statement received 23/03/11

*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).

19. Notwithstanding the details shown on the approved plans (Elevations 1 - A105 Revision B) the central gable on the front of the building shall be rendered in a colour to be first submitted to and agreed in writing by the Local Planning Authority and retained thereafter in accordance with the agreed details unless the Local Planning Authority agrees in writing to any variation.

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

20. Notwithstanding the details shown on the approved plan (Proposed Site Plan Revision B) an amended layout plan showing provision of additional parking in front of the building shall be submitted to and approved in writing by the Local Planning Authority and thereafter retained in accordance with the agreed details unless the Local Planning Authority agrees in writing to any variation.

*Reason:* To ensure the satisfactory development of the site and provision of additional parking for the convenience store.

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## Notes for applicant regarding noise mitigation measures

With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

a).internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(8 hours), of 30 dB together with a maximum instantaneous level of 45 dB LAFmax, between the hours 23.00 to 07.00;

b).internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(16 hour), of 40 dB between the hours 07.00 to 23.00;

Unless otherwise specified in a relevant standard, code or guidance, sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 1 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or British Standard BS 61672 Electroacoustics- Sound Level Meters - Part 3: Periodic tests, within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994; Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005 British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".

British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures; British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits. British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas Calculation of Road Traffic Noise, 1988 Calculation of Railway Noise, 1995

This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### Reason for bringing to committee: Significant Public Interest

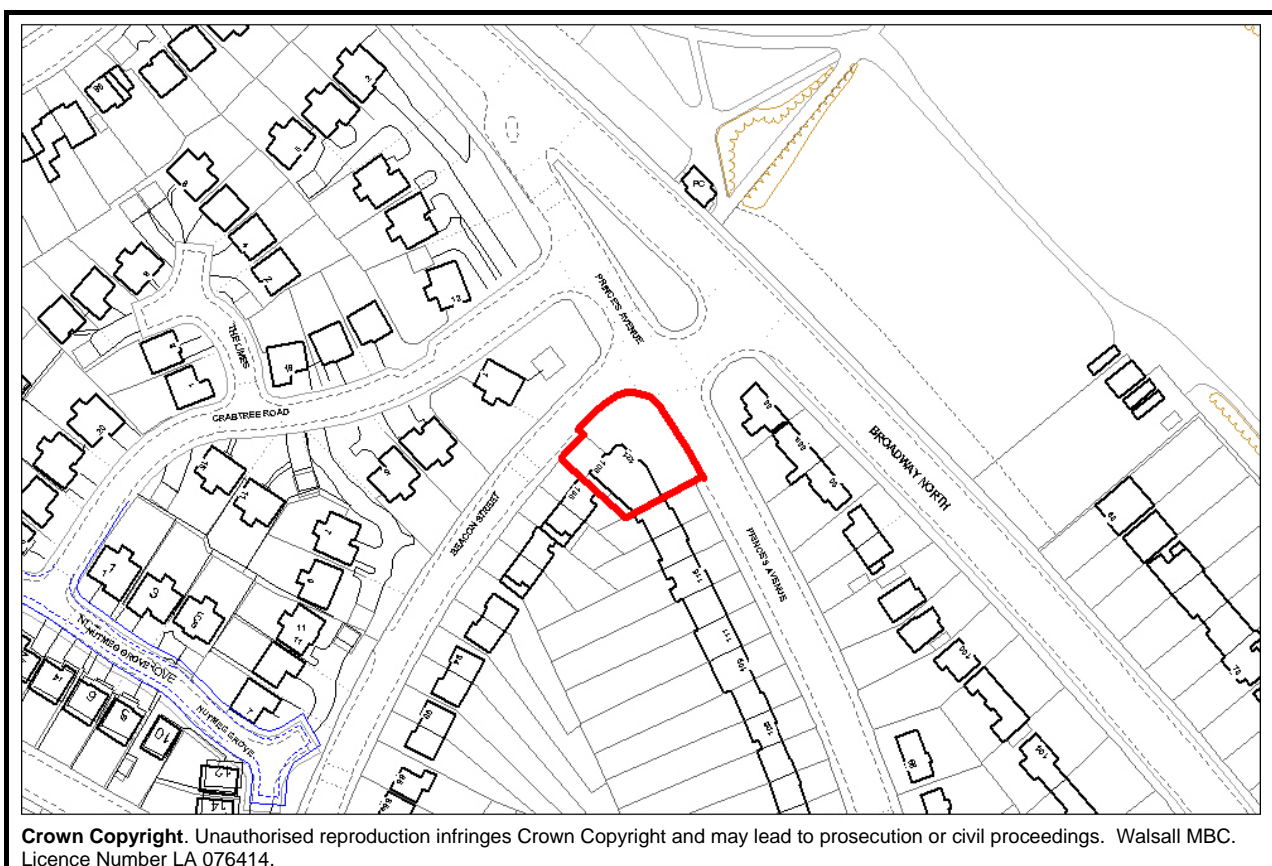
**Application Number:** 10/1683/FL  
**Application Type:** Full application

**Applicant:** Blue Pearl Trading Company  
**Proposal:** Change of use of ground floor to mixed use - A1 (Retail) in two units and A5 (Hot Food Takeaway) in one unit.  
**Ward:** Paddock

**Case Officer:** Karon Hulse  
**Telephone Number:** 01922 652492  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Domestic Transformations Ltd  
**Location:** BROADWAY CLEANING, 121 PRINCES AVENUE, WALSALL, WS1 2DJ

**Expired Date:** 24/03/2011

### Recommendation Summary: Refuse



## **Application and Site Details**

This planning application is one of two submitted together for the change of use of a single shop (former laundrette/dry cleaners) unit to three smaller ones to include two A1 retail units (one being for a smaller laundrette) and an A5 hot food takeaway and new shop frontage at Broadway Cleaning, 108, Beacon Street / 121 Princes Avenue, Walsall.

The application site comprises an isolated individual shop outside any centre, surrounded by residential properties, the Arboretum park to the west and the nearby foundry is approximately 200 metres to the south west.

The site is situated on the corner of Princes Avenue and Beacon Street, which is also very close to the staggered junction providing access from Princes Avenue onto Broadway North which is the main A4148, Walsall ring road and which forms part of the Walsall strategic highway network. This is an established residential area.

The accompanying planning application is for alterations to the existing frontage to create the three shops, this is currently being determined.

The application includes details of the proposed flue and ventilation equipment proposed for the hot food takeaway which would occupy the middle unit of the three. The equipment would vent through the ground floor flat roof rising approximately 4.1 metres above the flat roof adjacent to the first floor flat kitchen window. It is proposed to use the latest state of the art equipment such as the latest ozone friendly odour neutralising equipment using ultra violet technology which results in near zero odour emissions.

The applicants have suggested hours of opening to be 11.30am to 2pm and 4.30pm to 10pm Monday to Sunday.

The details would also include the installation of refuse bins on the forecourt area

In addition to the submitted design and access statement which states that there is no new buildings intended on the site only the sub division, the applicants have submitted additional information in respect of parking, amenity, policy and previous uses:

*Parking* – existing car parking on the frontage remains unaltered and will provide marked out spaces for 11 visitors and one for the existing residential first floor flat. Whilst it is acknowledged that there will be more trips to the site the following should be taken into account in determining any highways impact of this proposal;

1. the new parking layout will provide clear marked out parking spaces
2. provide services for local people with many customers not using their vehicles to visit the facilities,
3. appropriate levels of parking space for the facility.
4. washing can be left and collected at a convenient time rather than parking for an hour or more waiting for the clothes to be washed and dried,
5. there are places to park safely close to the site for visitors, the full capacity of the parking area will rarely be achieved.
6. majority of takeaway customers will arrive in the early evening when the other two units are closed

*Policy* – the site is already a commercial site, proposed significant investment in the site will bring it up to modern day standards that will provide attractive and viable facilities for the local people.

*Amenity* – the latest ozone filters and extraction equipment will be fitted to ensure smells do not emanate from the unit. Waste will be sensitively disposed of and will not be left open at the rear of the shop; this will be collected by a commercial waste company. The latest state of the art equipment will be used using ozone filters. The flue to the premises is not dissimilar to that which is used in the dry cleaners; the cleaning business uses older technology and a number of chemicals and the new flue for the premises will use modern and more appropriate technology. Visually, the flue will not cause any undue harm above and beyond that which already exists.

The Police Liaison Officer does not raise any concerns with the application and therefore they consider that the proposal would not result in any anti-social behaviour during opening hours.

*Previous use* - if the food store were to be reopened, there would be far more demand from customers using the premises and visiting the site by car. These premises would possibly be open from 7am to 10pm and serve alcohol, cigarettes, newspapers etc. It is considered that this would have much more of an impact on the highway network and the general free flow of traffic movement in the area than the current proposal.

The second planning application deals with the new shop front element and proposes to sub divide the existing shop front to accommodate three units by the installation of two new door ways.

No other alterations are proposed.

### **Relevant Planning History**

10/1684/FL - Alteration to shop fronts. (on this agenda for consideration)

### **Relevant Planning Policy Summary**

***(Note the full text version of the Joint Core Strategy and UDP are available from Planning Services Reception and on the Planning Services Website)***

### **Black Country Core Strategy (JCS)**

The Joint Core Strategy was adopted by the Council on 3rd February 2011 and now forms part of the statutory development plan. It replaces certain “saved” policies in the UDP.

Vision: to include the creation of a network of sustainable communities’ right across the Black Country. This will be achieved, in part, by creating environments which offer opportunities for active lifestyles and healthy choices, including provision for outdoor recreation within the urban fabric of the Black Country.

CSP1 - sets out the targets for sustainable regeneration of the Black Country focusing on the town centres

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

CSP3: Development proposals need to demonstrate buildings of high design quality.

CSP4 - develops the need for high quality place making and design

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

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

EMP1 - seeks to provide for economic growth

EMP3 - Local Quality Areas

CEN1 and CEN2 highlights the importance of the Black Country Centres for the regeneration of the wider Black Country and the hierarchy of centres.

CEN3 sets out the need to ensure growth in the Strategic Centres (e.g. Walsall)

CEN6 - Local Shops and Services.

CEN7 - Controlling Out-of-Centre Development

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

TRAN2 requires development proposals to manage transport impacts of new development

TRAN4: Cycle parking facilities should be provided at all new developments and should be located in a convenient location with good natural surveillance

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

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

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

The site is not identified by the Unitary Development Plan as being in any local centre or town centre

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.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

ENV32 states poorly designed development which fails to take into account the context or surroundings will not be permitted.

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

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

T13 Parking Standards - Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50m<sup>2</sup>; then 1 space per 22m<sup>2</sup> of gross floor space. At least 1 bike stand for every 5 car park spaces with an absolute minimum of 2 bike stands. Taxi facilities.

S1: Definition of Town Centre Uses

(a) For the purposes of this Plan, town centre uses comprise the following:-

IV. Class A3 food and drink uses and public houses (but see also

Policy LC8 on local community uses, including public houses).2

S6: Meeting Local Needs

Outside identified centre, existing local shopping, service, leisure, community and other facilities – in the form of shopping parades, clusters, single shops etc will be encouraged to continue to meet day to day needs of the community.

S10: Hot Food Takeaways

These uses will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings 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 residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings. Conditions can be imposed on the permission stating opening and closing times
  - III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.
  - 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.

## **Supplementary Planning Documents**

### **Designing Walsall SPD**

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

### **Regional Spatial Strategy (RSS)**

On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010. The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Bill and will take time) should be a material consideration in decisions. That position was itself subject to a legal challenge. On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration.

**Officer's advice is that the RSS remains part of the statutory development plan for the Borough** (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise. However, the Government's proposal to abolish the RSS at some point in the future can be a material consideration. The weight to be given to this is for the local planning authority to judge, based upon such things as, for example, the extent to which a planning decision rests on the RSS and whether the implications of the decision might be felt before the RSS might be abolished. Each case must be considered on its merits in this context and a clear and reasoned view achieved.

### **National Policy**

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

PPS3: Promotes sustainable development and the efficient use of previously developed land. It promotes the need for well designed new housing developments. Consideration of design and layout must be formed by the wider context.

PPS4: Encourages sustainable economic growth and making the most efficient and effective use of land, prioritising previously developed land. It encourages location of developments which generate substantial transport movements in locations that are accessible.

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

PPS24: Seeks to minimise the adverse impact of noise.

National Policy Statements, which discuss significant infrastructure projects, are also a material consideration in the application process.

Circular 05/2005 (Planning Obligations) is of relevance with regard to the appropriate level of planning contributions that will be sought.

### **Consultations**

**Transportation** – objects on grounds of the A5 hot food takeaway would intensify the vehicular movements within the peak periods and may lead to indiscriminate parking on the highway.

**Police Architectural Liaison Officer** – no objections

**Pollution Control (Scientific Team)** – concerns regarding air quality

**Pollution Control (Contaminated Land Team)** – no objections

**Fire Service** - no objections

### **Public Participation Responses**

There have been two petitions and 44 letters received objecting to the proposals and one petition and 5 letters in support of the proposals.

Two petitions have been received against the proposals (36 signatures and 54 signatures). The following objections have been raised by the two petitions.

- Increase traffic and parking difficulties
- Proliferation of litter
- Vermin
- Late night disturbance
- Increase in noise and pollution

44 letters of objection have been received from residents around the immediate area (although 9 of those were in response to the planning application for the new shop fronts but only made reference to the hot food takeaway consequently they are included on this planning application) on the following grounds:

- premises not in keeping with the largely residential nature of the street and area.
- no requirement for additional chip shop as they are more than adequately provided for in the immediate area.
- overdevelopment of the existing site.
- location of the site on a busy junction would cause further traffic problems, increased vehicular traffic during the day and evening causing disturbance and public safety issues.
- chip shop would cause additional noise/traffic late into the evenings and weekends
- concerns over smells/waste and potential for vermin infestation
- bin stores are extremely close to a residential house behind
- attract teenagers and young adults to the chip shop... associated rubbish
- increased pedestrian movement around the premises particularly in the evenings
- increase in noise due to vehicles, people and extractor units fitted externally.

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- unpleasant odour from chip fryers and grills... takeaway odours
- lot of waste and rubbish littering our streets.
- aspirations to be healthier, we do not want a takeaway so close to the Arboretum which is used by many families.

The petition with 301 signatures and 5 letters in support of the proposals were on the basis of it would be an asset to the area and create 20-30 jobs.

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

### **Determining Issues**

- Impact on surrounding occupiers
- Parking and highway safety
- Appearance of the new shop front

### **Observations**

#### **Impact on surrounding occupiers and contrary to policy**

The applicant has stated that whilst hot food takeaways are generally more acceptable in town centres and local service centres that they consider this site to be in a highly sustainable location and is not wholly residential, in fact the existing laundrette used to be a co-op store and there is employment within 150m in the form of the foundry. They conclude it is within a local service centre and that it would make efficient use of the existing premises, provide useful facilities and jobs for the local people and would provide a much improved and visually attractive form of development.

Policies S1 and S10 of the UDP identify A3 and A5 uses as Town, District or Local Centre uses, which may also be appropriate in other shopping and commercial frontages, subject to no adverse impact on the amenities of residential occupiers in the vicinity, including those in any flats above the premises.

The application site comprises an isolated individual shop outside any centre, surrounded by residential properties, the Arboretum park to the west and the nearby foundry is approximately 200 metres to the south west.

Whilst Broadway North is a busy district distributor route, the area is predominantly residential in use and character, the coming and going of customers, particularly in the evening would create noise and disturbance to the surrounding residents over and above the existing general retail use. The proposed use conflicts with policy S10, as the premises are not situated in a local centre and the use would have an adverse impact on the amenities of the surrounding residential occupiers.

The proposals have not included any opening hours. It is expected that the hot food takeaway would open in the evening beyond the normal hours of a retail shop and in a residential area this is considered would cause noise and disturbance into the evening for the surrounding residential occupiers.

Due to the close proximity of residential accommodation it is considered that the proposed use would have an adverse impact on the amenities of the residents in terms of litter,



noise and disturbance cooking odours and coming and going of customers and traffic, and would conflict with policy S10.

The applicants have stated they are committed to providing a high specification of ventilation equipment, the plans indicate the ventilation stacks ducting above the ground floor flat roof to the side of no. 121 Princes Avenue by approximately 4 metres running alongside the first floor kitchen window, these would be fully visible from the street and surrounding residential properties, creating an obtrusive, dominant and an uncharacteristic feature within a predominantly residential area and existing street scene as such the proposed equipment would be detrimental to the residential character of the area.

The Police Architectural Liaison Officer whilst not having any direct objections to the proposals has suggested that the hot food takeaway element may attract persons intent on aggressive or anti social behaviour, especially in the evening and that to provide some reassurance to staff and customers and to deter such activity a CCTV system should be installed at this premises.

### **Parking and highway safety**

The site is situated on the corner of Princes Avenue and Beacon Street, which is also very close to the staggered junction which gives access from Princes Avenue onto Broadway North which is the main A4148, Walsall ring road and which forms part of the Walsall strategic highway network.

The current parking arrangement on the site is just a large area of hardstanding fronting the premises on both Princes Avenue and Beacon Street. The proposals include that area to be formally marked out for 11 spaces for visitors and 1 space dedicated for the flat above the shop units.

The applicants have also stated the following in respect of parking:

1. It is the intention that the premises, which already have an existing commercial function, will provide services for local people and many of the customers will not use their vehicles to visit the facilities,
2. There are appropriate levels of parking space for the facility.
3. Customers can leave their washing to be collected at a later time rather than parking for an hour or more waiting for the clothes to be washed and dried,
4. Notwithstanding the on-site parking there are places to park safely close to the site for visitors. The concerns that indiscriminate parking may happen during peak periods is extremely unlikely as the new parking layout will provide improved levels of traffic flow for visitors.
5. It is likely that the majority of takeaway customers will arrive in the early evening when the other two units are closed, further reducing the intensity of the use of the parking area.

The applicants also claim that as it was a previous convenience store it could revert back to such a use which could ultimately create more trip generations to the site. Also it could open from 7am to 10pm and serve alcohol, cigarettes, newspapers etc. which could result in greater nuisance to residents in the area.

In consideration of the above a TRICs analysis has been undertaken based on the proposed use mix of A1/A5 and the suggested fallback situation of solely an A1 use to determine the traffic generation.

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The outcome is that on solely the A1 use (ie a convenience store), the traffic flows in the am and pm peaks are 26 and 30 two way flows respectively, whereas the mixed use, including the A5 hot food takeaway use flows are 19 and 40. Whilst the traffic generated is somewhat comparable, the nature of the trips is unlikely to be the same.

A5 users are unlikely to park on the car park if it is half full, due to the typical length of time required to obtain their takeaway and are more likely to park indiscriminately either outside on the restricted parking or outside residential properties nearby.

In conclusion and whilst it is acknowledged that the use of the site could potentially revert back to an A1 retail use without requiring planning permission it would result in comparable traffic generation as that of the proposed mix use including an A5 use. More often than not it is the nature of an A5 use which is likely to attract a higher number of short customer trips by car than the existing use of the premises or proposed other uses, which would result in intensification of vehicular movements within the peak periods. This would lead to the indiscriminate parking on the highway, even though there are traffic regulation orders to control parking. The site is located on a staggered junction arrangement and any parking on-street in this location would be detrimental to highway safety and the free flow of traffic and vehicle manoeuvring at the junction of Princes Avenue and Beacon Street.

### **Appearance of the new shop front**

This site is an existing commercial property which is a little run down. The proposed alterations to the shop frontage would have no impact on the existing streetscene or the residential character of the area and would improve the outlook and appearance of the site.

### **Recommendation: Refuse**

#### **10/1683/FL - Refuse**

1. The introduction of a hot food take away at this location would increase demand for on street parking and would be likely to encourage indiscriminate parking at peak times. It is contrary to the interests of highway safety and would be contrary to Policies GP2 and T13 of the Unitary Development Plan and policies TRAN1, TRAN2, TRAN5 of the Black Country Joint Core

2. The proposed change of use to a hot food take away would cause additional noise and disturbance to the occupiers of adjoining and nearby residential properties which would materially harm the amenity of occupiers that would reasonably expect to enjoy particularly in the evening and late at night, and increase the likelihood of crime and disorder and the fear of crime. The proposed development would adversely affect amenity and fail to be a positive contribution to the local environment. As such the proposed development would be contrary to policies GP2, 3.6, 3.7, 3.16, ENV10, ENV32, S5, S6 and S10 of Walsall's Unitary Development Plan and policies CSP1, CSP2, CSP3, CSP4, CSP5, ENV 1, ENV 2, ENV 3, EMP1, EMP3, CEN1, CEN2, CEN3, CEN6, CEN7, TRAN1, TRAN2, TRAN4, TRAN5 and DEL2 of the Black Country Joint Core.

3. The proposed A5 use would result in the erection of three ventilation / flue equipment stacks on the side elevation of no. 121 Princes Avenue, which would be a significant and obtrusive feature for the occupiers of nearby properties, creating noise, smells, vibration and disturbance and thereby harming the amenity of existing and future occupiers. As such the proposed development would be contrary to policies GP2, 3.6, ENV10, ENV32, S5 and S10 of Walsall's Unitary Development Plan and policies CSP1, CSP2, CSP3, CSP4, CSP5, ENV 1, ENV 2, ENV 3, EMP1, EMP3, CEN1, CEN2, CEN3, CEN6, CEN7, TRAN1, TRAN2, TRAN4, TRAN5 and DEL2 of the Black Country Joint Core.

**10/1684/FL - Grant Subject to Conditions**

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

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

2. The materials used shall be those indicated on the approved plans.

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

*Summary of reasons:* The proposed alterations will improve the appearance of this site and premises without detriment to the existing residential area and, on balance, having taken into account all material planning considerations, the proposal is acceptable and accords with the policies CSP1, CSP2, CSP3, CSP4, CSP5, ENV 1, ENV 2, ENV 3, EMP1, EMP3, CEN1, CEN2, CEN3, CEN6, CEN7, TRAN1, TRAN2, TRAN4, TRAN5 and DEL2 of the Black Country Joint Core Strategy, saved policies 3.6, 3.7, GP2, ENV14, ENV10, 3.113, 3.114, 3.115, H10, ENV32, ENV40, T7 and T13 of the Unitary Development Plan and Designing Walsall Supplementary Planning Document.

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### **Reason for bringing to committee: Contrary to Policy – Proposed Out of Centre Retail Development**

**Application Number:** 11/0177/FL  
**Application Type:** Full application

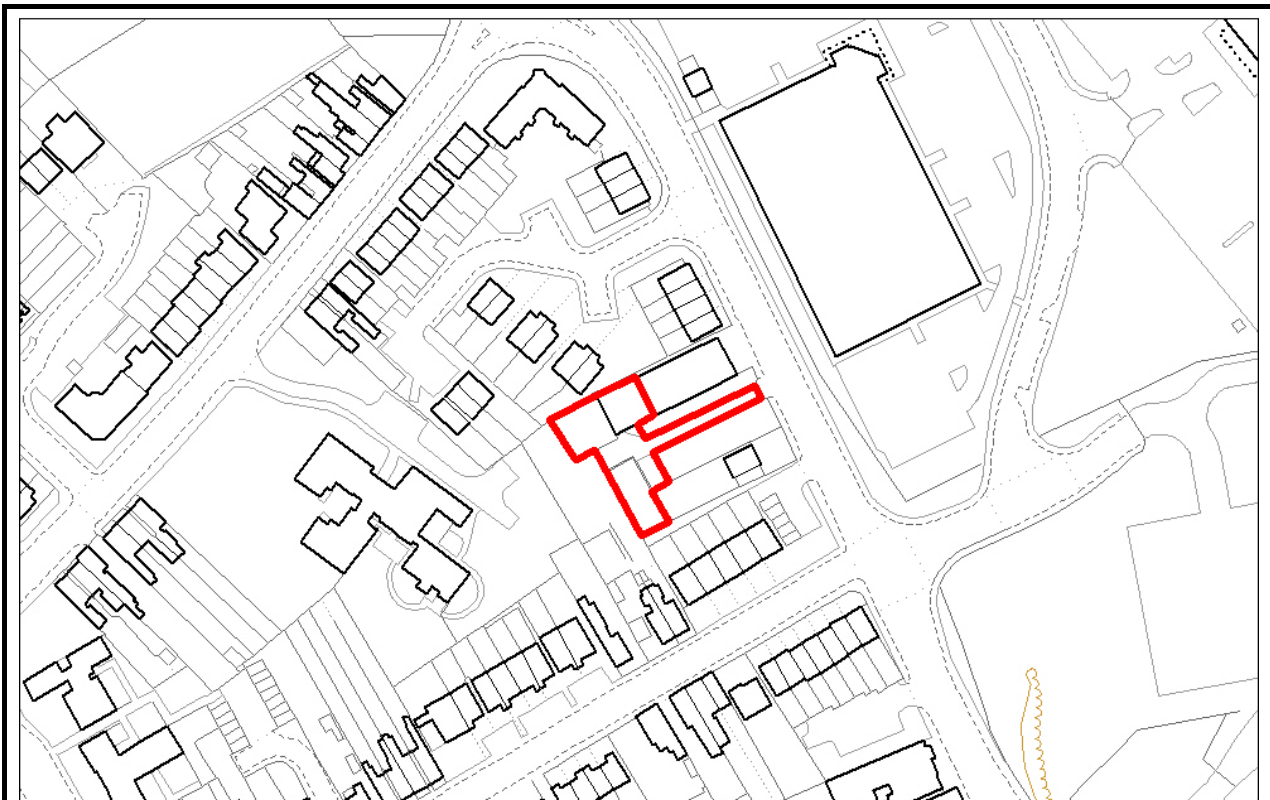
**Applicant:** Ms Carol Reynolds  
**Proposal:** Change of use from light industrial to florist shop/garden centre (A1) and addition of new door.

**Ward:** Bentley & Darlaston North

**Case Officer:** Claire Murphy  
**Telephone Number:** 01922 652403  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Anthony Spruce Design  
**Location:** THE SUBSTATION, UNIT 2, PARK LANE, WEDNESBURY, WS10 9SE

**Expired Date:** 25/04/2011

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



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## **Application and Site Details**

The application involves the change of use from a light industrial workshop (B1(c)) to a florist / garden centre (A1). The unit is located to the rear of the former substation, set off Park Lane, with the building having been sub-divided into two. There is a service yard to the rear of the building, separated from the car park by metal gates.

The front unit is used as a restaurant / chip shop, with the main building and off street car park enclosed by wrought iron railings and gates.

The application is supported by an indicative layout that shows a combined floor area of 181 square metres, including three gondola display areas and wall fittings to the perimeter of the unit, with a separate store room and staff room. A side elevation plan indicates an entrance doorway to be inserted into the side elevation facing the car-park. Within the existing off street car park, five car parking spaces would be provided for the store, with one disabled parking space in addition. The Design and Access Statement submitted with the application make clear that this layout is intended.

## **Applicants Supporting Evidence**

The applicant has conducted market testing with local customers very interested in the proposed use; some without transport. Further considerations have been given, in support of the application:

- Cost of fuel and carbon footprint, being a reason to want Garden Centre more local
- Large tree's and garden produce not easy to transport to car parks in town centres
- Two cemeteries within walking distance, ideal site for flowers and cemetery goods
- Older local residents expressed interest in having graves maintained when they can no longer go themselves
- Garden maintenance service also requested by local residents
- Creation of jobs
- Premises would be ideal for the use as proposed, with dedicated parking spaces and necessary outside space for fork-lift truck for deliveries
- The unit has been "to let" for 6 months without success as a workshop. The new use would not create noise or fumes or any of the less desirable aspects that some workshops do
- The Galagah Retail Park is very close by; feel it is important to take advantage of the volume of new customers to the area

The curtilage of the site is predominantly surrounded by residential properties along Park Lane, with the rear section of the building and service yard adjacent the shared side boundary with number 1 James Close, with a boundary wall approximately 2 metres high.

The proposed hours of operation are shown as Monday – Friday : 9.00am – 5.00pm, Saturday : 9.00am – 5.00pm, and Sunday and Bank Holidays : 10.00am – 12.00noon.

## **Relevant Policies**

### **The Development Plan**

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

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

Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452,

Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

Adopted by Cabinet on 3<sup>rd</sup> February 2011. This forms the principle strategic policy document for the Borough.

CSP1 - sets out the targets for sustainable regeneration of the Black Country focusing on the town centres

CSP4 - develops the need for high quality place making and design

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

EMP1 - seeks to provide for economic growth

EMP3 - Local Quality Areas

CEN6 – defines local need policy. New small-scale local facilities outside defined centres of up to 200 square metres gross, or extensions to existing facilities which would create a unit of up to 200 square metres gross will be permitted if it can be shown that all of the following requirements are met:

- The proposal is of an appropriate scale and nature to meet a specific day-to-day need of a population within convenient, safe walking distance for new or improved facilities;
- Local provision could not be better met by investment in a nearby centre;
- Existing facilities that meet day-to-day needs will not be undermined.
- Access to facilities by means other than by car would be improved and, in particular, will be within convenient, safe walking distance of the community it is intended to serve;
- Where new local facilities are to meet the specific needs of new housing development, particularly food provision, then proposals need to meet the requirements of Policy HOU2.

CEN7 - Proposals for out-of-centre development will have to demonstrate that development cannot be provided in-centre or at edge-of-centre locations of existing Centres appropriate to the hierarchy. For retail purposes, a location that is well connected and within easy walking distance (i.e. up to 300 metres) of the primary shopping area of Strategic and Town Centres will be regarded as edge-of-centre.

### **Saved Policies of Walsall Unitary Development Plan 2005**

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

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

5.4 - the council will apply a sequential approach from the location of all retailing, leisure, other town centre uses, and public transport facilities

5.5 – Out-of-centre development will only be acceptable if it can be demonstrated that there are no alternative opportunities within, or failing that, on the edge of existing centres. Out-of-centre development may be acceptable where there is a specific local need (see Policy S6); otherwise proposals for additional development for town centre uses outside of established centres will be considered against Policy S7

5.6 – the council will apply the sequential approach in a flexible, realistic and sensitive manner, and consider the needs of developers and operators.

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

S6(e) – Out-of-centre development may be appropriate to meet specific local needs - otherwise proposals for additional out-of-centre development for town centre uses will be considered against policy S7. Therefore, new small-scale local facilities, will be permitted if it can be shown that all of the following requirements will be met:-

- I. The proposal is of a scale and kind to meet a local need

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Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

- 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.
- VIII. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

S7 – For out of centre development of smaller schemes (less than 2,500sqm), evidence will be required on those tests for which, in the opinion of the Council, the proposal is likely to have significant adverse implications. In all cases, developers will be required to demonstrate that there and that the proposal accords with the sequential approach.

S13 –a) garden centres - be located as far as possible in places accessible by a choice of means of transport.

- a) The council will impose conditions to ensure that the foods to be sold are limited to an appropriate range of gardening and do not include other goods that can more appropriately be retailed in centres.

T7 – seeks to ensure high quality car parking design

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

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

### **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

### **Regional Spatial Strategy (RSS)**

On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010.

The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Bill and will take time) should be a material consideration in decisions. That position was itself subject to a legal challenge.

On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration.

**Officer's advice is that the RSS remains part of the statutory development plan for the Borough** (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise.

However, the Government's proposal to abolish the RSS at some point in the future can be a material consideration. The weight to be given to this is for the local planning authority to judge, based upon such things as, for example, the extent to which a planning

decision rests on the RSS and whether the implications of the decision might be felt before the RSS might be abolished.  
Each case must be considered on its merits in this context and a clear and reasoned view achieved.

### **National Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted."

Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPS4: Planning for sustainable economic growth, reinforces the Government's application of the 'plan-led approach' and 'town centre first' principles to retail and all other developments for town centre uses. It does, however, provide clarification on how such proposals should be considered.

Weight is to be given to the regeneration, social inclusion and mixed use development benefits of retail and town centre use schemes, but only where these also comply with town centre planning policy, rather than being used as a justification for development contrary to policy.

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

PPS24: Seeks to minimise the adverse impact of noise.

### **Relevant Planning History**

BC54194P: Change of Use from sub station to hot foot take-away. Refused 18<sup>th</sup> August 1999 (later allowed at local appeal on 3<sup>rd</sup> November 1999)

BC55308P: Change of Use from sub station to hot food take-away. Granted subject to conditions 24<sup>th</sup> January 2000

05/1988/FL/W5: Extension of closing hours for takeaway to 11pm. Granted permission 13<sup>th</sup> December 2005

08/1526/AD: Display of illuminated signs and non-illuminated projecting sign. Approve advert consent 15<sup>th</sup> December 2008

### **Consultation Replies**

#### **Strategic Planning Policy:**

- 1.1 The application site has been vacant since June 2010 and was previously used as a light industrial workshop.
- 1.2 This site is located east of Darlaston district centre and west of Pleck local centre.



## Observations

- 2.1 No objection to the loss of the workshop in policy terms.
- 2.2 The application site is in an out-of-centre location and not allocated in the UDP. The proposed florist would serve a local need for people visiting cemeteries nearby. We have carried out a desktop study and no florists were located nearby and we accept that the Darlaston district centre and Pleck local centre are not well placed to meet the local need identified by the applicant.
- 2.3 The garden centre element of the proposal: In view of the bulky nature of some garden related products, we accept that it would be difficult to identify a suitable or viable site in or on the edge of a nearby centre.
- 2.4 Given the nature and scale of the proposal, there is unlikely to be a significant adverse impact on any centre. There are a number of bus services running along surrounding streets. Therefore, this proposal is in accordance with Government guidance in PPS4, Core Strategy Policies CEN6 and CEN7 and 'saved' UDP Policies S6, S7 and S13.

## Other Relevant Issues

- 3.1 Conditions should be used to minimise the impact on nearby centres in accordance with PPS4 Policy EC19, Core Strategy Policy CEN7, UDP Policies S7 and S13(b).

**Pollution Control, Scientific Team:** no comments

**Pollution Control, Contaminated Land:** no specific contaminated land requirements

**Centro:** have no objection to the application as; given the nature of the development, it will have no impact on existing public transport services or infrastructures, or any current proposals

**West Midlands Fire Service:** does not object to the application

**Transportation:** have no objection to the current proposal subject to a condition preventing the use of the premises for non food sales, which would require more car parking spaces to be provided.

## Public Participation Responses

None

## Determining Issues

The determining issues are:

- Policy (Sequential Location)
- Design and Impact on Neighbouring Residents
- Impact on Highway Safety

## Observations

### **Policy (Sequential Location)**

The application site was formerly used as a light industrial workshop (B1(c)), with the current proposal for a change of use to a florist / garden centre (A1). The premises have

been vacant since June 2010. The site is located east of Darlaston district centre and west of Pleck local centre.

The application site is in an out-of-centre location and is not allocated in the Unitary Development Plan. The applicant states the florist would serve a local need for people visiting cemeteries nearby. A desktop study highlights that there are no florists nearby and accept that the Darlaston district centre and Pleck local centre were not well placed to meet the local need identified by the applicant.

The garden centre element of the proposal, there is a requirement to demonstrate there are no suitable, available and viable sites in or on the edge of centres within the catchment area of the proposed garden centre. In view of the bulky nature of some garden related products, it is accepted that it would be difficult to identify a suitable or viable site in or on the edge of a nearby centre.

In principle the change of use to a florist, with ancillary sales is considered acceptable. There is concern relating to the proposed garden centre element in this location. The plans submitted with the application do not provide any specific information relating to the garden centre, for example what materials would be used and/or storage buildings which may be required: and due to the position of the service yard in close proximity, in relation to the neighbouring gardens in James Close, would have the potential for causing a detrimental impact upon their amenities, and as such is not considered to be acceptable.

The nature and scale of the proposed florist is unlikely to have a significant adverse impact on any centre and there are at least 7 bus services running along surrounding streets. It is considered that the proposal is in accordance with Government guidance in PPS4, Core Strategy Policies CEN6 and CEN7 and 'saved' Unitary Development Plan policies S6, S7 and S13.

### **Design and Impact on Neighbouring Residents**

The application site is set off the main run of Park Lane, within a self contained location with a dedicated car park serving both units. Externally, the only alterations would be to the side elevation facing the car park, with the addition of an entrance doorway. Its appearance would be similar to that of the entrance doorway to the restaurant, also within the side elevation. It is considered that the proposal would not cause any significant detriment to the existing appearance to the building.

The curtilage of the proposal site is encompassed mainly by residential properties along the same side of Park Lane and to the rear in James Close. Information contained within the supporting letter indicates a fork-lift truck would be used as part of the proposal. However, it is considered that the previous use of the unit as a light industrial workshop would have generated more noise and nuisance to the neighbouring occupiers, than proposed in the service yard area to the garden centre. Pollution Control officers have not raised any objections to the proposal.

### **Impact on Highway Safety**

The indicative plan submitted with the application, shows provision for six designated car parking spaces for the use of customers visiting the florist / garden centre, which would include one disabled parking space. Furthermore, a space would remain vacant fronting the entrance gates to the service yard, provision for delivery vehicles visiting the unit.

Cars, vans and trucks may have been most likely to visit the industrial workshop, and it is unlikely that this would be increased by the proposed change of use. Transportation officers do not object to the proposal, subject to a condition being imposed, preventing the use of the premises for no food sales, which would require more car parking spaces to be provided.

### ***Summary of reasons for granting planning permission***

The appearance of the proposal is acceptable and takes account of its surroundings and it is considered that the proposal would comply with relevant policies of the development plan. The position and proposed change of use to the building, in relation to the adjoining dwellings means that it will cause little additional noise or nuisance, loss of privacy than that to the previous industrial workshop. The creation of the designated parking spaces would satisfy the needs of its customers. A condition would be incorporated into any approval given to restrict non food sales, to retain the specified number of parking spaces available.

As such, having taken into account all consultation responses the proposed development is considered to accord with the aims and objectives of The Core Strategy Policies CEN6 and CEN7 and saved 'Unitary Development Plan' Policies S6, S7 and S13, T7 and T13, and National Guidance in PPS4

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

The appearance of the proposal is acceptable and takes account of its surroundings and it is considered that the proposal would comply with relevant policies of the development plan. The position and proposed change of use to the building, in relation to the adjoining dwellings means that it will cause little additional noise or nuisance, loss of privacy than that to the previous industrial workshop. The creation of the designated parking spaces would satisfy the needs of its customers. A condition would be incorporated into any approval given to restrict non food sales, to retain the specified number of parking spaces available.

As such, having taken into account all consultation responses the proposed development is considered to accord with the aims and objectives of The Core Strategy Policies CEN6 and CEN7 and saved 'Unitary Development Plan' Policies S6, S7 and S13, T7 and T13, and National Guidance in PPS4

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

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

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

2: Notwithstanding the Town and Country Planning (Use Classes) Order and Town and Country Planning (General Permitted Development) Order or any legislation revoking or superseding these Orders, the premises shall not be used for any purpose other than as a Florist.

Reason: The premises would not be suitable for other garden centre uses within this Use Class and to comply with PPS4 Policy EC19, because of the nature and level of impact on residential properties.

3: The entrance doorway to the side shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the works, unless otherwise previously agreed in writing by the local planning authority.

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

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no additional windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

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

5: These premises shall not be open for business outside the hours of 9.00 – 17.00 hours Monday – Saturday, and 10.00 – 12.00 hours Sundays and Bank Holidays

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

6: No external storage of goods and materials above 2.0 metres in height shall take place within the service yard area without the prior consent of the Local Planning Authority.

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

7: This permission relates to the amended plans received 21<sup>st</sup> February 2011, drawing number 1472, and proposed side elevation plan received 21<sup>st</sup> February 2011.

Reason: To define the permission.

### **Notes for Applicant:**

- A. This permission is for a change of use only and does not grant permission for any alterations to the exterior of the premises which have not been included in the current application, which would require planning permission.
- B. This permission does not grant consent for any signs or advertisement, illuminated or non-illuminated. A separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992 or subsequent legislation.





## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### **Reason for bringing to committee: Recommendation contrary to consultee objection**

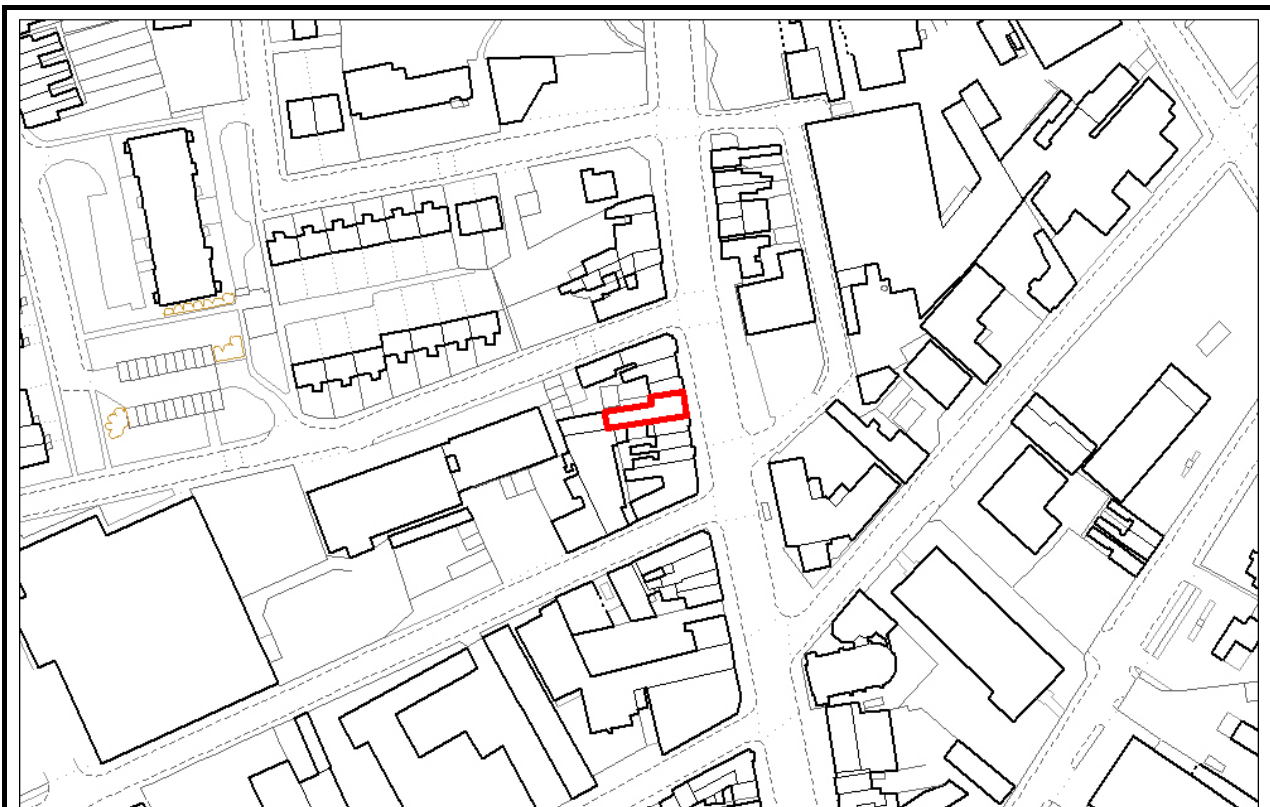
**Application Number:** 11/0018/FL  
**Application Type:** Full application

**Applicant:** Mr M Iftikhar  
**Proposal:** Retain use of building as cafe with take out facility and include new extract duct  
**Ward:** Birchills Leamore

**Case Officer:** Alexander Keen  
**Telephone Number:** 01922 652527  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**  
**Location:** 86 STAFFORD STREET, WALSALL, WS2 8DU

**Expired Date:** 24/03/2011

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



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## **Application and Site Details**

This application is seeking retrospective planning permission for a change of use of a ground floor retail unit from A1 shop to A3 café with ancillary A5 hot food takeaway, and planning permission to install an external ventilation flue to the rear.

The café was opened in early 2009 following extensive refurbishment of the property in late 2008. The property had previously been vacant. The café serves a selection of hot and cold food for consumption on or off the premises. The net floorspace (including the service counter area), measures approximately 54sqm and accommodates 17 covers. There is one toilet available to customers. The opening hours applied for are 08:00am to 23:00pm, Monday to Sunday (including Bank Holidays).

A kitchen extraction and purification system is proposed to be installed discharging at the rear of the property, with an external stainless steel flue terminating no less than 1m above the eaves of the roof. Full details of the proposed system, including proposed elevations, finishes, fixings, and manufacturers specifications have been submitted with the application.

The application site is a two-storey Victorian mid-terrace property within the Stafford Street Local Centre. There are residential flats above the café which are accessed from the rear via an external staircase. The café has a frontage onto the B4210 Stafford Street, a District Distributor. There is a mixture of uses in the Local Centre including A1 shops, A2 financial and professional services, public houses and bars, and some industrial premises. There are also a number of vacant and semi-derelict buildings. There are double yellow lines along Stafford St. with limited on-street parking available within a 50m radius of the application site. No dedicated off-street parking is available to customers of the café, although one staff parking space is available to the rear of the application site. There is a bus stop less than 5m from the entrance to the café.

## **Relevant Planning History**

### **The application site**

**E09/0139** – a planning enforcement investigation into a change of use from A1 shop to A3 café with A5 hot food takeaway. This investigation was begun in response to an enquiry from a member of the public in February 2009. Officers found that the change of use was unauthorised and advised the owner that an application for planning permission should have been made.

**08/0120/FL (84-87 Stafford St)** – proposed alterations & extensions to shops and flats with new fronts and roller shutters and replacement windows, and 3 no. proposed dwellings – GRANTED subject to conditions 19<sup>th</sup> May 2008.

### **Neighbouring sites**

**83 Stafford St: 09/1091/FL** – change of use to café & takeaway with ground floor extension and conversion of 1<sup>st</sup> floor to form self-contained flat – GRANTED subject to conditions 1<sup>st</sup> April 2010. Officers had recommended that permission be refused due to a lack of satisfactory off-street parking, but Committee resolved that the proposed use would assist in regenerating Stafford Street and would not be a danger to the free flow of traffic.

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

Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452,

Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

**83 Stafford St: 06/0496/FL/W3** – change of use to hot food takeaway with operator's flat over, including conversion and extension – REFUSED 19<sup>th</sup> June 2006. An appeal against the decision to refuse planning permission was dismissed on 6<sup>th</sup> September 2007, the Inspector concluding that there would be an unacceptable increase in on-street parking in an area where such parking is restricted for good reason.

**87 Stafford St: 06/0145/FL/W7** – change of use to a restaurant with self-contained flat above – GRANTED subject to conditions 6<sup>th</sup> April 2006.

**81 Stafford St: 05/1593/FL/W6** – change of use to takeaway – REFUSED 17<sup>th</sup> November 2005. An appeal against the decision to refuse planning permission was dismissed on 30<sup>th</sup> June 2006, the Inspector concluding that the likely increase in on-street parking would be detrimental to highway safety.

### **Relevant Planning Policy Summary**

#### **Black Country Joint Core Strategy 2011-2026**

Strategic Objective 5 seeks to deliver a network of vibrant and attractive town, district and local centres across the Black Country, each offering an appropriate choice of facilities.

Policy CSP4 states that the hierarchy of centres will provide a focus and concentration for essential local services and activities with easy access by walking, cycling and public transport.

Policy CEN5 states that a network of vibrant District and Local Centres provide particularly for day-to-day convenience shopping and local service needs.

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

GP2 seeks to ensure that all development makes a positive contribution to the quality of the environment. Relevant considerations to be taken into account in the assessment of this application include:

- I. Visual appearance
- II. The creation of, or susceptibility to, pollution of any kind
- VI. Overlooking or loss of privacy
- VII. The adequacy of the access, and parking.
- XIX. The hours of operation of any activities proposed.
- XX. Any other factor of environmental significance.

ENV10 states that the development of a facility which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

ENV32(a) states that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted, particularly within a Town, District or Local Centre. ENV32(b) requires the quality of design of any development proposal to be assessed using the following criteria:



- The appearance of the proposed development
- The height, proportion, scale, and mass of proposed buildings/structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.

Policy S1 identifies café and hot food takeaway uses as town centre uses.

Policy S2(c) states that the main function of Local Centres is to meet the day-to-day convenience shopping and local service needs of their communities.

Policy S5(a) states that the boundaries of Local Centres are drawn tightly to concentrate investment and within these areas the retention, enhancement and further development of shops, services and other town centre uses will be encouraged.

Policy S10 states that hot food takeaways and restaurants are appropriate uses in Town, District and Local Centres, subject to the following considerations:

- I. The use proposed must not adversely affect the amenities of 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 residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings - both existing and proposed - where these are likely to be affected. In such locations, the Council will usually impose a condition requiring the premises to close at 23.00 hours Monday to Friday and 23.30 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits.
- III. Permission will not be granted where the absence of adequate off-street parking would be likely to lead to on-street parking in a hazardous location.
- 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.

Policy T4(b) states that District Distributors are important routes connecting the main residential and employment areas of the Borough. Street parking and direct frontage access will be strictly regulated.

Policy T7 requires all development to satisfy the parking standards set out in policy T13. Policy T13 states sets the following parking standards for hot food takeaways, and other buildings for public assembly and food and drink:

*Hot food takeaways: 4 car park spaces for establishments with a gross floorspace up to 50m<sup>2</sup>; then 1 space per 22m<sup>2</sup> of gross floorspace.*

*Other buildings for public assembly and food and drink: 1 space per 22m<sup>2</sup>.*

### Regional Spatial Strategy for the West Midlands (RSS11)

Policy QE3 seeks to create a high quality built environment for all.

*N.B: On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010. The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Bill and will take time) should be a material consideration in decisions. That position was itself subject to a legal challenge. On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration.*

***Officer's advice is that the RSS remains part of the statutory development plan for the Borough*** (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise.

*However, the Government's proposal to abolish the RSS at some point in the future can be a material consideration. The weight to be given to this is for the local planning authority to judge, based upon such things as, for example, the extent to which a planning decision rests on the RSS and whether the implications of the decision might be felt before the RSS might be abolished. Each case must be considered on its merits in this context and a clear and reasoned view achieved.*

### Planning Policy Statement 1: Delivering Sustainable Development

Promotes good design as a key element in achieving sustainable development, and states that good planning ensures the right development, in the right place and at the right time.

PPS1 also states that planning should facilitate and promote sustainable and inclusive patterns of development by ensuring that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities.

### Planning Policy Statement 4: Planning for Sustainable Economic Growth

Policy EC13 states that when assessing planning applications affecting shops in local centres, local planning authorities should:

- a) take into account the importance of the shop to the local community or the economic base of the area if the proposal would result in its loss or change of use
- b) refuse planning applications which fail to protect existing facilities which provide for people's day-to-day needs
- c) respond positively to planning applications for the conversion or extension of shops which are designed to improve their viability

## Planning Policy Guidance 13: Transport

Promotes sustainable patterns of development which reduce the need to travel, especially by car. In particular, Local Authorities should not require developers to provide more parking spaces than they themselves wish, other than in exceptional circumstances, for example where there are significant implications for road safety which cannot be resolved through on-street parking controls.

### **Consultee Responses**

**Transportation** – No objections, subject to a condition requiring the primary use to be as an A3 café, and limiting the extent of any A5 use.

**CENTRO** – object to the proposed use concerned that there is inadequate off-street parking, and that on-street parking associated with the use prejudices the safe and efficient operation of the bus services along Stafford Street. In particular, Centro advise that there are two bus shelters in close proximity to 86 Stafford Street, and it is likely that the bus services were split between the two stops to avoid traffic congestion caused by the large number of buses along Stafford Street.

**Pollution Control: Contaminated Land** – No objections

**Pollution Control: Scientific** – No objections, but conditions are recommended to address the potential noise and air quality issues.

**Environmental Health** – no objections, but also recommend conditions to address the potential noise and odour nuisance issues, and to control pollution of the drainage system associated with the disposal of used cooking oils and fats.

Environmental Health officers also recommend the following:

- a) *That the extract equipment is installed and operational within a reasonable timescale, such as 2 months, as the premises is already in use as a cafe.*
- b) *That consideration needs to be given to potential noise disturbance from delivery vehicles and personnel, and customers and their vehicles. A restriction on opening hours may be beneficial.*
- c) *That WC provision must be made available for customers, preferably with reference to BS 64651-1:2006. Sanitary conveniences are to have adequate natural or mechanical ventilation.*

**Fire Service** – No objections

**Access Officer** – No objections

### **Public Responses**

None received

## **Determining Issues**

The determining issues are:

- Principle of the use
- Impact on the amenities of nearby residents
- Impact on highway safety, and parking
- Design of the flue, and impact on the character of the area
- Impact of litter

### **Principle of the use**

National and local planning policy places importance on ensuring that local centres continue to meet the needs of the communities they serve, and on sustaining and enhancing their vitality and viability.

There are many vacant commercial units along Stafford Street, and the majority of units either vacant or occupied are classified A1 shops. Permission was granted last year for a hot food takeaway at 83 Stafford Street, though this permission has not yet been implemented.

The application site is within the Stafford Street Local Centre, and an A3 café with ancillary hot food takeaway is acceptable in principle in a Local centre. The use has brought a previously vacant shop back into use. This provides a service to the local community during the day and into the evening, adding to the variety of uses operating in Stafford Street Local Centre, which is considered to enhance the vitality and viability of the Local Centre.

### **Impact on the amenities of nearby residents**

Environmental Health and Pollution Control officers do not object to the application, but recommend conditions to ensure that the proposed kitchen extraction equipment is installed and functions so as to minimise the potential for noise and odour nuisance to neighbours.

Environmental Health officers also suggest that restricting opening hours would be beneficial to addressing potential noise nuisance arising from delivery vehicles and staff and customers coming and going from the site.

There are residential flats on the first floor above the application site. No objections to the application have been received from neighbours and the café has been operating for two years in which time the Council has not received any complaints from neighbours. The proposed closing time of 23:00 Monday to Saturday would be in accordance with saved policy S10 of Walsall's Unitary Development Plan, and it is considered that Sunday opening is unlikely to have a significant detrimental impact on nearby residents given the existing commercial character of the area and the ancillary nature of the hot food takeaway facility, which could be controlled by condition.

## **Impact on highway safety, and parking**

No off-street parking is either available or proposed for use by customers. CENTRO has objected to the application concerned that the lack of off-street parking encourages on-street parking which prejudices the safe and efficient operation of bus services along Stafford Street.

Applying the parking standards set out under saved policy T13 of Walsall's Unitary Development Plan, an A3 café use would be expected to provide the same number or fewer parking spaces than the an A1 shop. As the previous use of the application site was as an A1 shop and no dedicated off-street customer parking was provided for that use, the current A3 café use is unlikely to have a greater impact on highway safety.

Planning permission was granted in 2006 for an A3 restaurant at 87 Stafford Street, though that permission was not implemented and has since expired. The Council's Transportation officers have advised that they do not object to the application provided the primary use is A3 and any A5 use is limited. The applicant's agent has confirmed in writing that the application is for permission to continue the existing A3 café use only and any A5 use would be ancillary, and this could be controlled by condition.

Notwithstanding the above, lower levels of parking provision are usually acceptable in local centres as they are accessible by other means of transport than the private car, and on-street parking is restricted along Stafford Street to aid the flow of traffic and separate controls exist to enforce this.

## **Design of the flue, and impact on visual amenity and the character of the area**

The proposed flue would be to the rear of the property and would not be visible from Stafford Street. It would be partially visible from Whitehouse Street, but in the context of neighbouring commercial and business properties with limited impact on the character of the area.

The proposed flue would be immediately adjacent and visible from habitable room window in the first floor flats above the application site. However the existing outlook from these windows is of an enclosed hard-surfaced yard shared by the businesses and residents occupying 84-87 Stafford Street and it is considered that the impact on the visual amenity of neighbours in this context would be limited.

## **Impact of litter**

Littering is a material planning consideration in so far as littering can have a detrimental impact on amenity, and cafés and hot food takeaways can produce litter. A condition of granting planning permission would require a new litter bin to be provided for customers to dispose of their litter responsibly, in the interests of general amenity.

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

The use of the application site as an A3 café with ancillary A5 hot food takeaway is considered to enhance the vitality and viability of Stafford Street Local Centre with limited impact on the amenities of occupiers of the flats above. The potential for on-street parking to add to traffic congestion along Stafford Street to the detriment of highway safety is

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considered minimal, being no greater than the last use of the application site. The proposed flue would be to the rear of the property and would not be visible from Stafford Street, with limited impact on the character of the area. Therefore, the proposal accords with the aims and objectives of Strategic Objective 5 and policies CSP 4 and CEN 5 of the Black Country Joint Core Strategy, saved policies GP2, ENV10, ENV32, S1, S2c), S5a), S10, T4b), T7 and T13 of Walsall's Unitary Development Plan, policy QE3 of the Regional Spatial Strategy for the West Midlands, Planning Policy Statements 1: Delivering Sustainable Development and 4: Planning for Sustainable Economic Growth, and Planning Policy Guidance 13: Transport.

**Recommendation: Grant Permission Subject to Conditions**

1: The extract equipment hereby permitted shall be installed within 2 months of the date of this decision, and used and maintained in accordance with the manufacturer's recommendations and instructions thereafter.

*Reason:* To minimise the potential for noise and odour nuisance to neighbours, and to ensure the satisfactory functioning of the extract equipment.

2: The extract equipment hereby permitted shall be of the specification, type and layout identified in the document 'Information for Environmental Officer' dated 30<sup>th</sup> November 2010 that was submitted by Springfield Catering Direct with this application, unless otherwise approved in writing by the Local Planning Authority.

*Reason:* To minimise the potential for noise and odour nuisance to neighbours, and to ensure the satisfactory functioning of the extract equipment.

3: A means of preventing fat, oil and grease entering the drainage system (such as a grease trap) must be installed within 2 months of the date of this decision, and maintained thereafter.

*Reason:* In the interests of maintaining the free flow and capacity of the drainage system, and to prevent pollution of the system.

4: Details of a litter bin to be provided for use by customers of the café, including location and arrangements for emptying, shall be submitted to the Local Planning Authority within 2 months of the date of this decision. The agreed details shall be implemented within 1 month of the date of written agreement from the Local Planning Authority, and the litter bin maintained thereafter.

*Reason:* In the interests of general amenity.

5: The permitted use is as an A3 café only. Any A5 hot food takeaway use must remain ancillary to the permitted use at all times.

*Reason:* To define the permission, and in the interests of general amenity and highway safety.

6: The hours of opening for the permitted use are restricted to 08:00 – 23:00 Monday to Sunday including Bank Holidays.

*Reason:* To define the permission, and in the interests of general amenity and highway safety.

7: The discharge stack shall discharge the extracted air not less than 1 metre above the roof eaves of the building housing the commercial kitchen.

*Reason:* To minimise the potential for noise and odour nuisance to neighbours, and to ensure the satisfactory functioning of the extract equipment.

8: The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Floor Plan received 21<sup>st</sup> January 2011.

Proposed Elevations received 27<sup>th</sup> January 2011.

*Reason:* For the avoidance of doubt and in the interests of proper planning.

**NOTE TO APPLICANT**

- 1) *WC provision must be made available for customers, preferably with reference to BS 64651-1:2006. Sanitary conveniences are to have adequate natural or mechanical ventilation.*

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### Reason for bringing to committee: Matter requiring delicate judgement

**Application Number:** 10/1217/FL  
**Application Type:** Full application

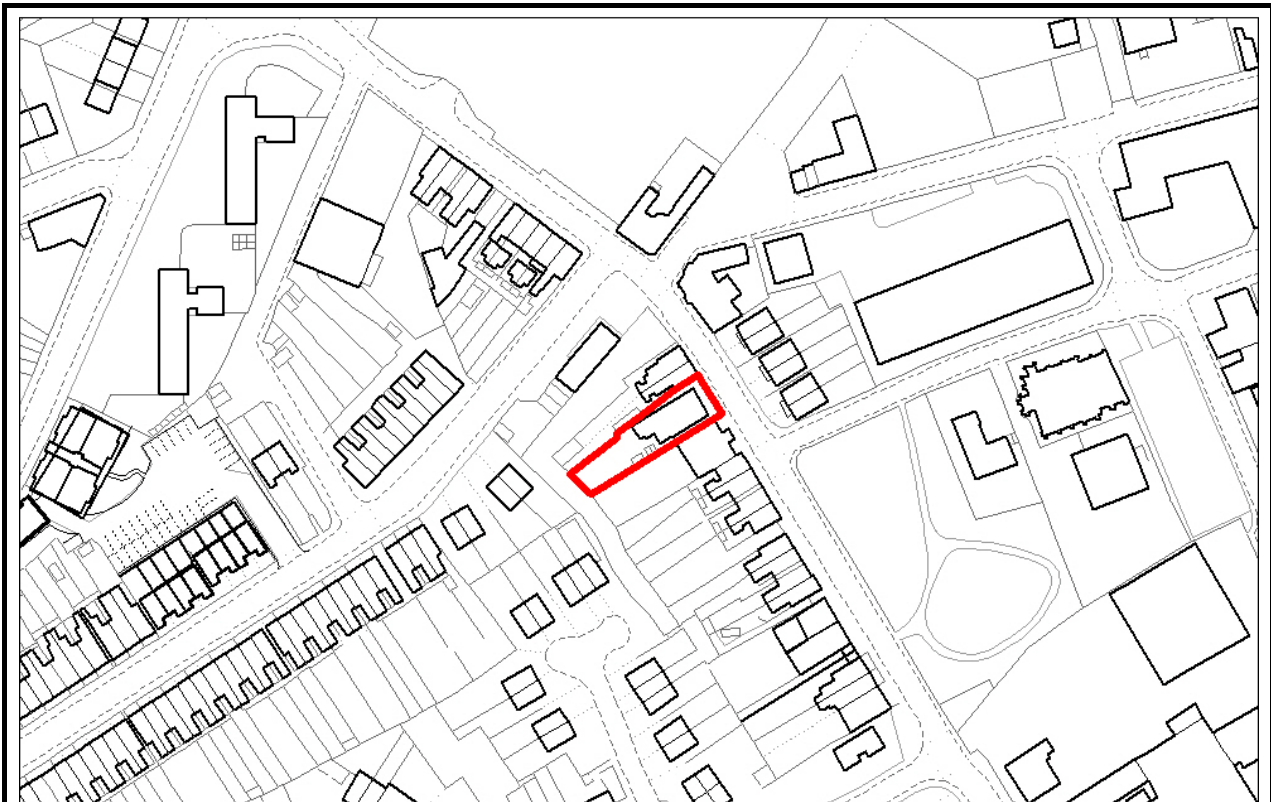
**Applicant:** Deep Singh  
**Proposal:** Conversion of former church to 4 flats together with demolition and rebuilding of rear, single storey extensions to create two additional flats.

**Ward:** Willenhall South

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652403  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr Manjit Singh  
**Location:** FORMER CHURCH OF GOD,  
73 ST. ANNES ROAD, WILLENHALL,  
WALSALL, WV13 1ED

**Expired Date:** 28/04/2011

### Recommendation Summary: Grant Permission Subject to Conditions



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## **Application and Site Details**

The application is for the conversion and extension to the existing former Methodist Church into 6 flats. The proposed extension would be single storey and work has already commenced on this structure.

The previous single storey rear extensions to the Church and its associated outbuilding have already been demolished.

The Church would be converted into 4, one-bedroom flats with 2, two-bedroom flats being contained within the proposed extension.

The area is mixed in character with several local shops in the vicinity, industrial premises (Ashmore Lake Core Employment Area) nearby and a number of residential properties surrounding the area of a variety of sizes and ages.

## **Relevant Planning History**

10/0574/FL - Change of use of part of ground floor to shop, new shopfront and external alterations, new ground floor self contained flat, 2 flats on first floor and new flat within the garden area of the former Church together with associated landscaping, staircase and bin and cycle storage. Refused – 5<sup>th</sup> July 2010

### **The following reasons were given:**

- **Out of centre location – no local need.**
- The design of the proposals and the conversion
- The proposed detached building to the rear would be of poor quality design lacking in design features or local distinctiveness and harm amenities of neighbouring residents and result in a poor environment
- The internal layout of the proposed flats would be cramped and result in a poor quality living environment and together with the poor quality external layout, caused by a lack of outlook, poor positioning of bin stores and relationship to commercial premises, the scheme would fail to provide a high quality residential environment.
- The addition of windows and doors on the first floor and the external staircase proposed would introduce first floor activity that would adversely affect the amenities of existing and future neighbouring residents, in particular to the occupiers of 71, 72 and 74 St Anne's Road.
- The lack of provision of car parking, increased parking demand and likely resultant on-street parking on St Anne's Road and neighbouring streets would harm the free flow of traffic and highway safety on the local highway network.

## **Relevant Planning Policy Summary**

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

### **The Development Plan**

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

Adopted by Cabinet on 3<sup>rd</sup> February 2011. This forms the principle strategic policy document for the Borough. Site specific and other policies of the Unitary Development Plan are relevant.

CSP1 – sets out the targets for sustainable regeneration of the Black Country focusing on the town centres.

CSP4 – develops the need for high quality place making and design

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

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

HOU2 – sets out criteria for design, layout and accessibility of housing.

### **The saved policies of the Unitary Development Plan (UDP)**

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.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

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

ENV26: seeks to preserve buildings that of importance to the industrial heritage of Walsall and the Borough

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

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

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

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

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

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

Flats with communal parking - 1.5 spaces per unit.

LC8 – sets out the tests for the loss of a community facility

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

#### **Designing Walsall SPD**

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

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

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

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

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

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

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

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

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

### **Regional Spatial Strategy for the West Midlands (RSS 11)**

The revocation of Regional Spatial Strategies by the Secretary of State, on 6 July 2010, has been reversed by the High Court.

The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation and will take time) should be a material consideration in decisions

There has been a legal challenge to that position

The Government has responded and now advises that in relation to the challenge:-

“ .... The Secretary of State is defending the challenge and believes and is advised that it is ill founded. Nevertheless, pending determination of the challenge, decision makers in local planning authorities and at the Planning Inspectorate will in their determination of planning applications and appeals need to consider whether the existence of the challenge and the basis of it, affects the significance and weight which they judge may be given to the Secretary of State's statements and to the letter of the Chief Planner.”

Officer's advice is that the RSS is again part of the statutory development plan for the Borough, with the saved policies of Walsall's UDP and the adopted Joint Core Strategy, and decisions should be made in accordance with it unless material considerations indicate otherwise.

Clearly, the situation is in flux and whilst reliance can be placed on the RSS now, the position may change in future. Each case must be considered on its merits in this context and a clear and reasoned view achieved.

The focus for the Black Country policies are to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

- a) to reverse out-migration accommodating within the Black Country all of the generated household growth from 2011 and meeting at least the levels of housing provision identified in Policy CF3 table 1;

- b) to raise income levels raising demand and household incomes (average earnings, GDP per head and reducing unemployment) to the UK average by 2033;
- c) to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix by increasing the proportion of social grades A and B to match the national profile by 2033 or earlier; and
- d) to transform the Black Country environment by protecting and enhancing the sub-region's environmental and heritage assets and biodiversity and implementing the Black Country as Urban Park concept.

Overall the strategy 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.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

### **National Policy**

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

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

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

### **Consultations**

**Transportation** – No objection

#### **Pollution Control**

**Scientific Team** – No objection subject to a condition relating to working hours

**Contaminated Land Team** – No objection

**Environmental Health** – Object due to the proximity of the neighbouring takeaway

**Built Environment (Conservation)** – No objection

**Fire Service** – No objection

**Landscape Team** – No objection

### **Public Participation Responses**

1 letter of objection from nearby resident concerned about the lack of car parking and lack of demand for flats.

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

### **Determining Issues**

- Loss of community facility
- Conversion to flats
- The impact of the proposals on the existing character of the building
- Impact on neighbouring properties
- Impact on the local highway network and car parking

### **Observations**

#### **Loss of community facility.**

Policy LC8 sets out four tests:

- I. There are other existing facilities, in an equally or more convenient location, which could accommodate any community activities displaced by the proposed development;
- II. A replacement facility could be provided in an equally or more convenient location; or
- III. There is no longer a need for the facility, or for any other community use which could be appropriately provided on the site in accordance with other policies of this Plan; or
- IV. It would not be possible to retain the facility, or provide an alternative community facility because, despite all reasonable efforts, this would not be viable.

Whilst no evidence has been submitted in regard to the loss of the community facility, the presence of St Anne's Church opposite the application site, in particular, would indicate that there is a community facility within easy walking distance. The worship facilities have

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been deemed surplus to requirements through their disposal. As such, it is considered that whilst there are gaps in the evidence submitted, the tests of the Policy would be met in this instance.

### **The change of use to flats and proposed layout**

The principle of the conversion to flats is not resisted in principle. The type of accommodation would allow for sensitive treatment of the features on the front elevation (principally the rosary window and the dated foundation stone). A communal front entrance and the shared communal landscaped areas would allow for higher quality environment in this instance.

The proposed flats and layout would follow the previous built form of the Church and its outbuildings. The rear extension would reflect the previous extensions and outbuildings which have now been demolished.

### **The impact of the proposals on the existing character of the building**

The proposed extensions, as mentioned above, seek the retention of the principal historic external elements and utilise the windows of the existing Church and use them as focal points on the rear elevation. The roof pitch of the rear elevation has been designed with this in mind.

As such the proposals have been amended and designed to take account of the historic character of the Church and are considered acceptable.

### **Impact on neighbouring properties**

The inclusion on the number of side windows doors and openings are noted. The ground floor windows would be shielded by existing and proposed boundary treatment, together with existing side facing windows. In addition the former single storey extension and the outbuilding which has been demolished are also noted. Overall, it is not considered that the amenities to 71 and 72 St Annes Road would be materially damaged by the proposals.

The comments of Environmental Health are noted with regard to the nearby takeaway which is an established use with appropriate noise and ventilation equipment. Considering the location of the site and other uses opposite and housing neighbouring the site, it is not considered that the proposals would result in harm to the continued operation of the takeaway and that housing would be the most appropriate use of the site.

### **Impact on the local highway network and car parking**

Officers note that the proposed car parking levels are a maximum figure and no car parking is proposed. However the balance being that there is nowhere to place car parking on the site, and in this instance the preservation of the Church overrides, in Officers view, the need to provide off-street car parking.

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

The proposals are for the reuse and extension to the existing Church following the demolition of existing outbuildings and extensions. The proposals are designed to reflect the historic character of the church and maintain the important feature. The proposals would, on balance not cause material harm to the character of the area and amenities of neighbouring residents. The presence of the nearby takeaway is noted.

There is no capability to offer off-street parking provision without demolishing the Church building. Taking account of the former use of the site and the proposed type of accommodation, it is considered that the preservation of the historic Church overrides the need to provide off-street car parking.

Having carefully taken account of consultation and public participation responses, it is considered that the proposals are in accordance with policies CSP1, CSP4, CSP5, ENV 2, ENV 3 and HOU2 of the Black Country Joint Core Strategy, saved policies GP2, ENV10, ENV14, ENV26, ENV32, ENV33, H3 and T13 of the Unitary Development Plan, in conjunction with the aims and objectives of Designing Walsall Supplementary Planning Document, and regional and national planning policy.

**Recommendation: Grant Permission Subject to Conditions**

1. Prior to the completion of works, details of proposed roof materials and any new materials proposed shall be submitted to and approved in writing by the Local Planning Authority.

*Reason:* In order to ensure satisfactory development of the application site

2. Within 3 months of the date of this decision notice a detailed hard and soft landscaping scheme including details of the proposed bin area and drying area and area in front of the former Church shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing, the scheme shall be implemented in accordance with the approved scheme in the first available planting season.

*Reason:* In order to ensure satisfactory development of the application site

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking, re-enacting or modifying that Order), no additional extensions or openings (including dormer and velux windows), outbuildings, structures or means of enclosure (e.g. walls, gates, or fences) shall be erected without prior written approval of the Local Planning Authority.

*Reason:* Having regard to the size of the approved back gardens, relationship to neighbouring properties and the historic character of the former Church.

4. At all times the existing Rosary window, dated foundation stones, and entrance door surround on the front elevation shall be maintained and preserved as part of the development.

*Reason:* Having regard to the historic character of the former Church.

5. Prior to the completion of the development, details of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority, the boundary treatment shall be implemented in accordance with the approved details prior to the first occupation.

*Reason:* In order to ensure satisfactory development of the application site and to safeguard the amenities of neighbouring residents.

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

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### Reason for bringing to committee: Contrary to Policy

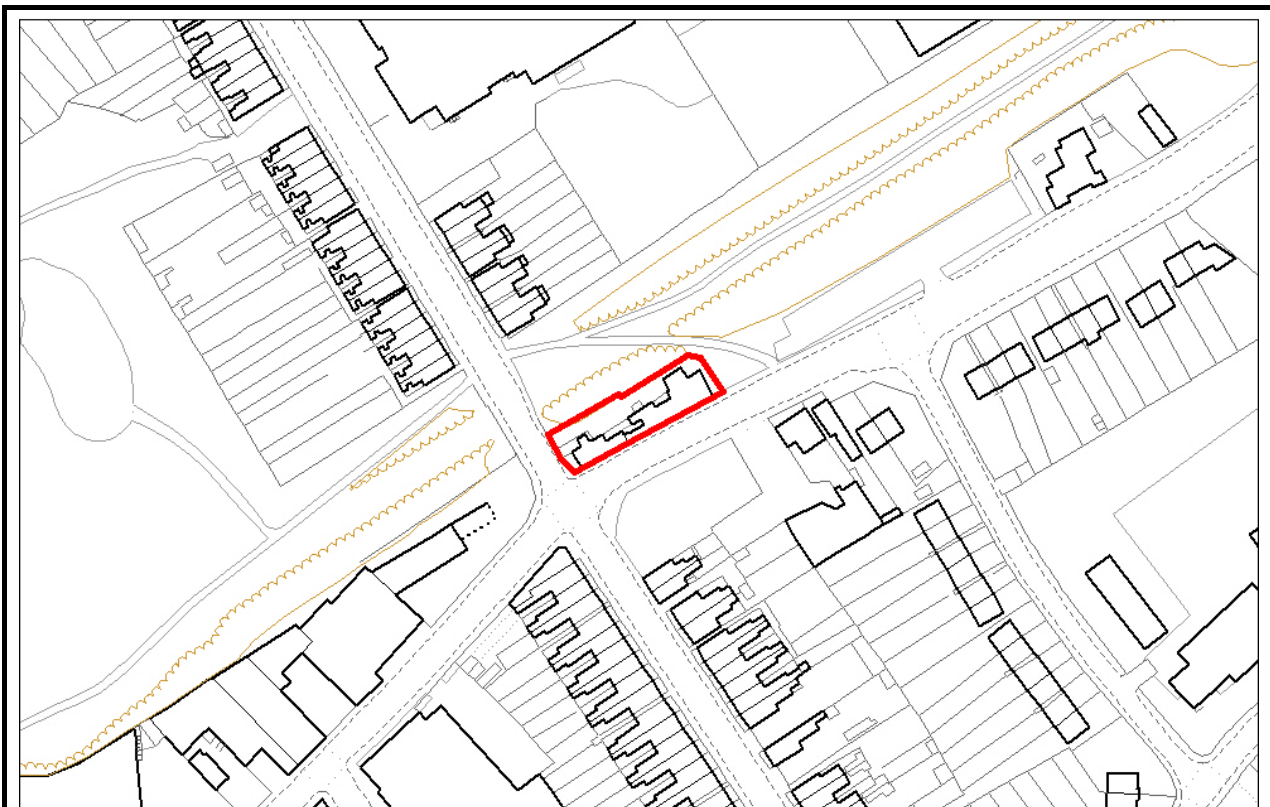
**Application Number:** 11/0109/FL  
**Application Type:** Full application

**Applicant:** S&R Properties (UK) LTD  
**Proposal:** Demolish existing building and the erection of 9 apartments (8 x 2 bed & 1 x 1 bed) with associated amenity facilities.  
**Ward:** Willenhall South

**Case Officer:** Helen Smith  
**Telephone Number:** 01922 652436  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Architectural Design Studio LTD  
**Location:** 44 STRINGES LANE, WILLENHALL, WALSALL, WV13 1LU

**Expired Date:** 08/04/2011

### Recommendation Summary: Grant Permission Subject to Conditions



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## **Application and Site Details**

This application seeks to demolish a former light industrial building located at the corner of Stringes Lane and St. Anne's Road and replace with 9 apartments.

Stringes Lane / St. Anne's Road is a traffic light controlled junction with a pedestrian crossing across Stringes Lane. The existing building stands alone on this corner and has a Council owned public car park to the east of the site and another opposite (to the south). The area has a mixed character with some commercial premises but is predominantly residential. There is a dismantled, wooded, railway embankment to the rear to the rear of the site in Council ownership. This former railway embankment is the proposed location of the Rapid Transport Route. There is an industrial engineering factory opposite the site to the rear of existing residential properties on Stringes Lane and a commercial unit on the opposite side of St Anne's Road.

The new building would be mainly two storey with a three storey section located close to the corner. The proposal would have a similar form in height, scale and footprint to the existing industrial building and would be constructed close to the back of footpath with a separate area of landscaping / amenity area to the east of the new building fronting Stringes Lane.

The proposals include the provision of 8 x two bedroom and 1 x one bedroom apartments. Two separate cycle and bin storage areas would be provided to either side of the new building.

The planning application is supported by a Design and Access Statement which comments that the proposed new building is similar in height, proportion, scale and mass to the building being demolished but would be set back from the frontage to create a more attractive frontage. Materials proposed for the development would reflect typical traditional materials used in exiting residential properties in the area. The statement concludes that the current proposals would ensure the ongoing use of the site and would provide visual policing of the surrounding area. In addition a tree and bat survey accompanied this proposal.

## **Relevant Planning History**

09/1725/FL – Change of use to A1, A3 and A5 – withdrawn 4 February 2010

## **Relevant Planning Policy Summary**

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

## **Black Country Core Strategy (JCS)**

The Joint Core Strategy was adopted by the Council on 3 February 2011 and now forms part of the statutory development plan. It replaces certain "saved" policies in the UDP.

Vision: to include the creation of a network of sustainable communities' right across the Black Country. This will be achieved, in part, by creating environments which offer opportunities for active lifestyles and healthy choices, including provision for outdoor recreation within the urban fabric of the Black Country.

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

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

This includes open space, areas of importance for biodiversity and areas and buildings of high design quality.

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

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

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

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development. Proposals should be in accordance with an agreed Transport Assessment, where required, and include implementation of measures to promote and improve such sustainable transport facilities through agreed Travel Plans and similar measures.

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

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

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.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

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

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

3.113, 3.114, 3.115, & ENV32: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

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

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

### **Supplementary Planning Documents Designing Walsall SPD**

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

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

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

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

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

DW10 - Well designed sustainable buildings- New development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment

Annexe E: Numerical Guidelines for Residential Development ... identifies matters such as privacy and aspect distances between dwellings and garden dimensions. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Appendix E includes;

- 24 metre separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.

### **Natural Environment SPD**

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

Protection is proposed for protected animals, plants etc.

### **Regional Spatial Strategy (RSS)**

On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010. The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Bill and will take time) should be a material consideration in decisions. That position was itself subject to a legal challenge. On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration.

**Officer's advice is that the RSS remains part of the statutory development plan for the Borough** (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise. However, the Government's proposal to abolish the RSS at some point in the future can be a material consideration. The weight to be given to this is for the local planning authority to judge, based upon such things as, for example, the extent to which a planning decision rests on the RSS and whether the implications of the decision might be felt before the RSS might be abolished. Each case must be considered on its merits in this context and a clear and reasoned view achieved.

## **National Policy**

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

PPS3: Promotes sustainable development and the efficient use of previously developed land. It promotes the need for well designed new housing developments. Consideration of design and layout must be formed by the wider context.

PPS4: Encourages sustainable economic growth and making the most efficient and effective use of land, prioritising previously developed land. It encourages location of developments which generate substantial transport movements in locations that are accessible.

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

PPS24: Seeks to minimise the adverse impact of noise.

## **Consultations**

**Transportation** – No objection

**Natural Environment Team** – No ecological objections but recommend making a Tree Preservation Order to protect the tree belt to the rear.

**Tree Officer** – No objections

**Landscape Officer** – No landscape objection subject to planting details, frontage wall and railing details being submitted. Initial security concerns about the location of the cycle store next to St. Anne's Road have been addressed by incorporating this within the proposed bin storage area.

**Building Control** – No adverse comments but confirm a Section 80 (Demolition) Notice should be served at least 6 weeks before any intended demolition works.

**Pollution Control Contaminated Land Team / Scientific Team** – No objections but require that conditions are attached to address issues of potential noise which may arise from the road junction and proposed location of the Rapid Transport Route.

**Housing Standards** – No comments

**Environmental Health** – No objections or observations

**Centro** – No objections but comment that whilst the property is not directly affected the current proposals for the 5Ws Rapid Transport Route would involve acquisition of land immediately adjacent to the north and east of the development site.

**Seven Trent Water** – no objection but require the inclusion of a condition requiring the submission of drainage plans for the disposal of surface water and foul sewage.

**West Midlands Fire Service** – No objections

## **Public Participation Responses**

One representation has been received from a neighbour on Stringes Lane supporting this proposal.

## **Determining Issues**

- Design of the proposal and impact on the character of the area
- Impact on amenity of existing residents
- Amenity space
- Impact on trees
- parking

## **Observations**

### **Design of the proposal and impact on the character of the area**

The character of the area is mixed with both commercial and industrial properties but is predominantly residential. Residential properties have a mixed character with Victorian and inter-war terraced housing styles. The design of the new building with projecting gable sections would be similar to these but with the addition of utilising the roof space for accommodation and the addition of a side facing window and roof lights. The new building would reflect the mass of the existing industrial building and it is considered that the new proposal would not harm the character of the area.

The new building would be set back from the footpath serving both Stringes Lane and St Anne's Road. This would enable the creation of a landscaped area which would soften the appearance of the proposed frontage. This would be an improvement on the existing situation as the industrial building directly abuts the footpath. The overall design is acceptable and reflects the character of the surrounding area.

Overall the development of this site would improve the existing situation particularly as the existing building was gradually becoming derelict and has on a number of occasions been broken into, its appearance is deteriorating and is having an impact on the locality.

### **Impact on amenity of existing residents**

The application site has no direct neighbours. The proposal would face across Stringes Lane and a public car park to the blank side elevation of 44 Albion Road which has a blank side elevation. Number 161 Albion Road, on the opposite side of the traffic junction to the application site, is a commercial premise with residential accommodation above. The first floor habitable room windows in number 161 are at an oblique angle to the proposed windows in this development. Whilst the separation distance would only be 20.8 metres (3.2 metres less than the window to window recommendation) these are at an oblique angle and face across a busy highway. It is considered that this proposal would not harm the privacy of the occupiers of 161 or the application property and the policy allows for a reduced separation across roadways.

No. 186 St Anne's Road, to the rear of the site behind the raised dismantled railway embankment and has a blank side elevation which faces this development across a separation distance of approximately 35 metres. The rear garden of number 186 lies

parallel with this site but this separation distance would avoid any overlooking and loss of privacy.

Number 148 Stringes Lane on the opposite side of Stringes Lane from this proposal would not directly face this development. On the basis of the above there would be no impact on existing residential amenity.

There is an engineering unit opposite the application site on Stringes Lane and is positioned to the rear of existing residential properties. This unit is in close proximity to existing residential properties and Pollution Control have raised no objections.

Centro have commented that whilst the property would not be directly affected by the current proposals for the 5Ws Rapid Transport Route this would involve the acquisition of land immediately adjacent to the north and east of the development site. This would have some impact on the future amenity of occupiers if constructed but would create a similar relationship with houses that have been built on Amberwood Close and Tenbury Close where houses have been built close to the former railway line.

This proposal is considered to be the best use of an existing brownfield site as should this site revert back to an industrial use it could become a bad neighbour use to existing residents. The existing building is vacant and is becoming derelict which in the future may become a problematic site in a prominent location.

### **Amenity Space**

The proposal provides limited private amenity space to the rear for the occupiers of the four ground floor apartments. The four apartments would each have 21.98, 25.98, 18.72 and 18.97 square metres respectively of private amenity space. These individual small gardens would be enclosed with rear retaining walls and 1.8 metre high close boarded fences. In addition there is an enclosed private amenity area to the north-eastern side of the site of 85 square metres for use by occupiers of the first floor flats. This area would be sufficient for the provision of drying area and sitting out. Whilst there is less than the required amenity space for flats it provides opportunity for choice of lifestyles and living to cater for all ages, abilities and sizes of households. The apartments have opening double doors and 'Juliet' balcony style guard rails.

The site is connected to an existing greenway and there is a large park on Villiers Street which can also be accessed from St. Anne's Road, close to the application site. The outside area proposed would be sufficient for the provision of drying area and sitting out. It is considered that the reduced level of communal amenity space would be mitigated by close proximity of the adjacent park.

### **Impact on trees**

Tree officers were originally proposing a Tree Preservation Order for the trees located on the disused railway embankment to the rear of the site. However as they have now established that the land is in Council ownership they are not proposing to do this.

### **Parking/accessibility**

The site is next to a traffic controlled junction with limited access for vehicles.

The applicants have provided a Transport Statement in support of their proposal in connection with parking requirements for the proposed development. The applicants are proposing to utilise the two under used public car parks which lie opposite and to the side of

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the proposed development. The existing car park to the north east of the site has residential properties opposite and this proposal, if approved, would provide residential properties opposite the second car park to the south. Both car parks would be provided with additional passive surveillance for vehicle security.

The existing car parks are free to use and the statement demonstrates that there is capacity for use by future residents. Transportation officers concur with this statement and should these car parks cease to become available to residents in the future it is considered that as this site has the provision of a regular bus service it is a sustainable location for travel. Transportation has also confirmed that should these car parks be removed in the future then an alternative provision would need to be provided for existing residents. There are frequent bus services operating along Stringes Lane to Willenhall, Wolverhampton and Walsall. The site is also within 500 metres of Willenhall town centre giving access to all facilities and options for alternative travel. The proposals also include the provision of secure cycle storage areas.

In view of the above the site is considered to be in a sustainable location as the site is in an accessible location and close proximity to the district centre and its services and therefore can be a justification for allowing a more flexible approach to the provision of parking spaces (in accordance with government guidance which states that the closeness of amenities should be taken into account). The location is sustainable and the design is considered to be in keeping with local area and character.

### **Summary of reasons for granting planning permission**

The principle use of the site for residential is acceptable and will make a positive contribution to the area which offers wider housing choice in terms of type and location and make more effective use of land within the urban area. The scheme and layout will provide adequate amenity space, privacy and daylight, be in keeping with the surrounding area and respect the character and nature of the existing urban grain.

The scheme pays particular attention to its form and appearance in the area to ensure that there is no detrimental impact on the amenities of nearby existing or proposed future occupiers.

As such the use of the site for residential is in accordance with policies CSP2, CSP3, CSP4, HOU2, TRAN1, TRAN2, ENV 1, ENV 2 and ENV 3 of the Black Country Joint Core Strategy, saved policies 3.6, 3.7, GP2, ENV14, 3.113, 3.114, 3.115, H10, ENV32, 3.117, & ENV33, H3, T7 and T13 of the Unitary Development Plan, Designing Walsall Supplementary Planning Document and national planning policy documents PPS1, PPS3, PPS4, PPG13 and PPS24.

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

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

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

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

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

3. No development shall be carried out until details of the secure cycle storage including proposed lighting for that facility have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be installed prior to the first occupation of any part of the development and thereafter retained.

*Reason:* To encourage cycling as a means of transport and in the interests of the security of future occupiers of the development

4. No development shall be carried out until details of a proposed bin store have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of any part of the development and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

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

5. 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 functioning and appearance of the development.

6. No development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation), has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority.

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

7. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

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

- I. A desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases likely to present a risk to proposed structures or future occupants of the development to be present on site. Results of the desk study and site reconnaissance shall be submitted to

and agreed in writing prior to built development commencing. (see Note for Applicant CL 4)

- II. In the event that the desk study and site reconnaissance indicates the potential presence of contamination and/or ground gases on site. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- III. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- IV. Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- V. The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- VI. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part ii) of this condition is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- VII. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

9. Prior to development commencing, a noise impact assessment shall be undertaken to the written satisfaction of the local planning authority.  
The results of this survey, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the local planning authority within 2 months of completion.

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

10. No development shall take place until suitable noise mitigation measures to protect internal areas of the premises have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented.

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

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

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

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

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

***CL1 - Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.***

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

***CL3 - Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and***

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***structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports.***

*This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority*

CL4 - The desk study and site reconnaissance shall have regard to the previous unknown filled ground and materials used and processes carried on. Further details on the matters to be addressed is available in “PPS 23: Planning and Pollution Control”, Annex 2, Development on Land Affected by Contamination”, paragraphs 2.42 to 2.44 and “Model Procedures for the Management of Contamination” (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

### **Notes for applicant – Noise Mitigation**

With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(8 hours), of 30 dB together with a maximum instantaneous level of 45 dB LAFmax, between the hours 23.00 to 07.00;

b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(16 hour), of 40 dB between the hours 07.00 to 23.00;

Unless otherwise specified in a relevant standard, code or guidance, sound level measuring instrumentation shall conform to either ‘Type 1’ of British Standards BS EN 60651: 1994 ‘Specification for sound level meters’ and/or BS EN 60804: 1994 ‘Specification for integrating-averaging sound level meters’ and/or Class 1 of BS EN 61672: 2003 ‘Electroacoustics- Sound Level Meters - Part 1: Specifications which shall have been verified in accordance with British Standard BS 7580 ‘Specification for the verification of sound level meters’ Part 1: 1996 ‘Comprehensive procedure’ or British Standard BS 61672 Electroacoustics- Sound Level Meters - Part 3: Periodic tests, within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 ‘Planning and Noise’. 1994; Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005 British Standard BS 7445: 2003 “Description and Measurement of Environmental Noise”. British Standard BS 7445-1: 2003 - Description and measurement

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of environmental noise - Part 1: Guide to Quantities and Procedures; British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits. British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas Calculation of Road Traffic Noise, 1988, Calculation of Railway Noise, 1995

This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### Reason for bringing to committee: Contrary to Policy

**Application Number:** 10/1332/FL  
**Application Type:** Full application

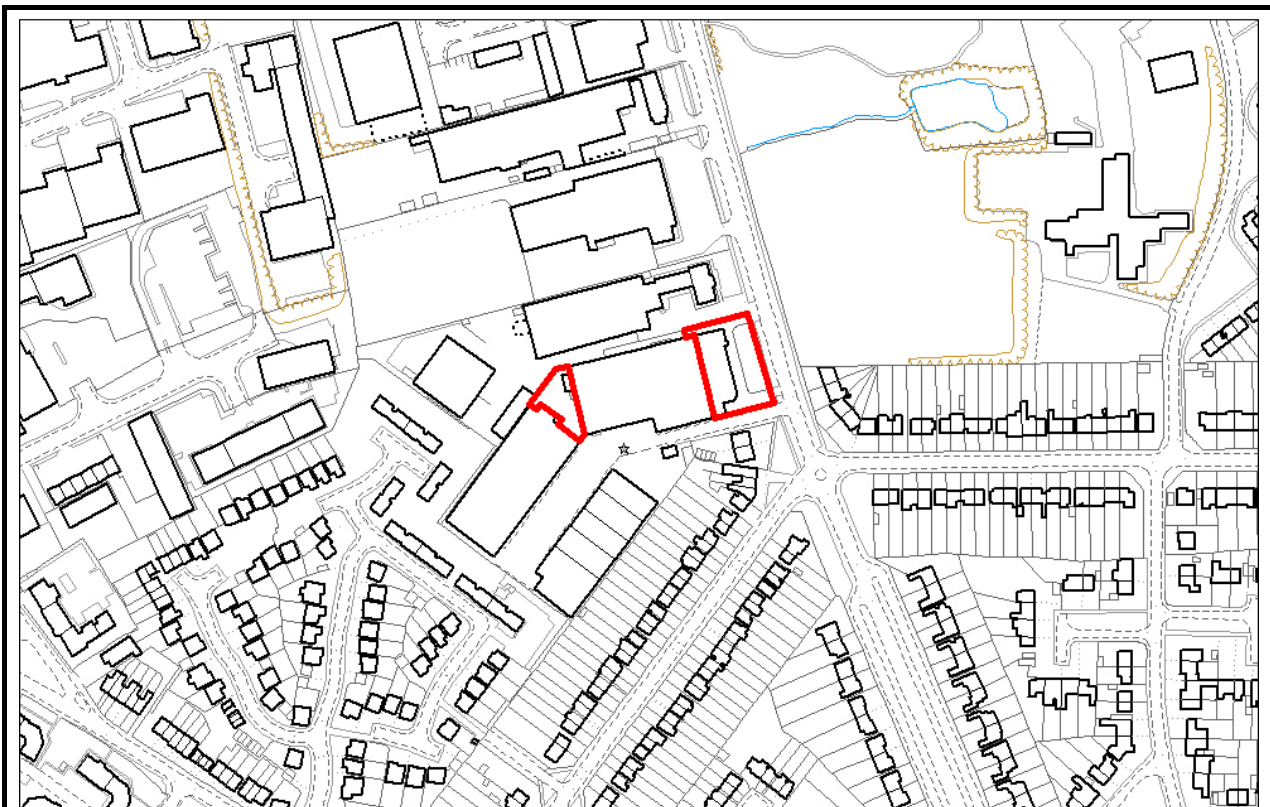
**Applicant:** Little Rascals  
**Proposal:** Proposed extension to existing day nursery to allow increase in the number of children from 62-80.

**Ward:** Aldridge Central & South

**Case Officer:** Stuart Crossen  
**Telephone Number:** 01922 652420  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**  
**Location:** PRINT HOUSE, NORTHGATE, ALDRIDGE, WALSALL, WS9 8TH

**Expired Date:** 11/04/2011

### Recommendation Summary: Grant Permission Subject to Conditions



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## **Application and Site Details**

The proposal is for the expansion of a children's day nursery from 62 children to 80, occupying the front part of the Trade Print building within the Northgate Industrial Estate. The nursery has a cloakroom, baby room, toddlers room, and pre-school room on ground floor level with associated activity, quiet, play, changing and bath rooms, the application proposes to retain a ground floor expansion into part of the warehouse at the rear, and for a change in layout to provide a push chair and cycle store, cloak room, sensor room, baby room, changing room, milk kitchen, toddler room, toddler activity room, 2s and 3s room, pre-school room, care room, entrance hall, store, staff toilets, children toilets and disabled toilets. Upstairs there is a kitchen, laundry, office, and rest/training room for staff. The application proposes 2 store rooms, 6 offices, staff room, pantry, 2 kitchens and 2 toilets.

A landscaped children's play area exists to the front and side, the boundary is proposed to be defined by a 1 metre high wooden fence. The application proposes to extend the side play area further back 650mm.

The application site constitutes a formerly vacant front office of the Trade Prints industrial building at the front of The Northgate industrial estate, adjacent to Northgate road itself. To the north and to the rear are other industrial /office buildings, while to the south lies residential development.

The applicant has submitted a Design and Access Statement in support of the application. Further supporting information has been submitted which includes a list of alternative sites which were considered and further justification for retaining the existing site.

## **Relevant Planning History**

03/2252/FL/E2 - Change of Use to Childrens Day Nursery for 62 Children at Trade Print, The Northgate, Aldridge, Walsall, WS9 8TH. Granted Subject to Conditions: 22/03/04

## **Relevant Planning Policy Summary**

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

### **Core Strategy Policies**

***(note the full text version of the JCS and UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)***

### **Joint Core Strategy (JCS)**

The JCS was adopted by the Council on 3<sup>rd</sup> February 2011 and now forms part of the statutory development plan. It replaces certain saved policies in the UDP

EMP3 Sites within Local Employment Areas may also be appropriate for uses which serve the needs of businesses and employees working in the area. Such uses include food and drink or child care facilities. Such uses should be of a scale, nature and location to serve the needs of the employment area, where existing facilities are inadequate, and where the requirements of Policy CEN5 can be met.

CEN6 New small-scale local facilities outside defined centres of up to 200 square metres gross, or extensions to existing facilities which would create a unit of up to 200 square

metres gross will be permitted if it can be shown that all of the following requirements are met:

- The proposal is of an appropriate scale and nature to meet a specific day-to-day need of a population within convenient, safe walking distance for new or improved facilities;
- Local provision could not be better met by investment in a nearby centre;
- Existing facilities that meet day-to-day needs will not be undermined.
- Access to facilities by means other than by car would be improved and, in particular, will be within convenient, safe walking distance of the community it is intended to serve;
- Where new local facilities are to meet the specific needs of new housing development, particularly food provision, then proposals need to meet the requirements of Policy HOU2.

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

#### **GP2: Environmental Protection**

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

#### **ENV32: Design and Development Proposals.**

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development but will be particularly significant in the following locations:-
- On a visually prominent site.
  - Within or adjacent to transport corridors, including canals, railways, motorways and major roads.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
- The appearance of the proposed development.
  - The integration and co-ordination of buildings and external space.
  - Community safety and security.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
  - The effect on the local character of the area.
  - The proposed vehicular and pedestrian circulation patterns.

#### **JP5 Core Employment Areas**

(a) The core employment areas are shown on the Proposals Map. These areas will be safeguarded for core employment uses, permissions for which may be subject to

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conditions to prohibit change to other uses, such as Class B1(a) offices. Proposals for other uses will only be permitted where it can be demonstrated that:-

- I. A need would be met which could not be satisfied elsewhere in the Borough; or
- II. The range and quality of employment opportunities would be significantly increased.

(b) When windfall sites or buildings in core employment areas come forward for reuse or redevelopment they will normally be safeguarded for core employment uses according to the above policy.

#### JP7 Use of Land and Buildings in Other Employment Areas

(a) Uses that will normally be permitted in these areas include:-

- III. Other service uses which are complementary to the functioning of local industry or distribution and would meet a purely local need which would not be better served in or at the edge of a nearby centre.

#### S6 Meeting Local Needs

(c) There are some areas, away from established centres, which are poorly served in quantitative and/or qualitative terms by existing local provision for convenience shopping, local services, eating and drinking places, and health, community and local education facilities. Out-of-centre development may be appropriate to meet such specific local needs - otherwise proposals for additional out-of-centre development for town centre uses will be considered against policy S7. Therefore, new small-scale local facilities, or extensions to existing facilities, will be permitted if it can be shown that all of the following requirements will be met:-

- 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.

#### T7: Car Parking

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

#### T13: Parking Provision

Other community facilities - 1 car space per 22m<sup>2</sup> of gross floorspace. 1 bike stand for every car park space. Taxi facilities.

## National Policies

### PPS1

Delivering Sustainable Development, Paragraph 27 (viii) states that Local Authorities should promote the more efficient use of land through higher density, mixed use development and the use of suitably located previously developed land and buildings. Planning should seek actively to bring vacant and underused previously developed land and buildings back into beneficial use to achieve the targets the Government has set for development on previously developed land.

### PPS4

Planning for Sustainable Economic Growth. EC15.1 In considering sequential assessments required under policy EC14.3, local planning authorities should:

- a. ensure that sites are assessed for their availability, suitability and viability.
- b. ensure that all in-centre options have been thoroughly assessed before less central sites are considered
- c. ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access
- d. ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:
  - i. scale: reducing the floorspace of their development;
  - ii. format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;
  - iii. car parking provision; reduced or reconfigured car parking areas; and
  - iv. the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals

EC15.2 In considering whether flexibility has been demonstrated under policy EC15.1.d above, local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site, for example where a retailer would be limited to selling a significantly reduced range of products. However, evidence which claims that the class of goods proposed to be sold cannot be sold from the town centre should not be accepted.

### PPG 13

Transport. Paragraph 54 states for individual developments, the standards in Annex D should apply as a maximum unless the applicant has demonstrated (where appropriate through a Transport Assessment) that a higher level of parking is needed. In such cases the applicant should show the measures they are taking (for instance in the design, location and implementation of the scheme) to minimise the need for parking.

### PPG24

Planning and Noise. General Principles: The impact of noise can be a material consideration in the determination of planning applications. The planning system has the

task of guiding development to the most appropriate locations. It will be hard to reconcile some land uses, such as housing, hospitals or schools, with other activities which generate high levels of noise, but the planning system should ensure that, wherever practicable, noise-sensitive developments are separated from major sources of noise.

### **Consultations**

Pollution Control, Scientific Team – No objections

Pollution Control, Contaminated Land – No objections

Transportation – No objections

West Midlands Fire Service – No objections

### **Public Participation Responses**

None

### **Determining Issues**

The determining issues are:-

- The Acceptability of the Use Within a Core Employment Area and need for the proposed Day Nursery
- Parking
- Amenity

### **Observations**

#### **The Acceptability of the Use Within a Core Employment Area and need for the proposed Day Nursery**

The proposal is for the extension of an existing D1 use in a Core Employment Area (part of which is retrospective), which is subject to UDP policies JP5 and S6 and Core Strategy policies EMP3 and CEN6.

JP5(a) (i) states that such a proposal can only be permitted where the need would be met that cannot be satisfied elsewhere in the Borough; or (ii) the range and quality of employment opportunities would be significantly increased. Paragraph 4.17 of EMP3 states that sites within local employment areas may also be appropriate for childcare facilities as long as these are of a scale, nature and location to serve the needs of the employment area, where the requirements of CEN6 can be met. One of the main requirements of CEN6, similar to JP5, is that local provision could not be better met by investment in a nearby centre. Officers consider that the applicant has demonstrated that there appears to be no other suitable, viable and available premises nearby. Although the current range of jobs would not be significantly increased, the effect on the industrial land supply would be negligible. Conditions are recommended to ensure that there would be no further expansion of this use (to comply with JP5(a)) and that when the current occupier vacates the site, it must revert to the previous use classes B1(bc), B2 and B8, in compliance with UDP policy JP5(b).

The application site already has permission for use as a Day Nursery serving the needs of the local community. The small increase in size of the Day Nursery into part of the unused warehouse from 62 children to 80 is on balance considered acceptable in this instance.

### **Parking**

The proposal requires a maximum of 6 additional parking spaces over and above the existing provision. Presently the development has the use of 11 spaces, 5 to the front and 6 to the rear. It is proposed to increase this provision to 16 spaces which is an increase of 5 spaces, 1 space below the UDP maximum requirement. This is considered acceptable by the Highways Officer.

### **Amenity**

Pollution Control Scientific Team has no objection to the above application, although concern has been raised that the nursery adjoins an industrial building. The rear of the former Trade Print building is used as a warehouse, no objections have been raised and the two uses have co-existed since the previous permission. The increase in play area and floor space is not considered to have a significant impact on amenity.

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

The small increase in provision from 62 children to 80 is considered on balance considered acceptable. The parking provision is considered sufficient and the proposal would not have a significant impact on the amenities of neighbouring occupiers.

There are no other suitable, viable and available premises nearby and although the current range of jobs would not be significantly increased, the effect on the industrial land supply would be negligible. It is recommended that there should be no further expansion of this use and that when the current occupier vacates the site, it must revert to the previous use classes.

The proposed development is considered to meet the aims and objectives of National Policy in particular policies PPS1, PPS4, PPG13 and PPG24 the Joint Core Strategy in particular policies EMP3, CEN5, CEN6, the Walsall Unitary Development Plan, in particular policies GP2, ENV32, JP5, JP7, S6, T7 and T13, and the Supplementary Planning Documents "Designing Walsall" and "Conserving Walsall's Natural Environment", and other material planning considerations.

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

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

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

2: There shall be no more than 80 children on the premises at any one time.

Reason: To safeguard the amenities of the area and the site for core employment uses (JP5(b)).

3: Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the premises shall not be used for any purposes other than that which is the subject of this permission.

Reason: To enable the Local Planning Authority to retain effective control over the site and to protect the amenities of the area, in accordance with the saved Policies GP2 and JP5(b) of the Walsall's Unitary Development Plan.

4: When the current occupier vacates the site, it must revert to Use Classes B1 (bc), B2 and B8 unless with the written consent of the Council.

Reason: To safeguard the site for core employment uses (JP5(b)).

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

Site location plan deposited 18 October 2010;  
Block plan (DWY510/10) deposited 4 February 2011;  
Existing ground floor plans (510/10/1) deposited 14 February 2011;  
Existing first floor plans (510/10/3) deposited 18 October 2010;  
Proposed ground floor plans (510/10/4) deposited 18 October 2010;  
Proposed first floor plan (510/10/5) deposited 18 October 2010;

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

**Note for Applicant:**

Acoustics within educational establishments, including nurseries, is covered by Building Bulletin 93 – Acoustic Design of Schools in fulfilment of the requirements of Approved Document E – Resistance to the Passage of Sound under the Building Regulations. Although Part E does not apply to nursery schools that are not part of a school, such as this application, many of the acoustic specifications are desirable and may be used as a guide to the design of these buildings. As BB93 represents best practice consideration should be given to achieving the requirements through planning conditions.

It is recommended that the applicant submit written confirmation of compliance with the requirements of BB93 in the areas where the nursery shares walls with the industrial activity.

Approved Document E “Resistance to the passage of sound” 2003 (As Amended) Building Bulletin 93, Acoustic design of schools – a design guide, Department for Education and Skills



## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### Reason for bringing to committee: Requires Delicate Judgement

**Application Number:** 10/1689/FL

**Application Type:** Full application

**Applicant:** Dr Shaheen Chaudhry

**Proposal:** Change of use from a dwelling to a respite care facility for 5 children aged 10-16 years

**Ward:** Streetly

**Case Officer:** Alison Deakin

**Telephone Number:** 01922 652487

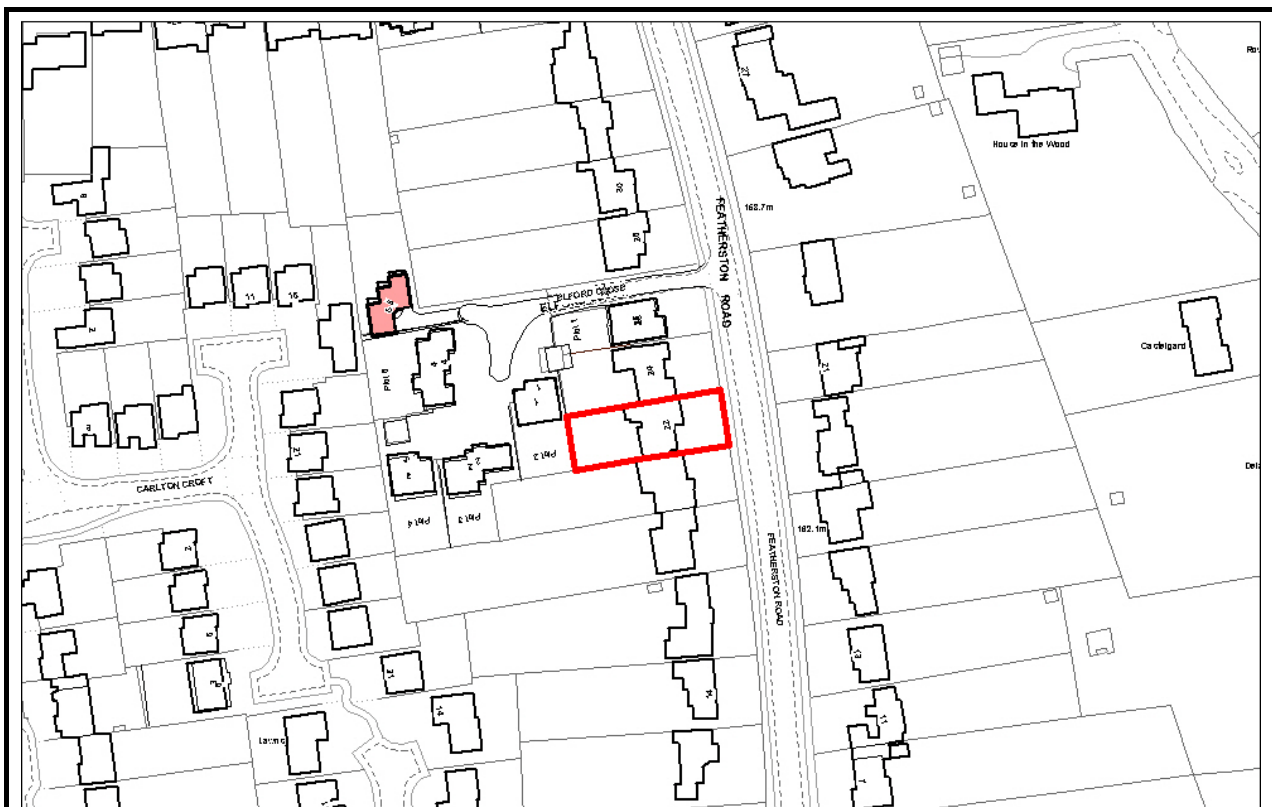
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Rudibo Design

**Location:** 22 FEATHERSTON ROAD, STREETLY, WALSALL, B74 3JN

**Expired Date:** 12/04/2011

### Recommendation Summary: Refuse



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## **Status**

Councillor E Hughes has called in the application because of the impact on the amenity of neighbours.

## **Application and Site Details**

The proposal is for a change of use from a 5 bedroom house on the western side of Featherston Road to a respite care facility for 5 children aged 10-16 years. The children have complex needs due to their mental health and need therapeutic care. Supporting information states there will be up to 24 staff working 8-12 hour shifts and with a full capacity there will be 2 staff at night and 2/3 staff in the day time. There are no proposed sleeping arrangements for staff as they will be on duty throughout the night.

Care Programme/Planning Approach (CPA) meetings are held once every 8-12 weeks where key people such as education, health and social services staff meet to discuss patient needs. These are mostly held at the relevant offices but there may be exceptions when there is a need to hold meetings at the premises. The applicant states meetings normally last one hour.

There are 3 parking spaces plus 1 disabled space proposed in front of the building and the access is to be increased from 4.1m to 6m wide. A ramped entrance is included in front of the building.

The surrounding area is predominantly residential.

## **The Design & Access Statement**

Describes the site and explains the proposed use of the rooms within the building. It states all alterations are internal and that vehicular and pedestrian access will remain unaltered.

## **Relevant Planning History**

03/0539/FL/E4 – Demolition of 26 Featherston Road and erection of 5 houses (incorporating land at the rear of 22, 24 & 28 Featherston Rd) – Granted subject to conditions August 2003. This includes part of the garden land at the rear of 22 Featherston Road thereby reducing the garden length.

## **91 Chester Road**

08/1083/FL - Planning Appeal allowed (January 2009) for change of use from a private dwelling house to Class C2 residential home for 5 children aged between 9 and 17 years. With regard to on-street parking and highway safety the Inspector concluded that the proposed use was not likely to generate traffic levels significantly greater than could occur if the property was used as a family dwelling. He also concluded that a periodic need for off-street parking in connection with the use could be accommodated in a nearby road where there are no parking restrictions without harming highway safety. There was no evidence to suggest that the proposed development would be harmful to actual or perceived crime in the locality. A condition to prevent further changes within Class C2 without needing planning permission was considered necessary in the interests of community safety. On matters such as potential noise and disturbance or loss of privacy the Inspector found no reason to alter his view that the proposals are acceptable.

## **Relevant Planning Policy Summary**

***(Note the full text version of the Joint Core Strategy and UDP are available from Planning Services Reception and on the Planning Services Website)***

### **Joint Core Strategy**

The Joint Core Strategy was adopted by the Council on 3<sup>rd</sup> February 2011 and now forms part of the statutory development plan. It replaces certain “saved” policies in the UDP.

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

2b: Encourages sustainable management of material resources through minimising waste, ensuring all members of the community have the best access to housing, previously development land is prioritised over greenfield sites and encourages a comprehensive approach to development.

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

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

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

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

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

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.

GP5: The needs of all sections of the community should be taken into account to ensure no discrimination in terms of race, gender, age, poor mobility, disability, poverty or any other factor.

GP6: Measures to improve access for disabled people should be of a high standard of design to protect the visual appearance of buildings and the townscape.

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

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

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

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

H5: Promotes and encourages housing for people with special needs requiring specialist accommodation.

H6: Relates to provision of nursing homes and rest homes for the elderly but advises vehicular access and parking, amenity and landscape and states large detached properties are suitable for conversion.

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

Residential homes: 1 space per 3 beds

Nursing Homes: 1 space per 2 beds

**Supplementary Planning Document: Designing Walsall** (February 2008) Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process. It identifies key urban design principles for consideration including Numerical Guidelines for Residential Development. This identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height and 20m<sup>2</sup> per dwelling where communal amenity space is provided. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **Streetly Area of Special Townscape Character SPG**

Protects the character and appearance of the area referred to by controlling boundary treatment, trees and planting, building to plot ratio's, building design, materials and extensions.

### **Regional Spatial Strategy (RSS)**

On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010.

The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Bill and will take time) should be a material consideration in decisions. That position was itself subject to a legal challenge.

On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration.

**Officer's advice is that the RSS remains part of the statutory development plan for the Borough** (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise.

However, the Government's proposal to abolish the RSS at some point in the future can be a material consideration. The weight to be given to this is for the local planning authority to judge, based upon such things as, for example, the extent to which a planning decision rests on the RSS and whether the implications of the decision might be felt before the RSS might be abolished. Each case must be considered on its merits in this context and a clear and reasoned view achieved.

### **National Policy**

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

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PPG13: Seeks to minimise the use of the car by the sustainable location of development.  
PPG24: The planning system must ensure development does not cause an unacceptable degree of disturbance.

### **Other Legislation**

Human Rights Act 1998 - Article 8 of the European Convention on Human Rights provides that everybody has the right to respect for his private and family life and his home, and there should be no interference by a public authority with the exercise of this right, except where it is (amongst other considerations) in accordance with the law and is necessary in a democratic society for the protection of rights and freedoms of others.

### **Consultations**

**Transportation – Objects.** The applicant has failed to demonstrate adequate on site parking to meet the operational needs of the development and is likely to lead to indiscriminate on-street parking and verge parking to the detriment of the free flow of traffic, obstruction to pedestrians and highway safety. The applicant has indicated that potentially up to 24 staff would support 5 patients on a shift basis with up to 3 staff in the daytime and 2 overnight staff at any one time. There will also be regular meetings held every 2 to 3 months inviting education, health and social services staff to discuss patient needs which could take place at the premises. The plans show 4 parking spaces on the property frontage including 1 disabled space which the applicant “hopes” will be sufficient to meet the needs. However, considering the high ratio of staff and limited parking on site for staff, visitors and deliveries the proposed level of on site parking is considered inadequate and is likely to result in indiscriminate parking on the highway (and on the highway verge) to the detriment of the free flow of traffic, pedestrians and highway safety.

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

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

**Environmental Health – No adverse comments.** In essence the property remains a domestic dwelling and although occupation by five 10-16 year old children may give rise to noise complaints this could be the same if a large family occupied the house. The home should have a good neighbour policy to prevent such complaints.

**Police Architectural Liaison Officer – No objections in principle.** It is clear from the application that the children have mental health issues and are in the health system rather than within the criminal justice system. This should allay some of the fear of crime for surrounding occupiers. If approved there should be access control to all entrances, CCTV, supervision of residents when off the premises, security to rooms if medicines are kept and restriction to prevent future occupancy by children in the criminal justice system.

**Landscape – Objects** due to the loss of front garden, lack of opportunity for planting and impact of car parking on the character of the street.

**Diversity & Equality – No objections in principle.** The application should comply with the current requirements of the Building Regulations 2010, Approved Document Part M. This requires access for everyone and states reasonable provision shall be made for people to

gain access to and use the building and its facilities. BS 8300:2009 is a source of best practice.

**NHS Walsall (Joint Commissioning Manager – Disabilities)** – No comments.

**Fire Service** – No objections.

### **Public Participation Responses**

There are 50 letters and a petition with 85 signatures objecting to the proposals summarised as follows:

- Sets an unwanted precedent for similar proposals
- Out of keeping with the wholly residential character of the area
- A nursing home has already been rejected at the site (*no evidence of an application*)
- There are restrictive covenants on the property that prevent it from being used for noisy or offensive business
- Concern over future developments at the site if permission is granted
- Too small a property and inadequate garden to cater for 5 children
- The site is too far from a bus stop and fails to comply with policy T12
- Increased traffic and congestion detrimental to highway safety and residential and visual amenities
- Insufficient parking on site with inadequate sized spaces and manoeuvring space
- On street parking will cause a highway hazard to motorists and pedestrians due to restricted visibility
- Featherston Road is narrow and already congested at times when there are events at the church so additional traffic and on-street parking will create a hazard
- No provision for mini-buses or larger vehicles
- Light pollution from cars and traffic 24 hours a day
- Loss of privacy
- Overlooking from the first floor office
- Loss of greenery to the front garden which is out of keeping with the area
- Exacerbate surface water run-off by hard-surfacing the front garden
- Lack of availability of school places in the area
- Increased noise and disturbance from activities at the site
- Potential for crime and anti social behaviour
- Concern for personal safety of surrounding occupiers
- Concern over compliance with fire regulations
- Commercial waste bins on the frontage would detract from the character of the surrounding area
- No provision for staff overnight accommodation
- Inadequate wheelchair access within the building
- Clarification of details of the operation of the facility are required
- No prior consultation with nearby residents by the applicant
- The property is now “to let”
- The application should be withdrawn
- Proposals financially motivated (*not a material planning consideration*)
- Loss of property value (*not a material planning consideration*)

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

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## **Determining Issues**

- Principle of proposed use for respite care and need for the facility
- Whether a satisfactory living environment can be achieved for occupiers
- Relationship to adjacent occupiers
- Impact on the visual amenities of the area
- Access and Parking

## **Observations**

### **Principle of proposed use for respite care and need for the facility**

The property is located in a quiet residential street within a predominantly residential area of detached houses. The proposal to occupy this detached house for provision of respite care for five children with complex needs due to their mental health accords with the aims of saved policies GP5 and H5 of the UDP which encourages equal opportunities and provision of housing for people with special needs including people with disabilities. Nevertheless there would be a significant number of staff caring for the children, the applicant states up to 24 staff working shifts. It is considered that comings and goings of staff and vehicles, particularly during shift changeover, and other visitors attending the premises would result in a distinct change in the occupation of the house and character of the area. For this reason the proposed use has a detrimental effect on the local character of the area contrary to the aims of policy ENV2 of the JCS and saved policy ENV32 of the UDP.

Unlike the appeal in relation to 91 Chester Road, Featherston Road is an unclassified residential street and not a Classified Road or part of the Strategic Highway Network. In the circumstances the increased activity at the premises would be more noticeable and likely to have an adverse impact upon the residential amenities of surrounding occupiers. During shift changes or when CPA meetings are held at the premises there are likely to be more comings and goings of staff and vehicles than if the property continued to be occupied as a dwellinghouse. There would also be staff on hand 24 hours a day that would alter the character of the dwelling.

Objectors are concerned that allowing this proposal would set a precedent for similar proposals in the area. As each case is dealt with on its own merits a precedent would not be set. However, in this case, for the above reason it is considered that the proposed use would alter the character of the property and have an adverse effect on the character of the local area and residential amenities of surrounding occupiers from noise and disturbance. They are also concerned about potential for future developments at the premises but any future proposals for extensions to the application site would require planning permission and would be assessed against planning merits. However, a disabled ramp and handrails are included on the front of the property as part of this application which is not characteristic of residential properties in the surrounding area and alters the character of the property.

Although objectors claim proposals for a nursing home were rejected at the site there is no evidence of a planning application for this.

It has been pointed out that there is a restrictive covenant on the property preventing it from being used for a noisy or offensive business purposes. Although restrictive covenants are a civil matter the potential for noise and disturbance and impact on neighbour's amenity is considered within this report.

Objectors are concerned that the applicant has carried out no prior consultation with nearby residents and that the proposals which are financially motivated could lead to a loss of property value. The planning application process does give residents the opportunity to comment on the proposals and the financial motivation and loss of property value are not material planning considerations.

The property is now "to let" and objectors consider that due to the inappropriate nature of the proposals the application should be withdrawn. The fact that the property is to let does not affect consideration of the proposals. Unless planning permission is granted it would remain a dwellinghouse. Ultimately it is the applicant's choice whether to withdraw an application if proposals are not supported.

The needs of the user group to secure suitable accommodation within an appropriate area have been taken into account. In this case it is considered the needs can not be accommodated at this property because of the potential impact that the use could have on the amenity of adjacent residents and character of the wider area.

Given the above comments it is considered that the increased comings and goings of staff and vehicles, particularly during shift changeover, and other visitors attending the premises would result in a distinct change in the occupation of the house and character of the area. For this reason the proposed use has a detrimental effect on the local character of the area contrary to the aims of policy ENV32.

### **Whether a satisfactory living environment can be achieved for occupiers**

The property is a large detached 5 bedroom house with generous room sizes that can accommodate an adequate number of bedrooms and living space for the 5 children in need of respite care. Although carers would be on shift 24 hours per day they are expected to remain awake overnight hence there is no need to provide bedrooms for them.

The garden of the house is approximately 210m<sup>2</sup> so far exceeds the recommended 68m<sup>2</sup> normally expected for houses as recommended in Appendix E of SPD: Designing Walsall. In the circumstances there is adequate indoor and outdoor space for the proposed use.

Objectors are concerned that external fire escapes may be required to ensure fire safety compliance. The Fire Service has no objections to the proposals as there is satisfactory access for their requirements. With regard to disabled access this would be a matter to be considered under Building Regulations and a ramp is included to the main entrance.

The children attending the property would already be receiving education so the objectors concern that there is a lack of available school places in the area should not be a problem.

The property provides adequate accommodation for the proposed use so there would be no adverse impact upon the amenity of its occupiers.

### **Relationship to adjacent occupiers**

The only physical changes to the proposed building are incorporation of a ramp and handrails at the entrance. The position of these would not be prominent in the street scene or highly visible from surrounding properties. However, these incremental changes are inevitable as the character of the property changes to use for respite care. The proposals also include removal of the remaining lawn and landscaping in the front garden and replacement with hard surfacing to provide 4 parking spaces. This has an adverse impact on the appearance of the property and leaves little space for integration of landscaping on the frontage. The proposals would be detrimental to the character and appearance of the property detrimental to the visual amenities of the area.

The use of the property as a respite care facility would result in increased comings and goings of staff and visitors, potentially 24 hours a day. Objectors are concerned that light pollution and noise and disturbance from activities at the site would be out of keeping and likely to have an adverse impact on residential amenities. Although there would be some noise and disturbance if the property was occupied by a large family it is considered that regular staff shift changes and visitors to the house would result in increased comings and goings to the detriment of the residential amenities of surrounding occupiers. This would be more noticeable given the extent of parking on the front of the site.

There are objections about loss of privacy from overlooking. There is no greater potential for overlooking neighbouring properties than from the existing house. Whilst there is potential for children to be playing in the rear garden of the property this is no different to if the house was occupied by a large family in terms of potential for noise and disturbance.

Many objectors are concerned about personal safety for their families given the potential mental health problems of future residents. There is also a fear that allowing the proposals would lead to increased crime and anti-social behaviour in the area. The children on respite care would be supervised by carers whilst at the premises and the Police note that as the children are receiving transitional care and are not necessarily part of the criminal justice system so there is no reason to suggest that there would be increased crime or anti-social behaviour.

The appeal at 91 Chester Road is relevant as it was similar to the current proposals and the Inspector found there was no evidence to suggest that the proposed development would be harmful to actual or perceived crime in the locality. A condition to prevent further changes within Class C2 without needing planning permission was considered necessary in the interests of community safety in that instance and were the current application being supported a similar condition could be imposed.

### **Impact on the visual amenities of the area**

The only change to the appearance of the building is the incorporation of a ramp with handrails to the main entrance. Although this is set back approximately 13m from the highway it is a feature that other houses in the surrounding area do not have and would make an obvious change to the character of the property.

There are objections to the loss of greenery as the proposals include extension of parking on the front of the plot and replacing existing landscaping with hard-surfacing. The access is also to be widened from 4.1m to 6m. The row of existing trees along the boundary with 20 Featherston Road is to be removed to accommodate the disabled parking space so present screening would be lost. This would have a detrimental impact on the visual

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amenities of the area as parking would be more prominent and out of keeping. Although there are permitted development rights for householders to provide a hard surface within the curtilage of the house, there are no rights for Class C2 residential institutions.

There have been objections that commercial waste bins on the frontage would detract from the character of the surrounding area but given the number of occupants is not dissimilar to occupation by a family domestic waste collection would be considered adequate. Nevertheless there is space on the site frontage to accommodate waste bin storage.

Given the above comments it is considered that the proposals to remove the existing landscaping and trees and replace them with hard surfacing and parking would detract from the character and appearance of the area detrimental to visual amenities.

### **Access and Parking**

The proposal is to utilise the existing access which is widened to 6m and provide additional parking on the garden area to create 4 spaces including a disabled parking space.

Transportation officers are concerned that 4 off-street parking spaces is not adequate provision to serve the needs of the development and would likely lead to parking on-street and on the highway verge. They are concerned there are no additional parking spaces for visitors, deliveries and other members of occasional visiting staff and staff meetings and to allow for shift change over between staff. However, the number of spaces does comply with the requirements of policy T13.

Whilst there are no parking restrictions in Featherston Road it is considered that the inadequacy of on-site parking would lead to overspill parking on the highway verge and within the adjacent highway that would be detrimental to the free flow of traffic and would obstruct pedestrians having an adverse impact on highway safety. This would be particularly evident during shift changeover, when CPA meetings are held at the premises or when there are other visitors. There is no provision for mini-buses or ambulances to pull off the highway either. Objectors state there are times when Featherston Road is congested with traffic (particularly when there are services at the nearby church) therefore increased parking congestion caused by the proposed use would add further to these concerns.

Objectors state the site does not comply with the aims of policy T12 as it is too far from a bus stop. The Transportation officer has not objected on these grounds and the site is in an established residential area so the location is considered acceptable in terms of sustainability.

On balance, it is considered that the proposals would generate significant traffic levels greater than would occur if the property was used as a family dwelling and the periodic need for on-street parking creates a danger to pedestrians and highway safety.

## **Recommendation: Refuse**

1. The comings and goings of staff, visitors and their vehicles, particularly during shift changeover and Care Programme/Planning Approach meetings, would result in unacceptable levels of noise and disturbance to neighbouring properties due to the distinct change in the occupation of the house which would unduly impact on the existing character of the area. As a result, the proposed use would have a detrimental effect on the residential amenities and the local character of the area contrary to the aims of policy ENV2 of the Black Country Joint Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan.

2. The applicant has failed to demonstrate that there is adequate on site parking to meet the operational needs of the development and is likely to lead to indiscriminate on-street parking and verge parking to the detriment of the free flow of traffic and obstruction to pedestrians detrimental to highway safety contrary to saved policies GP2, ENV32, T7 and T13 of Walsall Unitary Development Plan.

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## Planning Committee

*Report of Head of Planning and Building Control, Regeneration Directorate on 21/04/2011*

### **Reason for bringing to committee: Recommendation contrary to the Council's Guidelines for Residential Development**

**Application Number:** 11/0091/FL  
**Application Type:** Full application

**Applicant:** Mr S Mohammed

**Proposal:** Rear first floor bedroom extension  
(Resubmission of 10/0771/FL).

**Ward:** Blakenall

**Case Officer:** Alexander Keen

**Telephone Number:** 01922 652527

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

**Agent:** Mr Denzil Baker

**Location:** 39 LECKIE ROAD, WALSALL,  
WS2 8AW

**Expired Date:** 13/04/2011

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



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## **Application and Site Details**

This application is for a first floor extension above an existing single-storey rear extension to a mid-terrace dwelling.

The proposed extension would measure approximately 3.3m wide and would project 2.3m out to the rear of the first floor rear elevation of the existing dwelling. It would have a hipped roof and the ridge of the roof would be approximately 1.4m lower than the ridge of the existing roof; the eaves of the proposed extension would be approximately 4m above ground level. The extension would be to an existing bedroom, and would accommodate the installation of a lift for disabled access to the first floor. There would be a window to the bedroom in the proposed rear elevation, and the existing window to a second bedroom would be reduced in width to accommodate the proposed extension.

The existing dwelling is a mid-terrace property of typical interwar design and construction. The original dwelling measures approximately 5.5m wide, 6m deep and 6.75m high (4.5m high to the eaves). A single-storey rear extension measuring approximately 5.45m wide, 3.6m deep and 3m high (2.2m high to the eaves) has been added to the rear; it has a mono-pitch roof sloping away from the rear elevation of the original dwelling. The proposed first floor extension would be constructed above this existing extension.

The application site is one of a row of similar type dwellings, similar in design, appearance and construction. 37 and 41 Leckie Road both share a party wall with the application site; 37 is to the south-east and 41 is to the north-west. The rear wall of a large industrial building, currently occupied by Circuit Coatings Ltd, forms the rear (south-eastern) boundary of the application site, and would be within 10m of the rear elevation of the proposed extension.

The area is characterised by low-planted rear gardens. A number of neighbouring properties have been extended at the rear, including a first floor extension to the rear of 27 Leckie Road.

## **Relevant Planning History**

### **The application site**

**11/0091/FL** – first floor extension to the rear – REFUSED 5<sup>th</sup> August 2010. The proposed extension was considered to appear unduly dominant and to have an overbearing impact, resulting in an unacceptable loss of outlook to neighbouring dwellings and appearing out of character with the area.

### **Neighbouring sites**

**27 Leckie Road: 05/0115/FL/H1** – first floor extension to rear – GRANTED subject to conditions 16<sup>th</sup> March 2005

## **Relevant Planning Policy Summary**

## The Black Country Joint Core Strategy

Policy HOU2 of the Core Strategy states that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. Detailed guidance on the application of this policy in local areas is, or will be, provided through individual local authority Supplementary Planning Documents.

Policy ENV2 states that development proposals will be expected to preserve and, where appropriate, enhance local character.

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

Policy GP2 states that “the Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development, and will not permit development which would have an unacceptable adverse impact on the environment”

Relevant considerations to be taken into account in the assessment of this application include:

- I. Visual appearance
- VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.
- XX. Any other factor of environmental significance.

Policy ENV32(a) states that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted, particularly on a visually prominent site. Policy ENV32(b) requires the quality of design of any development proposal to be assessed using the following criteria:

- The appearance of the proposed development
- The height, proportion, scale, and mass of proposed buildings/structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

## Supplementary Planning Documents

The SPD “Designing Walsall” provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E of the SPD, although

distances that do not conform with these guidelines may be acceptable where it is appropriate to the character of the area. Appendix E includes;

- 24 metre separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.
- 13 metre separation between habitable room windows and blank walls exceeding 3 metres in height.
- 45 degree code : particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk))

### Regional Planning Policy

Policy QE3 of the Regional Spatial Strategy for the West Midlands (RSS11) seeks to create a high quality built environment for all.

*N.B: On 6 July 2010 the Secretary of State issued a direction to revoke Regional Spatial Strategies. Following a legal challenge this was reversed by the High Court on 10 November 2010. The Government responded by advising its proposed abolition of the RSS system (abolition will require legislation, through the Localism Bill and will take time) should be a material consideration in decisions. That position was itself subject to a legal challenge. On 7 February 2011 the High Court published its judgement that the proposed abolition can be a material consideration.*

***Officer's advice is that the RSS remains part of the statutory development plan for the Borough*** (with the saved policies of Walsall's UDP and the Black Country Core Strategy), and decisions should be made in accordance with it unless material considerations indicate otherwise.

*However, the Government's proposal to abolish the RSS at some point in the future can be a material consideration. The weight to be given to this is for the local planning authority to judge, based upon such things as, for example, the extent to which a planning decision rests on the RSS and whether the implications of the decision might be felt before the RSS might be abolished. Each case must be considered on its merits in this context and a clear and reasoned view achieved.*

### National Planning Policy

Planning Policy Statement 1: Delivering Sustainable Development promotes good design as a key element in achieving sustainable development. In particular, paragraph 34 states that design which is inappropriate in its context should not be accepted, and paragraph 35 states that high quality design should be the aim of all those involved in the development process.

## **Consultee Responses**

None

## **Public Responses**

None received

## **Determining Issues**

The determining issues are considered to be:

- Design, and impact on the character of the area
- Impact on the amenity of neighbours
- Separation Distance

### **Design, and impact on the character of the area**

The proposed first floor extension is a reduction in overall size and impact from the previous proposal which was refused planning permission last year (ref: 10/0771/FL). It would appear subservient to the existing dwelling, being less in width and overall massing than the existing ground floor extension, and having a half-hipped roof with a ridge projecting a maximum 500mm above the eaves of the existing dwelling.

The proposed extension would appear similar in design to that approved at 27 Leckie Road and would not be visible in the streetscene of Leckie Road. It is considered that it would be in keeping with the existing character of the area, with no impact on the streetscene of Leckie Road.

The applicant has indicated that the facing materials to be used in the construction of the proposed extension would match those used in the construction of the existing dwelling, and this could be made a condition of granting planning permission to ensure a satisfactory appearance.

### **Impact on the amenity of neighbours**

In contrast to the previous proposal which was refused planning permission, the proposed extension would not breach the 45° Code when measured from either 37 or 41 Leckie Road. The impact of any loss of outlook or overshadowing on the amenity of neighbours resulting from the current proposal is considered acceptable in this instance.

### **Separation Distance**

The proposed extension would result in a habitable room window approximately 10.75m distance from an existing blank factory wall that exceeds 3m in height above ground level. The proposed window would be set back from the habitable room windows in the rear elevation of the existing ground floor extension and would be set further back than the previous proposal which was refused planning permission. On balance, it is considered that this separation distance would be acceptable as it would be greater than the existing separation at ground floor, and the impact of the factory wall on the occupiers of 39 Leckie Road would be less at first floor.

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

The proposed extension would appear subservient to the existing dwellinghouse with limited impact on the character of the area. There is no potential for loss of privacy to neighbouring dwellings, and the potential for overshadowing or loss of outlook to neighbours is limited. The separation distance between the proposed extension and the existing factory to the south-west is, on balance, considered acceptable. Therefore the proposal accords with the aims and objectives of policies HOU2 and ENV2 of the Black Country Joint Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, Appendix E of the SPD "Designing Walsall", policy QE3 of the Regional Spatial Strategy for the West Midlands and Planning Policy Statement 1: Delivering Sustainable Development.

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

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

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

2: The facing materials used in the construction of the extension shall match closely those which are used in the construction of the existing dwelling as it exists at the time of this application and shall be retained as such thereafter, unless otherwise previously agreed in writing by the Local Planning Authority.

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

3: The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No: 1186/200-01B received 24<sup>th</sup> January 2011.

Drawing No: 1186/203 received 16<sup>th</sup> February 2011.

*Reason:* For the avoidance of doubt and in the interests of proper planning.

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