

PLANNING COMMITTEE

Thursday 12 November 2020 at 5.30pm

Virtual Meeting via Microsoft Teams

Held in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulation 2020; and conducted according to the Council's Standing Orders for Remote Meetings and those set out in the Council's Constitution.

Present:

Councillor Bird (Chair)
Councillor Perry (Vice Chair)
Councillor P. Bott
Councillor Chattha
Councillor Craddock
Councillor Creaney
Councillor Harris
Councillor Harrison
Councillor Hicken (joined at 6.00pm)
Councillor Jukes
Councillor Murray
Councillor Nawaz
Councillor Rasab
Councillor Robertson
Councillor Samra
Councillor Sarohi
Councillor Statham
Councillor Waters

Officers:

Alison Ives – Head of Planning & Building Control
Andrew White – Team Leader, Development Management
Sally Wagstaff - Senior Planning Officer
Sharon Bennett-Matthews – Planning Solicitor
Kevin Gannon – Team Leader, Development Control, Public RoW
John Grant – Team Leader - Pollution Control
Bev Mycock – Democratic Services Officer

Welcome

At this point in the meeting, the Chair opened the meeting by welcoming everyone and explaining the rules of procedure and legal context in which the meeting was being held. He also directed members of the public viewing the meeting to the papers, which could be found on the Council's Committee Management Information system (CMIS) webpage.

Members and officers in attendance confirmed they could both see and hear the proceedings.

141/20 Apologies

Apologies were submitted on behalf of Councillor Nazir.

142/20 Minutes of 15th October, 2020

Councillor Samra **moved** and it was duly **seconded** by Councillor Bird that the minutes of the meeting held on 15th October, 2020, a copy having been previously circulated to each Members of the Committee, be approved and signed as a true record.

The Chairman put the recommendation to the vote by way of a roll call of Committee Members.

Resolved (16 in favour and 1 abstained)

That the minutes of the meeting held on 15th October, 2020, a copy having been previously circulated to each Member of the Committee, be approved and signed as a true record.

143/20 Declarations of Interest.

There were no declarations of interest.

144/20 Deputations and Petitions

There were no deputations introduced or petitions submitted

145/20 Local Government (Access to Information) Act, 1985 (as amended)

There were no items to be considered in private session.

146/20 169 Lowe Avenue, Reference no. E20/0064

The Chair advised Committee that this item had been withdrawn from the agenda. In response to a query by a Committee Member as to why it had been withdrawn, the Planning Solicitor advised that the report needed to be reviewed and that it would be brought back to the next Committee.

147/20 Foley Wood, Egerton Road, Streetly, Walsall, Reference no. E20/0033

The report of the Head of Planning and Building Control was submitted.

(see annexed)

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein. In addition, the Presenting Officer drew the Committee's attention to the additional information as set out in the supplementary paper.

The Committee then welcomed the first speaker on this item, Ms Hodson, who wished to speak in objection to the enforcement.

Ms Hodson stated that she was speaking on behalf of 29 and 31 Blackwood Road and urged the local authority to not take enforcement action as the land was not being used as garden at either property. Her clients had been in dialogue with the Council for a long period of time but had not received replies to letters or emails and that she herself, had not received a response to any planning points she had raised. The use of the land had not changed and therefore her clients could not cease the use of the land; the erection of 2m mesh fencing was permitted development and all paraphernalia had been removed. She added that an enforcement notice would be a waste of public resource and should a notice be served and an appeal ensued, the land owners would rely on advice contained within the NPPF and the NPPG.

The Committee then welcomed the second speaker on this item, Mr. Khalid, who also wished to speak in objection to the enforcement.

Mr. Khalid stated that he had lived at 29 Blackwood Road for over 16 years and that the family had always used the land as a woodland. He had contacted the Council numerous times over the years in relation to broken branches causing damage to his fencing and sheds and complained about the rubbish but he had always been told it was private land and the Council could not do anything. He had therefore decided to fence off the land behind his property for security reasons and the Council had advised him that it would be a civil matter between himself and the land owners. He added that he had taken independent planning advice and had been told there was no planning issue as he had not changed the use of the land. Mr. Khalid stated that he had not received acknowledgement of his correspondences from the Council.

The Committee then welcomed the third speaker on this application, Mr. Randerson, who wished to speak in support of the enforcement.

Mr. Randerson stated that he lived at 37 Blackwood Road with his family and that Foley Wood was a local resource and contributed to the character of Streetly. Some homeowners had extended their boundaries, cleared trees, planted shrubs and laid down lawn. Huge metal gates had also been installed with aggressive signage to steal land that did not belong to them. He added that CCTV cameras had also been installed which were an evasion of privacy. Mr. Randerson stated that access to green space was imperative for many health reasons and that Foley Wood was a protected ancient woodland with an abundance of wildlife, and was recognised by the Woodland Trust. The vast consensus from residents was for the wood to remain protected and not divided up into gardens. Local community groups

and scout groups were keen to use the wood for wildlife spotting and outside activities.

Committee Members were then invited to ask questions of the speakers.

Members queried the following:-

- Why had fencing been constructed within the wood as opposed to on a boundary? Mr. Khalid advised that he still had his own boundary fence but that he had erected the fencing near that part of the wood for security purposes after finding drug paraphernalia.
- Had the speaker cut down any trees or damaged any undergrowth? Mr. Khalid advised that he had not touched anything since living there.
- Why had both of the speaker's clients erected 2m fencing into the woods and not on their own boundaries? Ms Hodson advised that both properties had erected the fencing for the same reason and that the fencing did not require planning permission.
- Why had land been fenced off which did not belong to the homeowners? Ms Hodson advised that although the land did not belong to her clients, it was not known who owned the land. Children played within the woods when it was not a public open space. The Chair advised that the woodland had been gifted by the family for the enjoyment of the residents of Streetly.
- When had the fence been erected and whether the owner of the land had been sought? Mr. Khalid advised that the fence had been erected in April 2020. Prior to erecting the fence, he had enquired with the Council and had been advised that the owners of the land were not known and he had not enquired further.
- Would the agent agree that the type of fencing could only be erected with removal of undergrowth? Ms Hodson advised that she was not aware of how the fencing had been erected but would anticipate that it would be pegged into the ground. She added that a woodland TPO would protect all woodland and was unsure whether undergrowth would be part of the TPO.
- Was Mr. Randerson aware of any other properties who had encroached on the woodlands during the three years he had resided in this property? Mr. Randerson advised that a property in Foley Wood Road, which had been alluded to within the presentation had also erected fencing.
- Did Foley Wood have a residents group? Mr. Randerson advised that the land owner's family had left the woodland for the enjoyment of local residents. He added that a co-ordinated residents group would be keen to form a group and work alongside the Council to take care of and maintain the woods.
- Had Mr. Randerson been notified prior to the purchase of his property that the woodland behind the property was protected? Mr. Randerson confirmed that he had been made aware of the status of the protected woodland prior to the purchase of his property.
- Did permitted development rights only apply to the curtilage of properties? Ms Hodson confirmed that would be the case in relation to household permitted development rights but the current situation related to Part 2 of the general permitted development order entitled Minor operations, which allowed for an independent right to erect fences.

- Was Mr. Khalid aware that works to protected trees was a criminal offence? Mr. Khalid confirmed that he was aware but he had not carried out any work on protected trees.
- Was there any access from the fencing around the curtilage of the properties into the fenced off woodland area? Mr. Khalid stated there was a gate within his garden fencing into the fenced off woodland area. Ms Hodson advised that the fences on the edge of the garden land of both of the two properties had been reinstated and she had been advised there was a gateway from each garden into the fenced off area of woodland.
- Was the access into the fenced off area of woodland is available only to those residents who had installed gates within their fences and not from the woods itself? Ms Hodson stated that was the case in relation to the closed off area.

Councillor Hicken arrived during deliberation of this item and therefore did not take part nor vote on the report.

There then followed a period of questioning by Members to Officers, which included:-

- Could officers provide clarity with regard to the erection of the fencing under permitted development rights? The Presenting Officer advised there would be permitted development to erect a fence on any land up to a maximum height of 2m. The fencing had not been referred to within the report for enforcement action but the enforcement related to the enclosure of the land resulting from the erection of the fence that had changed the use of the land from open space to a residential garden.
- How often had officers visited the site and had they had tried to engage with residents to explain the situation? The Presenting Officer confirmed that since March 2020, officers had visited the properties regularly up until 14th October, 2020.
- Had the homeowners allowed officers access to their gardens? The Presenting Officer advised that officers had been required to make appointments and that they had seen most of the affected woodland.
- Had officers provided verbal assurance to any householders? The Presenting Officer stated that she could not confirm what discussions would have taken place but that it would have been very unlikely that the Tree Officer or an Enforcement Investigating Officer would have engaged with the respective residents whilst an enforcement investigation was taking place.
- Would members of the public be trespassing should they enter the areas of land that had been fenced off without consent? The Presenting Officer advised that should someone enter onto land without a landowners consent, it would be considered as trespassing. Although the Planning Solicitor advised that the land is unregistered with the land registry, this does not mean there is no legal owner. By way of explanation, the Planning Solicitor stated that should someone fence off another's land or were claiming the land, this is a matter to be dealt with under Civil Law and not Planning.
- If access had been created from the woodland area into the fenced off area, would the Council be in a different position? The Presenting Officer reiterated that the enforcement action sought was due to a material

change in the use of the land from open space to a garden area with a lawn, which would change the character and appearance of the woodland and therefore actual access onto the fenced land was not relevant. The Presenting Officer further added that the enforcement report did not include works to protected trees and woodland as that would come under a separate legislation. The Chair advised Committee that access into Foley Wood could be gained via Foley Road West and at the top of Egerton Road following a deed that had bequeathed Foley Wood to the local residents for their enjoyment.

- Could a property be sold with the additional fenced off land included within the sale? The Planning Solicitor advised that should someone wish to acquire land adversely, there is a process under Civil and/or Property Law which would need to be followed. The Chair advised that for all property sales, it would be customary that a land search be conducted. The land search would highlight the curtilage of the property and would exclude additional land that had been enclosed.
- With the access restricted and the land now part of a residential garden and not public open space, was that the issue? The Presenting Officer advised that the land was classified as open space within the Site Allocation Document (SAD) and that by enclosing the land, it now formed part of their residential curtilage.

Following the conclusion of questions to Officers, Members considered the report.

The Chair advised Committee that information had been received that day reporting that the landowners may now be known to the Council. Enforcement action would have to be taken against the landowner. The landowner may elect to join the Council in any action required to return the land back to woodland.

Councillor Samra **moved** and it was duly **seconded** by Councillor Bott:-

- i. That authority be granted to the Head of Planning and Building Control to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as shown in section 3.2 of the report;
- ii. That authority be granted to the Head of Planning and Building Control to institute prosecution proceedings in the event of non-compliance with an Enforcement;
- iii. That authority be granted to the Head of Planning and Building Control to amend, add to, or delete from the wording set out with the report stating the nature of the breaches, the reasons for taking enforcement action, the requirements of the Notice, or the boundaries of the site, in the interests of ensuring that accurate and up to date notices are served;
- iv. That authority be granted to the Head of Planning and Building Control to investigate and include other properties in any enforcement which are found to have encroached onto the woodland.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried** with 17 Members voting in favour and none against.

Resolved (unanimous)

- i. That authority be granted to the Head of Planning and Building Control to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as shown in section 3.2 of the report;
- ii. That authority be granted to the Head of Planning and Building Control to institute prosecution proceedings in the event of non-compliance with an Enforcement;
- iii. That authority be granted to the Head of Planning and Building Control to amend, add to, or delete from the wording set out with the report stating the nature of the breaches, the reasons for taking enforcement action, the requirements of the Notice, or the boundaries of the site, in the interests of ensuring that accurate and up to date notices are served;
- iv. That authority be granted to the Head of Planning and Building Control to investigate and include other properties in any enforcement which are found to have encroached onto the woodland.

148/20 Walsall Response to Planning White Paper: Planning for the Future

The report of the Head of Planning and Building Control was submitted

(see annexed)

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein. She advised that the full response was included as an appendix to the report.

Members considered the report and the Chair thanked officers for its content.

Resolved

That Committee notes the Walsall response to the White Paper submitted by the Head of Planning and Building Control and the Head of Regeneration, Housing and Economy.

149/20 Application List for Permission to Develop

The application list for permission to develop was submitted, together with supplementary papers and information for items already on the plans list.

(see annexed)

The Committee agreed to deal with the items on the agenda where members of the public had previously indicated that they wished to address the Committee and the Chair, at the beginning of each item for which there were speakers, advised on the procedure whereby each speaker would have two minutes to speak.

The Chair reminded Members that should they be minded to go against officers' recommendations, the Mover of the Motion must make clear the reasons for doing so and ensure that they are based on planning grounds. Once the reasons have been provided and the Motion seconded, the Chair will ask the Solicitor present to read out the reasons and give planning officers the opportunity to comment prior to taking a vote on the matter.

150/20 **PLANS LIST ITEM NO. 1 – 20/0463 – LAND ADJACENT TO 370 CHESTER ROAD, ALDRIDGE – CONSTRUCTION OF NEW 62 BEDROOM CARE HOME (C2 USE) INCLUDING ASSOCIATED CAR PARKING AND LANDSCAPING**

The report of the Head of Planning and Building Control was submitted.

(see annexed).

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein. In addition, the Presenting Officer drew the Committee's attention to the additional information as set out within the supplementary paper.

The Committee then welcomed the only speaker on this application, Mr. Stephens, who wished to speak in support of the application.

Mr. Stephens stated that permission had previously been granted on the adjacent property due to the need for the specialist type of care home in the area, which outweighed the harm to the green belt. The proposed development would provide 80 jobs for local people. Prior to the development of the adjacent specialist Dementia care home, 92% of NHS specialist dementia care patients had previously had to be cared for out of the borough and this had reduced to only 25% following its development. There was strong support for the application from both the NHS and CCG patients, as there are no other specialist dementia care homes within the borough. The development would bring a £10 million investment into the area and any flooding concerns could be managed by condition.

Members were then invited to ask questions of the speaker.

Members queried the following:-

- Would a second development on the site further harm the green belt? Mr. Stephens stated that any additional harm to the green belt would be limited due to the adjoining development and the site's enclosed nature by virtue of dense woodland to the rear and roadway to the front.
- Would the development cater for dementia patients only? Mr. Stephens confirmed that the home would be a specialist nursing home for dementia patients and that he would be happy for it to be conditioned as such.
- If minded to approve, would the applicant consider a travel plan and retain all trees on site? Mr. Stephens stated that the current development on the site

operated a travel plan, which would cover both developments. He further added that a condition could be imposed in relation to retaining the trees and providing a landscaping screen.

- What percentage of specialist dementia care was required within Walsall? Mr. Stephens referred to the supporting statement from the Mental Health Care Commissioner and highlighted that prior to the opening of the existing development, 92% of Walsall's dementia patients had to be placed outside of the borough. This had now reduced to only 25%.
- What provisions would be in place to prevent patients wandering off? Mr. Stephens stated that the applicant was an experienced operator and safety of all residents was paramount and therefore all access points were controlled.
- Was the enclosed roof terrace for the benefit of residents? Mr. Stephens emphasised the importance of external space and that the roof terrace would provide a safe environment for residents during the daytime hours.
- Could the speaker expend on the supporting statement from the Mental Health Care Commissioner? Mr. Stephens advised Committee that the supporting statement emphasised that there was no other dedicated care home provider in Walsall that could provide beds for the level of specialised dementia care needed by the CCG.
- Would the proposal have hospital status? Mr. Stephens confirmed that it would have hospital status.

There then followed a period of questioning by Members to Officers in relation to:-

- Whether the proposed care home could be conditioned to restrict its use to specialist dementia care only? The Presenting Officer advised that should Members be minded to support the application, a condition could not be imposed but a 106 Legal Agreement could be sought.
- Did Highways have any objections? The Highways Officer stated that they had no objections in relation to access or parking but there would be an obligation to promote either a separate Travel Plan or a combined Travel Plan.

Following the conclusion of questions to Officers, Members considered the application in detail.

Councillor Craddock **moved** and it was duly **seconded** by Councillor Bird:-

That planning application no. **20/0463** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions, contrary to officer recommendations as:

- i. This would provide a specialised facility for dementia care of which there is a local need in the area sufficient to justify very special circumstances to outweigh the harm to the green belt;
- ii. There is no additional harm to neighbouring properties;
- iii. It is a previously developed site and would fill a gap and the site is not visible from the wider area;
- iv. Drainage details to be secure by condition that would resolve potential flooding issues;

and subject to the finalising of conditions in accordance with consultees; a Section 106 Agreement or Deed of Variation to secure a Travel Plan and restrict the use to specialist dementia care only and subject to referral to the Secretary of State as a Departure. In additional, following construction, an officer to visit the site and monitor trees to determine whether any were worthy of a Tree Preservation Order.

Before voting, the Planning Solicitor read out the recommendation for the benefit of Members.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **unanimously carried**, with 18 Members voting in favour and none against.

Resolved (unanimously)

That planning application no. **20/0463** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions, contrary to officer recommendations as:

- i. This would provide a specialised facility for dementia care of which there is a local need in the area sufficient to justify very special circumstances to outweigh the harm to the green belt;
- ii. There is no additional harm to neighbouring properties;
- iii. It is a previously developed site and would fill a gap and the site is not visible from the wider area;
- iv. Drainage details to be secure by condition that would resolve potential flooding issues;

and subject to the finalising of conditions in accordance with consultees; a Section 106 Agreement or Deed of Variation to secure a Travel Plan and restrict the use to specialist dementia care only and subject to referral to the Secretary of State as a Departure. In additional, following construction, an officer to visit the site and monitor trees to determine whether any were worthy of a Tree Preservation Order.

Councillor Creaney left the meeting at the conclusion of this item and did not return.

151/20 PLANS LIST ITEM NO. 2 – 20/0600 – 135 ERDINGTON ROAD, ALDRIDGE, WALSALL, WS9 0RT – ERECTION OF 3 NO. DETACHED DWELLINGS AND 1 NO. DETACHED GARAGE AND 1 NO. DETACHED GARAGE GYM

The report of the Head of Planning and Building Control was submitted.

(see annexed).

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein. In addition, the Presenting Officer drew the Committee's attention to the additional information and revised recommendation as set out within the supplementary paper.

The Committee then welcomed the first speaker on this application, Mrs Ryder, who wished to speak in objection to the application.

Mrs Ryder stated that since the approval of the previous application, the Government had updated NPPF 15 guidance in 2018 at paragraph 175C with regards to veteran trees and therefore the development of a gym was not an exceptional reason to impact on a veteran tree and should be refused as it does not comply with NPPF15. The Woodland Trust had advised that BS5837 2012 sub clause 7.4 referred to within the report did not apply to veteran trees and that a 15m RPA would not be sufficient enough to protect a 300 year old veteran tree and therefore no construction should occur within the RPA. No mention of the veteran tree had been made in the previous application and therefore Committee would not have taken it into consideration at that time. The tree was a category 1 for bat roosting and foraging and grey wagtails frequented the site. The veteran tree was very significant and protected by NPPF and SPG.

The Committee then welcomed the second speaker on this application, Mr. Ryder, who also wished to speak in objection to the application.

Mr. Ryder stated that although the number of dwellings had been reduced, the footprint had increased by over 53% and floor space increased by 93%. The build form on the boundary has increased by 62% and would impact on the openness of the Green Belt. Plot 2 would be only 1.3m from the boundary and Plot 3 garage would be 50cms from the boundary, which would not enable a replacement hedge or trees and a fence to be replaced. The road is no longer wide enough for a refuse lorry and planting of trees and shrubs would be restricted. Plots 2 and 3 are too close at 17m and should not be allowed to set a precedent for new homes. Numbers 8 and 10 Hayfield Grove had expressed concern in relation to their loss of amenity due to noise from the gym and light pollution. The gym would also be detrimental to bats that forage on site. An updated ecology report should have been updated after 12 months but had not been done to date.

The Committee then welcomed the third speaker on this application, Mr. Singh, who wished to speak in support of the application.

Mr. Singh stated that he was the agent for the applicant. The majority of objections received were non-material considerations or disagreements to the normal planning procedures. In relation to tree and hedge ecology, a resubmitted tree report had been considered acceptable by the Tree Officer. In terms of retention of the veteran tree and impact on the RPA, the applicant has committed to provide a comprehensive planning of trees in excess of normal requirements. The application site lay outside of the Green Belt and there would be no significant harm to neighbouring properties. The principal for development had already been established on the site following a previous approval of four dwellings. Mr. Singh advised that a comprehensive construction management plan would be submitted prior to commencement and the applicant would welcome any additional

conditions. The proposal has improved on the extant permission and had addressed issues around the trees, ecology, green belt amenity and parking.

Committee Members were then invited to ask questions of the speakers.

Members queried the following:-

- Could Mrs Ryder expand upon the Woodland Trust's holding objection in relation to the veteran tree and the root protection area (RPA). Had the objection been removed from the Woodland Trust? Mrs Ryder advised that the Government had updated the protection for veteran trees in 2018 and they were now covered by paragraph 175C. The legislation had changed considerably since the last application had been approved with regard to the protection of veteran trees. The Woodland Trust had confirmed the root protection should be a minimum of 15m. As the application did not comply with NPPF16, the local authority was required to provide an acceptable reason for building within the RPA of the veteran tree.
- Could the applicant include provision to ensure the gym would be fully sound proofed? Mr. Singh confirmed that the applicant would welcome any conditions to ensure the wellbeing of neighbouring residents.
- What was the agent's view of the veteran tree? Mr. Singh stated that Walsall benefited from diligent tree officers and as the agent, it was his view that the veteran tree would not require pruning or any arboriculture work to accommodate the development. That had also been the view of the
- Clarification with regard to the users of the gym? Mr. Singh advised that the gym would be for the personal use of the home owners only.

At this point in the meeting, the Chairman **moved** the suspension of Standing Order of the Council's Constitution to enable the meeting to continue beyond 8.30pm in order to complete the remaining items on the agenda. This was duly **seconded** by Councillor Nawaz. The Committee agreed by dissent to extend the meeting beyond 8.30pm.

There then followed a period of questioning by Members to Officers in relation to:-

- Could officers be confident that the root area of the veteran tree would not be encroached upon by the development of the gym? The Presenting Officer advised that whilst legislation allowed for a 14.4m root protection radius to the protected veteran tree, a reduced distance of 10.9m was considered to be acceptable for the extant permission and the proposal showed the distance to be around 12m, which was better than previously approved.
- What status did Woodland Trust have over planning? The Presenting Officer confirmed that Woodland Trust were an advisory consultee as opposed to a statutory consultee.
- Could the gym be turned into a living area? The Presenting Officer stated that the gym would be ancillary to the dwelling otherwise enforcement action would be taken.

- Could a provision be included to ensure the gym was soundproofed? The Team Leader-Pollution Control advised that should Members be minded to grant permission, a condition should be included to prohibit amplified music within the gym structure.

Following the conclusion of questions to Officers, Members considered the application and Councillor Samra **moved** and it was duly **seconded** by Councillor Rasab:-

That planning application no. **20/0600** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and subject to the amendment and finalising of conditions, as contained within the report and supplementary paper and for a condition to prohibit amplified music within the gym structure.

Before voting, the Planning Solicitor read out the recommendation for the benefit of Members.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with 15 Members in favour and 2 Members voting against.

Resolved (15 in favour and 2 against)

That planning application no. **20/0600** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and subject to the amendment and finalising of conditions, as contained within the report and supplementary paper and for a condition to prohibit amplified music within the gym structure.

Councillor Nawaz and Councillor Perry left the meeting at the conclusion of this item and did not return.

152/20 PLANS LIST ITEM NO. 4 – 19/1138 – 54 VALLEY ROAD, STREETLY, SUTTON COLDFIELD, B74 2JE – ERECTION OF AN ATTACHED DORMER BUNGALOW.

The report of the Head of Planning and Building Control was submitted.

(see annexed).

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein.

The Committee then welcomed the only speaker on this application, Mr. Malkin, who wished to speak in support of this application.

Mr. Malkin advised Committee that the application had been with the local authority for over 12 months and during that time, that applicant had worked closely with officers to enable full support of the scheme. He stated that the dormer bungalow would be in a sustainable area with a gap to the side to

protect the open feel of the corner plot and would be comparable in size to similar homes within the surrounding area. Mr. Malkin added that there would be adequate garden space for the property and that it would have no impact on neighbouring amenities and would not appear incongruous within the street scene.

There then followed a period of questioning by Members to the speaker:-

- Had the applicant consulted with local residents? Mr. Malkin stated that the applicant had cut back the hedge along the side the site following complaints but he was not aware if any consultation with local residents had taken place.

There then followed a period of questioning by Members to the officers, which included:-

- Had the consultation procedure with regard to planning applications been carried out? The Presenting Officer confirmed that a consultation had been carried out.
- Why had some residents stated they had not received consultation letters? The Presenting Officer advised that records showed all local residents had been sent letters.
- Would there be a dropped kerb to the new development? The Presenting Officer advised that the application would be conditioned to Highways satisfaction.
- There had been 18 objections from 8 residents to the previous scheme; how many objections to the new scheme? The Presenting Officer advised that the objections for the second scheme had been repeated from the previous scheme.
- Had any objectors registered to speak? The Presenting Officer confirmed that no objectors had registered to speak.

Following the conclusion of questions to Officers, Members considered the application and Councillor Craddock **moved** and it was duly **seconded** by Councillor Harrison:-

That planning application no. **19/1138** be delegated to the Head of Planning and Building Control to grant planning permission, subject to the amendment and finalising of conditions as set out within the report

Before voting, the Planning Solicitor read out the recommendation for the benefit of Members.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with 14 Members in favour and 1 Member abstaining.

Resolved (14 in favour and 1 abstained)

That planning application no. **19/1138** be delegated to the Head of Planning and Building Control to grant planning permission, subject to the amendment and finalising of conditions as set out within the report.

**153/20 PLANS LIST ITEM NO. 5 – 19/0468 – LIVING AREA ABOVE
317 CHESTER ROAD, ALDRIDGE, WALSALL, WS9 0PH – RETENTION OF
NEW DOORWAY, WINDOW AND EXTERNAL STAIRCASE TO FIRST
FLOOR FLAT**

The report of the Head of Planning and Building Control was submitted.

(see annexed).

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein. In addition, the Presenting Officer drew the Committee's attention to the additional information contained within the supplementary paper.

The Committee then welcomed the first speaker on this application, Ms Moore, who wished to speak in objection to the application.

Ms Moore stated that the current staircase was a large, industrial looking structure, which caused privacy issues to number 317a Chester Road as users of the staircase could see directly into the kitchen and spare bedroom. She also alluded to a potential security issue as anyone could gain access to the stairs and that the structure could be seen from both the rear and front gardens of 317a, as well as from Chester Road. Ms Moore added that she had tried to liaise with the applicant in relation an alternative screen for both privacy reasons and that the current bamboo screening was falling away from the staircase.

The Committee then welcomed the second speaker on the application, Mr. Khera, who wished to speak in support of the application.

Mr. Khera advised Committee that the flat had previously been accessed via the downstairs shop and post office but independent access had been sought to overcome security issues associated with the post office. The applicant had provided a number of different plans to officers and neighbours had been consulted upon in relation to the barrier. Mr Khera added that the only access the flat was via the outside staircase, which sat on a pre-existing platform and had therefore not further compromised the protected tree roots. The proposal would bring a derelict flat back into affordable accommodation.

Members were then invited to ask questions of the speakers, which included:-

- Had the applicant worked with the neighbour in relation to the screening? Mr. Khera confirmed that the applicant had worked with the neighbour and that a style of trellis had been agreed.
- When had the applicant's previous issue with building regulations occurred? Mr. Khera stated there had been numerous email correspondence from March onwards. He added that the applicant had installed fire alarms and that the only issue remaining were the gaps within the staircase screening.

- Had the applicant installed the outside staircase and if so, had any damage been caused to the protected tree? Mr. Khera advised that the platform for the staircase had been put in place by the Co-op and not the current applicant.
- Had anyone accessed the neighbouring property via the staircase during the twelve months it had been in situ and if so, had any been reported to the Police? Ms Moore confirmed there had been some security issues over that time but no instances had been reported to the Police.
- Was the tenant operating a business from the flat? Mr. Khera advised the business in question operated from a nearby location. He added that one of the employees of the business had been residing at the flat but had left back in June.

There then followed a period of questioning by Members to Officers, which included:-

- What should the separation distance be to the neighbouring rear window? The Presenting Officer advised that the separation distance should be 24m and this was not the case.

Following the conclusion of questions to Officers, Members considered the application.

Councillor Samra **moved** and it was duly **seconded** by Councillor Statham:-

That planning application no. **19/0468** be granted planning permission, against officers' recommendations, subject to conditions to comply with Building Regulations and Fire Service response and that there had been no damage to the protection tree.

The Presenting Officer advised Committee that Building Regulations and Fire Regulations were separate legislation and therefore could not be conditions. In response to a query in relation to enforcement action, the Presenting Officer advised that should Members agree to the officer's recommendation to refuse the application, an enforcement would be brought forward to remove the structure.

In response, Councillor Samra stated that in light of the Presenting Officers comment, he would withdraw his motion. This was agreed by Councillor Statham who had seconded the Motion.

Councillor Samra then **moved** and it was duly **seconded** by Councillor Statham:-

That planning application no. **19/0468** be deferred for one cycle to enable the developer and the neighbours to agree to a suitable form of screening to the staircase.

Before voting, the Planning Solicitor read out the recommendation for the benefit of Members.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with 8 Members voting in favour and 7 against.

Resolved (8 in favour and 7 against)

That planning application no. **19/0468** be deferred for one cycle to enable the developer and the neighbours to agree to a suitable form of screening to the staircase.

154/20 PLANS LIST ITEM NO. 7 – 20/1049 – 9 MORETON AVENUE, GREAT BARR, BIRMINGHAM, B43 7QP – CHANGE OF USE OF VACANT TATTOO PARLOUR TO RESTAURANT (A3 USE)

The report of the Head of Planning and Building Control was submitted.

(see annexed).

The Presenting Officer advised Committee of the background to the report and highlighted the salient points therein.

The Committee then welcomed the first speaker on this application, Councillor Towe, who wished to speak in objection to the application.

Councillor Towe advised Committee that he only opposed the application due to its location within the precinct. The location was very residential and a restaurant would be inappropriate alongside a children's nursery due to the safety aspect of additional cars. Moreton Avenue currently experienced parking problems and the proposal would be detrimental to the local residents. Councillor Towe also highlighted concerns with regard to cooking smells and that the position of the flue was incongruous and would have an adverse effect on the neighbouring nursery.

The Committee then welcomed the second speaker on this application, Mr. Bywater, who wished to speak in support of the application.

Mr. Bywater stated that he was the new business owner and that he had grown up in Pheasey and knew the area well. He owned five successful businesses and that it had been his dream for a number of years to open a healthy eating establishment in the area, which would offer healthy dining options and a new food experience. The application had met all officers' guidelines and he did not believe the restaurant would have an adverse effect on the surrounding shops as customers parking to attend the premises would predominantly be during the evening. Mr. Bywater closed by stating that the restaurant would provide a number of jobs for local people.

The Committee then welcomed the third speaker on this application, Mr. Kenney, who also wished to speak in support of the application.

Mr. Kenney stated that he had also grown up in the area and the proposal would create jobs for the area. In relation to location, he stated that Beacon

Row Shops were also within a residential area and only one road away and he did not know why that would be a more beneficial area for the restaurant. The main opening hours of the restaurant did not coincide with the neighbouring nursery and he added that the proposal had received positive feedback within the area.

Members were then invited to ask questions of the speakers.

Members queried the following:-

- How many covers would the restaurant cater for and would it provide takeaway food? Mr. Bywater stated that the restaurant would be dine in with seating for around 16 to 18 people and that there would be a potential to cater for take away orders. In response to whether it would be Covid secure, Mr. Bywater added that to ensure it would be Covid secure, it would only seat up to 9 people.
- Would the premises open up with an outside street licence and would it be applying for a liquor licence in the future? Mr. Bywater stated there would be no outside dining or outside selling of food. The restaurant may apply for a liquor licence in the future should there be a potential but that was not something that had not been considered at that point.
- What types of healthy eating options would be available? Mr. Kerney stated the restaurant would provide a varied menu that would include vegan and vegetarian options and cater for all requirements.
- Could the speaker expand on the parking problems in the area? Councillor Towe stated that he had concerns as there were similar businesses in the area with customers staying later hours, which would cause inappropriate parking within the surrounding residential roads.
- The establishment already benefited from business use and therefore why would parking now be an issue for this proposal? Councillor Towe stated that the nature of the previous business would have generated a lower footfall. Mr. Kerney stated that the previous tattoo studio would have generated similar footfall during the daytime.
- What would be the hours of opening and would they coincide with any of the other businesses in the parade? Mr. Bywater stated that the hours of opening would be 11am to 11pm to provide a lunchtime menu and an evening menu. The 11pm time would be when the staff intended to leave the premises once they had cleaned up and prepped for the next day.

There then followed a period of questioning by Members to Officers, which included:-

- Would a flue impact on the character of the area? The Presenting Officer stated that it was not unreasonable for a business within a local centre location to have a flue installed.
- If the proposed restaurant were to open between 11am and 11pm, would cooking smells affect the nursery next door? The Team Leader for Pollution Control stated that a flue would be installed on the side elevation of the building to disperse odour.

Following the conclusion to questions to Officers, Members considered the application.

Councillor Craddock **moved** and it was duly **seconded** by Councillor Murray:-

That planning application no. **20/1049** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and subject to:-

- No further comments from Environmental Health raising material planning considerations not previously addressed;
 - The amendment and finalising of conditions.
- as set out within the report

Before voting, the Planning Solicitor read out the recommendation for the benefit of Members.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with 8 Members voting in favour and 7 against.

Resolved (8 in favour and 7 against)

That planning application no. **20/1049** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and subject to:-

- No further comments from Environmental Health raising material planning considerations not previously addressed;
 - The amendment and finalising of conditions.
- as set out within the report.

155/20 **PLANS LIST ITEM NO. 3 – 19/1188 – CHASE COMMUNITY HOMES, CHASE HOUSE CARE HOME, CHASE ROAD, BROWNHILLS, WALSALL, WS8 6JE – CONVERSION OF EXISTING HOUSE NO. 95 CHASE ROAD INTO 3 X 1 BED FLATS INCLUDING DEMOLITION OF PART OF REAR CONSERVATORY LEAN-TO, CONSTRUCTION OF REAR EXTENSION (SINGLE STOREY) AND WORKS FOR ASSOCIATED PARKING.**

There were no speakers on this item.

Councillor Bird **moved** and it was duly **seconded** by Councillor Craddock:-

That planning application no. **19/1188** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and subject to the amendment and finalising of conditions and overcoming the arboriculture officer's objection, as set out within the report and supplementary paper.

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with Members voting unanimously in favour.

Resolved (unanimous)

That planning application no. **19/1188** be delegated to the Head of Planning and Building Control to grant planning permission, subject to conditions and subject to the amendment and finalising of conditions and overcoming the arboriculture officer's objection, as set out within the report and supplementary paper.

156/20 **PLANS LIST ITEM NO. 6 – 20/0498 – 203 WHETSTONE LANE, ALDRIDGE, WALSALL, WS9 0HH – DEMOLITION OF EXISTING PORCH, REBUILD AND EXTEND TO THE FRONT BY 1 METRE TO INCORPORATE EXISTING PORCH SPACE AND PLUS EXISTING HALL TO CREATE A NEW ROOM AND HALL SINGLE STOREY REAR EXTENSION OF 3.5 METRES X 4 METRES.**

There were no speakers on this application.

Councillor Bird **moved** and it was duly **seconded** by Councillor Samra:-

That planning application no. **20/0498** be granted, subject to conditions as set out within the report

The Motion was put to the vote by way of a roll call of Committee Members and was subsequently declared **carried**, with Members voting unanimously in favour.

Resolved (unanimous)

That planning application no. **20/0498** be granted, subject to conditions as set out within the report

157/20 Termination of meeting

There being no further business, the meeting terminated at 10.05pm

Chair

Date