



## Planning Committee

8<sup>th</sup> January 2015

### REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

#### Former Pear Tree Cottage PH, Pear Tree Lane, Brownhills, WS8 7NF

## **1.0 PURPOSE OF REPORT**

- 1.1 An appeal against non-determination has been lodged with the Council in regard to an outline planning application (14/0874/OL) for a food convenience retail store (A1) with access only for consideration. Members are requested to endorse the recommendation to refuse permission as previously put forward to the Planning Committee meeting on 13<sup>th</sup> November 2014. At that meeting members resolved to defer the decision to allow further discussions between officers and the applicant to address the access and egress proposals. Instead of seeking to overcome highway objections, the appellant has lodged an appeal for non-determination.

## **2.0 RECOMMENDATIONS**

- 2.1 That Members endorse the recommendation put forward to the Planning Committee on 13<sup>th</sup> November 2014 to refuse planning permission for the following reason:

1. A retail store in this location in addition to the position of the proposed access would give rise to conditions prejudicial to highway safety by virtue of:

- The location of the site on an existing awkward junction layout and the position of the proposed car park and service vehicle delivery access out of sight of potential customers passing along Hednesford Road and Albutts Road, due to the nature of the use, is likely to lead to either indiscriminate parking and footway parking on and around the four-way road junction or on Pear Tree Lane which is only four metres in width.
- Delivery and service vehicles to the store which are larger than 3.5 tonne (multi-drop deliveries) would not be able to turn within the car park resulting in loading/unloading either on Hednesford Road at the junction or on Pear Tree Lane and having to reverse onto the junction.
- The indicative size of the retail store and the resultant space on site fails to provide sufficient off-street parking spaces to meet the needs of the development.

The proposal would give rise to increased vehicle conflicts in and around the access and around the road junction contrary to the free flow of traffic on the public highway and the free movement of pedestrians along the public footway. Accordingly the proposal is contrary to the aims and objectives of the National

Planning Policy Framework, policy TRAN1, TRAN2 of the Black Country Core Strategy and saved policies, GP2, 3.6, ENV32, T4, T7 and T13 of the Walsall Unitary Development Plan.

**3.0 FINANCIAL IMPLICATIONS**

An appeal against non-determination could be subject to an application for a full or partial award of the appellant's costs in making an appeal if it was considered that the Council had acted unreasonable and caused unnecessary expense through its handling of the application.

**4.0 POLICY IMPLICATIONS**

Relevant local and national planning policies were set out in the 13<sup>th</sup> November Committee report (see appendix A)

**5.0 LEGAL IMPLICATIONS**

None arising from the report.

**6.0 EQUAL OPPORTUNITY IMPLICATIONS**

None arising from the report.

**7.0 ENVIRONMENTAL IMPACT**

The recommendation seeks to ensure compliance with planning policies to avoid any adverse environmental impact.

**8.0 WARD(S) AFFECTED**

Brownhills

**9.0 CONSULTEES**

The planning application was subject to normal consultation, responses were presented in the committee report.

**10.0 CONTACT OFFICER**

Paul Hinton  
Development Management – 01922 652607

**11.0 BACKGROUND PAPERS**

Planning Application 14/0874/OL

**David Elsworthy**  
**Head of Planning and Building Control**

**Planning Committee**  
**8<sup>th</sup> January 2015**

**12. BACKGROUND AND REPORT DETAIL**

- 12.1 At its meeting on 13<sup>th</sup> November 2014 Committee deferred its decision on this outline planning application for a food convenience retail store (A1) with access only for consideration. The application was recommended for refusal on grounds of highway safety. The decision was deferred to allow further discussions between officers and the applicant to address the access and egress proposals.
- 12.2 No further proposals were put forward to the Council; instead the applicant has lodged an appeal with the Planning Inspectorate on the grounds of non-determination. At the time of the publication of this report the Planning Inspectorate have yet to confirm the appeal is valid, however given the tight timescales from the acceptance of an appeal it is necessary to seek Committee's position at this time. The Council is no longer able to issue a decision on the application, but will need to explain to the Planning Inspectorate whether it would have approved or refused the application. The Planning Inspectorate will make the final decision on the proposal.
- 12.3 Officers continue to be of the view that the proposal would give rise to conditions prejudicial to highway safety. The original report explaining the reasons for this is appended to this report (appendix A).

**Regeneration Directorate – Planning and Building Control****Planning Committee**

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

**Plans list item no: 6.**

**Reason for bringing to committee: Called in by Councillor Cassidy on grounds of traffic capacity and impact on amenity of neighbours.**

**Application Number:** 14/0874/OL

**Application Type:** Outline Application

**Applicant:** Mr Oliver Wassall

**Proposal:** Outline application for a food convenience retail store (A1) with access only for consideration.

**Location:** FORMER PEAR TREE COTTAGE, PEAR TREE LANE, WALSALL, WS8 7NF

**Ward:** Brownhills

**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652607

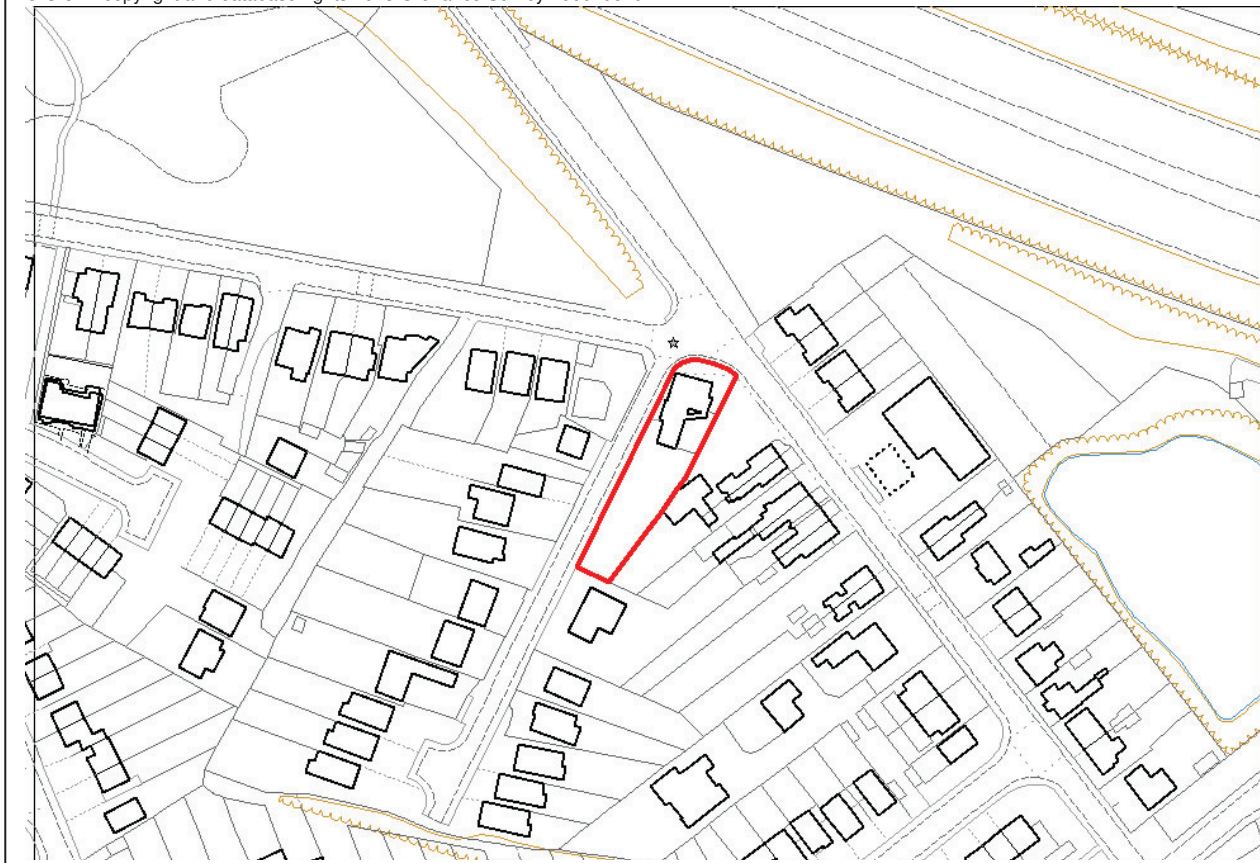
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** AJ Carter Consulting

**Expired Date:** 11/08/2014

**Recommendation Summary:** Refuse

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## **Application and Site Details**

This is an outline planning application with access only for consideration at this time in regard to a proposed food convenience retail store. The application follows refusal of a full planning application for a retail unit in July 2012 on grounds of design and highway safety. Since the refusal the long term vacant public house has been demolished. The application form states the proposed retail unit would have a floorspace of 300 square metres. The submitted drawing shows a rectangular building at the front of the site with a small area for frontage bicycle parking. To the rear one access point is proposed with the provision of 13 parking spaces plus two disabled spaces. A loading area next to the rear of the building is shown. The application has been supported by a 3.5 tonne vehicle turning plan showing the vehicle able to turn into and around within the site.

Amended plans have been received positioning the access closer to Hednesford Road resulting in a smaller area for the proposed retail store, indicatively shown to have a floorspace of 216sqm.

The application site is located on the junction of Pear Tree Lane (a cul-de-sac), Albutts Road (a cul-de-sac) and Hednesford Road, where there is a speed cushion and a 20mph speed restriction. The area is predominantly residential, with two vehicle garages, one to the southern boundary of the site and the other across Hednesford Road to the east. The M6 toll road passes under Hednesford Road to the north. The surrounding area is characterised by a mixture of two-storey and single storey development of varying styles an appearance, including flat roofed developments.

A perspective view of the retail store has been provided showing a single storey mono-pitch roof building with a glazed frontage wrapping around a central feature entrance on the corner of Hednesford Road and Pear Tree Lane.

Brownhills District Centre boundary is approximately 1.7km walking distance to the south east, with the main shopping area 1.9km away. The nearest shops are along Shannon Drive 600m walking distance away.

The following information has been submitted in support of the application:

### *Planning and Design and Access Statement*

- The settlement of Brownhills West has relatively few supporting services comprising of the Waterside Public House and a Social Club. No convenience store is present in the locality.
- Perspectives show an active frontage, with pedestrian access also to the rear.
- The corner treatment follows the curve of the site, adding visual interest.
- The mass of the structure is enough to offer visual presence, but not overbearing.
- The settlement of Brownhills West has the capacity and ability to support a larger retail convenience store without causing harm to any centres.
- The proposal would serve two key functions, local need and passing trade.
- Although the parking provision is below the parking requirements of UDP policy T13 it is considered sufficient for a store which would address local need.
- Times of delivery vehicles could be restricted outside normal trading hours to avoid conflict with customers.
- Indicate loading is away from the closest residential property.
- Policy LC8 in regard to loss of a community facility no longer applies at the building has been demolished. The retail store would offer some social, community and economic benefits. Alternative public house facilities and a social club are present to the south of the site.



### *Transport Statement*

- The site is vacant and has no existing use.
- The public house would have generated a number of trips to and from the site with resultant parking.
- No parking restrictions exist in Pear Tree Lane, although the road is narrow
- Visibility across the junction for both vehicles and pedestrians is good
- Site benefits from good pedestrian links, with pavements serving each route.
- A regular bus service between Hednesford and Walsall via Rugely provides a sustainable transport mode to customers.
- A bus stop is located adjacent to the site on Hednesford Road
- Considering a smaller floorspace of 201 square metres the UDP parking provision of 15 parking spaces could be achieved.
- As the application is in outline form with access only, it is reasonable to condition a technical transport statement until reserved matters stage.
- Signage would be provided to identify the car park
- If deemed appropriate the applicant will consider traffic regulation orders (TRO).

### **Relevant Planning History**

12/0671/FL - Redevelopment of former Pear Tree Cottage pub site for A1 retail unit and car parking. Refused for the following summarised reasons 25/7/2012:

1. The proposed retail unit through its design and use of materials will have a detrimental impact on the streetscene and the character of the area by virtue of it not providing animation, variety or interest at the street level. It will result in a building which is bland, uninspiring in appearance and which does not recognise or mark its importance and prominence within the streetscape. The scale and massing of the proposed building does not represent or replicate the former Pear Tree Cottage which is considered necessary to address this local site and corner within the overall town/streetscape.

2. The proposed new retail unit fails to ensure that the scheme will not have any detrimental impact on highway safety:

Failed to provide a satisfactory Transport Statement

Level of car parking does not comply with UDP Policy T13

Car parking spaces 10 and 11 are not accessible

Customers are likely to park on Hednesford Road at the front

The level of disabled car parking fails to comply with policy

Does not demonstrate that there is sufficient space for the delivery vehicle to manoeuvre

No pedestrian access routes have been shown.

### **Relevant Planning Policy Summary**

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

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

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

1. Delivering sustainable development
- 18 Committed to securing economic growth in order to create jobs.
- 19 Support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.
2. Ensuring the vitality of town centres
24. Applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.
4. Promoting sustainable transport
- 32 Decisions should take account of safe and suitable access to the site can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 34 Developments that generate significant movement are located where the need to travel will be minimised.
- 35 Developments should be located and designed where practical to; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.
7. Requiring good design
56. Good design is a key aspect of sustainable development.
  58. Decisions should aim to ensure the developments:
    - will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
    - establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
    - optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
    - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
    - create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;
    - and are visually attractive as a result of good architecture and appropriate landscaping.
63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
8. Promoting health communities
69. Decisions should aim to achieve...safe and accessible environments where crime and fear of crime do not undermine quality of life or community
70. To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
  - ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community;
11. Conserving and enhancing the natural environment
- 109 The planning system should prevent new and existing development from contributing or being put at unacceptable risk from, or being adversely affected by unacceptable levels of.... noise pollution.
- 111 Encourage the effective use of land be re-using land that has been previously developed.
- 123 Planning decisions should aim to:
  - Avoid noise from giving rise to significant adverse impacts

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

### **The Development Plan**

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

### **Local**

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

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

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

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

The key planning policies include:

CSP4: Develops the need for high quality place making and design

CEN2: Hierarchy of Centres – identifies 3 levels of hierarchy.

CEN4: Regeneration of Town Centres

CEN5: District and Local Centres

CEN6: Meeting Local Needs for Shopping and Services – new small-scale local facilities outside of defined centres of up to 200sqm will be permitted if it can be shown that: the proposal is of an appropriate scale to meet day-to-day needs, provision could not be better met by investment in a nearby centre, existing facilities will not be undermined; access by means other than by car.

CEN7: Controlling Out-of-Centre Development - requirements of CEN6 will be required.

TRAN1: Priorities for development of the transport network – all new developments will address the transport network and provide adequate access for all modes.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

ENV2: States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Proposal should aim to sustain and reinforce locally distinctive elements.



ENV3: Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

It is considered in this case that the relevant provisions of the BCCS can be given full weight

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

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

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

3.6 Development and redevelopment schemes should as far as possible, help to improve the environment of the Borough.

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

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

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

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

ENV33: Landscape Design – good landscape design is an integral part of urban design.

ENV35: Appearance of Commercial Buildings

S1: Town Centre use includes – retail

S2: The Hierarchy of Centres

S4: The Town and District Centres – centres will be safeguarded

S5: The Local Centres – seeks retention of shops

S6: New small-scale local facilities will be permitted if it can be shown:

- i. The proposal is 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.
- viii. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

S7: Sequential tests need to be undertaken to justify out of centre development of town centre uses in edge of centre locations, except where in accordance with policy S6.

LC8: Local Community Facilities

I. There are other existing facilities, in an equally or more convenient location, which could accommodate any community activities displaced by the proposed development; or

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.

T4: The Highway Network

T7: Car Parking - All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of parking to meet operational needs while not exceeding any maximum parking standards that are specified.

T10: Accessibility Standards – General

T11: Access for Pedestrians, Cyclists and Wheelchair users

T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)

T13: Parking Provision for Cars, Cycles and Taxis

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

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

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

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

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.

Policy DW2 Safe and Welcoming Places

Policy DW3 Character

Policy DW4 Continuity

Policy DW5 Ease of Movement

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

### **Consultations**

**Transportation** – objects. Access point on Pear Tree Lane is unacceptable to serve an A1 use, likely to lead to indiscriminate parking and footway parking. Likely to lead to delivery and service vehicles to the store larger than 3.5 tonne loading either on Hednesford Road at the junction or reversing into or out of Pear Tree Lane. Position of car park behind the store is likely to lead to indiscriminate parking.

### **Pollution Control:**

*Contaminated Land* – no objection.

*Scientific Team* – no objection.

**Police Crime Reduction** – no objection. CCTV and building alarm should be provided, a barrier should be installed to close off the car park when the store is closed. Measures should be provided to prevent ram raid attacks.

**Environmental Health** – no objection.

**Landscape** – no objection. Landscaping should be a reserved matter. The indicative drawing needs a wider planting bed.

**Severn Trent Water** – no objection subject to use of recommended condition in regard to drainage details.

**Fire Services** – no objection.

### **Public Participation Responses**

Adjoining occupiers notified by letter and site notice displayed.

Seven letters have been received objecting to the application on the following grounds:

- Delivery vehicle times would cause more nuisance
- No guarantee that there will only be servicing from 3.5 tonne light vehicles
- Hard to believe vehicles will arrive at pre-designated times
- Most people will visit by car
- Will form a gathering point for people
- Would be a catalyst for anti-social behaviour, litter and vandalism.
- Size of car park not adequate
- Vehicles would use cul-de-sac to turn or residential drives
- Increase in traffic and noise pollution
- Loss of property values
- Cause a traffic hazard at the junction
- Parking and delivery will cause access problems
- Pear Tree Lane is narrow and not suitable for lorry deliveries. Public house deliveries were accessed from the front of the building
- Existing shops in Shannon Drive
- Single storey development not in context with the street scene
- Nobody 'pops down to the shops' anymore with supermarkets and home deliveries
- Two previous shops in Hednesford Road have closed down
- Refuse vehicle has to reverse out of Pear Tree Lane, delivery vehicles would have to reverse out.
- Letter should have been sent to each resident in Pear Tree Lane
- Vehicles parked on pavement will prevent disabled users able to use the pavement.

One letter has been received confirming support to the proposal

Further consultation has been undertaken following amended plans:

Three letters confirming previous objection to the proposal

One letter not objecting and noting that there are a number of elderly residents in the area who would benefit from the convenience of this retail store.

### **Determining Issues**

- Principle of development (out of centre/meeting local need)
- Whether the application overcomes the previous reasons for refusal in regard to:
  - Design, Impact and appearance in the street
  - Parking and highway safety
- Loss of community facility
- Impact on residential amenity

## **Observations**

### **Principle of development (out of centre/meeting local need)**

The site is 1.9km walking distance from the main retail area of Brownhills District Centre. Policy S1 supports retail units in town, district or local centres. Policy CEN6 of the Black Country Core Strategy supports new retail units outside of defined centres provided the size of the unit does not exceed 200 square metres. The application is for access only, but would establish the principle of a retail use in this location. The indicative plan suggests 216 square metres could be accommodated. In this out of centre location, CEN6 requires:

*Proposals to be of an appropriate scale and nature to meet a specific day-to-day need of a population within convenient, safe walking distance*

The maximum 216 square metres unit would be of a scale to provide for a day-to-day need of the local residential area, which is accessible within convenient walking distance.

*Local provision could not be better met by investment in a nearby centre*

The nearest centre Brownhills District Centre is outside convenient walking distance and investment there would not serve the immediate area.

*Existing facilities that meet day-to-day needs will not be undermined*

There are existing shops in Shannon Drive, 600m away. These shops are community based in that due to the layout of the street only local people would be aware of and use these shops. The proposal, in comparison, due to its location would present itself more to passing trade. UDP policy S6 makes reference to defining areas where residential areas are more than 500m from a food shop. In this case the proposal is of a sufficient distance from Shannon Drive to provide an alternative food store rather than adversely affecting existing provision. The NPPF (para 23) requires planning to promote competitive town centres that provide customer choice.

*Access to facilities by means other than the car*

The proposal is on the doorstep of a residential area and therefore would provide a facility within walking distance.

UDP policy S6 applies similar tests, in addition there should be no significant loss of amenity for neighbouring homes and serving and parking associated with the use must not create significant road safety or parking problems. These issues are considered elsewhere in the report.

The previous application was not refused on the grounds of the principle of use. There have been no policy changes in this time, however since that time the public house has been demolished and the established use has therefore ceased. The site has a nil use and that is material for consideration of other factors below.

### **Design, impact and appearance within the street**

The site is in a prominent location at the junction of Hednesford Road, Pear Tree Lane and Albutts Road, and is particularly prominent when approaching along Hednesford Road from the north travelling over the crest of the M6 Toll Road bridge.

As access is only for consideration at this time, unlike the previous full application, the application is not determined on the layout and appearance of the building. The indicative drawing shows a single storey building that addresses this dominant corner. Landscape's concern about the narrow planting beds and the Police's comments on security measures are factors for later consideration.

## Parking and highway safety

The previous application was refused on highway grounds as the application 1) failed to provide a satisfactory Transport Statement, 2) level of car parking did not comply with UDP Policy T13, 3) Car parking spaces 10 and 11 are not accessible, 4) Customers are likely to park on Hednesford Road at the front, 5) The level of disabled car parking fails to comply with policy, 6) Does not demonstrate that there is sufficient space for the delivery vehicle to manoeuvre, 7) No pedestrian access routes have been shown.

This application in outline form, with access only for consideration. The proposed access would use an existing dropped crossing along Pear Tree Lane which is directly opposite a pumping station on the corner of Albutts Road. Currently there are two accesses with the second opposite numbers 32 and 34. The proposed access would be shared between customers and delivery vehicles. An indicative plan has been provided showing a building and parking area. The previous full application was similar with a building to the front and car park and servicing to the rear through one access point.

A Transport Statement has been provided, the position of parking spaces have been revised, a percentage of disabled parking spaces are provided and the location of pedestrian access points have been provided. The application therefore has overcome some of the previous concerns.

It is noted that the application indicatively shows a building of 216sqm with a total parking provision of 15 spaces. UDP policy T13 would require 16 spaces, plus 10% for disabled parking. The Transport Statement confirms any building could be reduced to accommodate the required parking requirement as part of any reserved matters for layout.

Transportation maintain an objection on the grounds that the position of the proposed car park and service vehicle delivery access on Pear Tree Lane out of sight of would be customers passing along Hednesford Road and Albutts Road is likely to lead to either indiscriminate parking on and around the four-way road junction or on Pear Tree Lane which is only 4 metres in width, contrary to the free flow of traffic on the public highway and the free movement of pedestrians along the public footway. UDP policy T13 says parking should normally be visible from the highway.

Additionally, whilst it has been demonstrated that a 3.5t delivery van can turn within the car park, it is likely that larger multi-drop vehicles will deliver to the site. These vehicles would not be able to turn in the rear car park and are therefore likely to load outside at the front of the store on Hednesford Road at the junction, which is a busy Local Distributor Road or possibly reversing into or out of Pear Tree Lane. This would be contrary to the free flow of traffic on the public highway and to the free movement of pedestrians along the public footway.

As a consequence the combination of the use, generating a relatively high turnover of vehicle movements and the position of the access off Pear Tree Lane is likely to result in increased vehicle conflicts in and around the proposed access and around the road junction to the detriment of highway safety. It is considered the cumulative impacts of the development would have severe transportation implications and is unacceptable.

Residents raise concern that there is no guarantee that there will only be servicing from 3.5 tonne light vehicles and vehicles would have to reverse out of the road like refuse vehicles do. As discussed above it has not been demonstrated that the proposal can be appropriately accessed by all servicing vehicles. Concern is also raised that most people will visit by car, weight is given that Hednesford Road is a commuter road between the Strategic A5 and the area of Norton Canes and therefore the proposal would be attractive to passing trade. It would also serve for local people within walking distance. Due to this passing trade and the location of the car park, Transportation



raise an objection. Residents concerns about vehicles parking on the pavement is noted due to the proposed access arrangement.

### **Loss of community facility**

Policy LC8 states that proposals involving the loss of local community facilities, including public houses will only be permitted if it can be demonstrated that there are other pubs nearby which could accommodate the displaced customers from this establishment or there is no longer a need for the facility. The building was present at the time of the previous application but has since been demolished. Therefore LC8 is no longer applicable.

### **Impact on residential amenity**

The previous use of the site as a public house would have resulted in a level of activities that had the potential to create some noise and disturbance. It is acknowledged that the areas would have had a less than tranquil setting. The public house has been demolished and therefore the lawful use has since gone and the site has entered a new chapter in its planning history. Limited weight can be given to the history of the site.

In the supporting information it states that delivery vehicles times can be restricted outside normal trading hours to avoid conflict with customers. Residents object to this on grounds of noise and disturbance. While the application is for access only it would establish the principle of a shop in this location. No information is currently presented about possible opening times of any shop and thus what delivery times. These matters would be for consideration at a later time. Due to the relationship with houses, it might not be suitable for deliveries to take place outside of any normal opening hours, e.g. first thing in the morning and last at night. Reasonable operating times could be subject to a condition on a later application.

Residents raise concern about the site becoming a gathering point for people and that it would be a catalyst for anti-social behaviour, litter and vandalism. It is acknowledged that shops by their very nature are a hub of activity and associated with that are high levels of people and vehicle movements. The public house which was also a hub of activity was present at this site for over a hundred years and pre-dates a number of houses, the site therefore cannot be regarded as being particularly quiet or tranquil. Noise could be generated by deliveries, unloading, plant noise, customer noise and car noise. Opening hours and deliveries could be controlled by condition that should ensure noise and disturbance from vehicles are within acceptable limits – an issue for consideration at reserved matters. Deliveries to the shop would be of a relatively short duration and the likely size and nature of the shop would be such that relatively few customers would be immediately around it at any one time. A condition could be used to where delivery vehicles must have a White Noise Broadband Reversing Alarms (using a “ssh ssh” sound rather than tonal beeping alarm). It is not considered the noise from customers at the shop would be any louder than customers to the public house.

External plant could be positioned to the side elevation of the building next to the car garage rather than the houses. An acoustic fence could also be positioned to the boundary with number 31 and along the boundary with the pavement to create a barrier from manoeuvring vehicles on the car park in terms of noise and vehicle lights. Both issues that could be considered in detail at reserved matters stage. Issues of litter would be a management issue for any store, but it would be necessary for a litter bin to be provided as part of a condition.

Neither Pollution Control nor Environmental Health raise any objection to the principle of the application in consideration of the development of this vacant site for a shop use.

The Police raise no principle objection to the application, recommending that CCTV and a building alarm should be provided. In the interests of residential amenity and community safety a barrier should be installed to close off the car park when the store is closed and measures should be

provided to prevent ram raid attacks. It is considered these measures can be secured through a planning condition. On the basis of their comments it is not considered potential for anti-social would be a reason to refuse the planning application in the circumstances. In addition any potential anti-social behaviour would be an operational issue for the store manager during opening hours or for the police at other times.

Residents raise concern about loss of property values which is not a material planning consideration. Concern has also been raised that letters should have been sent to each resident in Pear Tree Lane, adjoining occupiers have been consulted by letter and a site notice displayed; the required consultation has been undertaken.

Weight is also given to this derelict site and an opportunity to improve the current environment with a modern attractive building with a use that can be subject to modern planning conditions and operations.

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

Officers have liaised with the applicant's agent during the application process to ensure full information has been provided, however due to the constraints of the site it has not been possible to provide support to the proposal.

#### **Recommendation: Refuse**

1. A retail store in this location in addition to the position of the proposed access would give rise to conditions prejudicial to highway safety by virtue of:

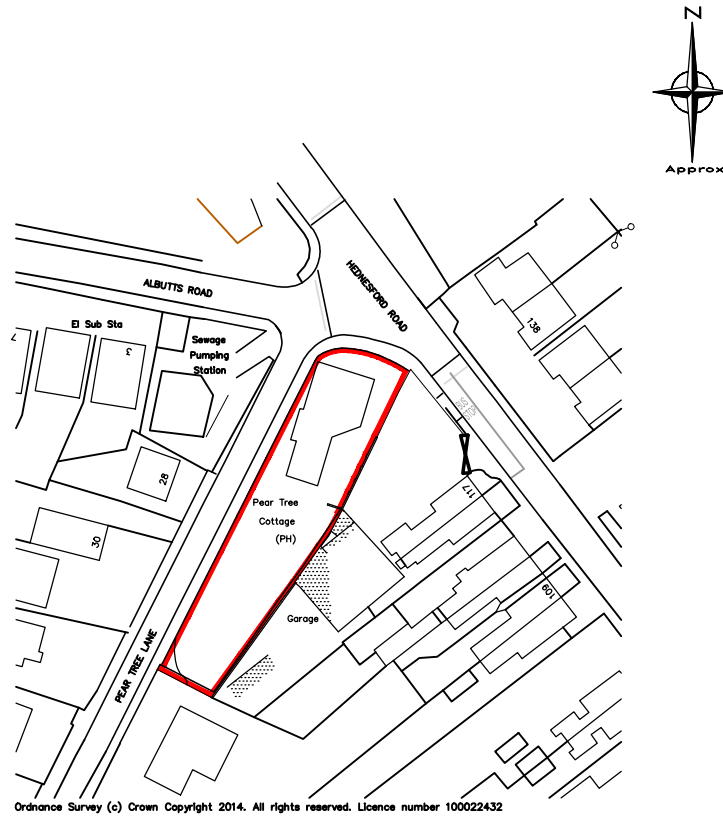
- The location of the site on an existing awkward junction layout and the position of the proposed car park and service vehicle delivery access out of sight of potential customers passing along Hednesford Road and Albutts Road, due to the nature of the use, is likely to lead to either indiscriminate parking and footway parking on and around the four-way road junction or on Pear Tree Lane which is only four metres in width.
- Delivery and service vehicles to the store which are larger than 3.5 tonne (multi-drop deliveries) would not be able to turn within the car park resulting in loading/unloading either on Hednesford Road at the junction or on Pear Tree Lane and having to reverse onto the junction.
- The indicative size of the retail store and the resultant space on site fails to provide sufficient off-street parking spaces to meet the needs of the development.

The proposal would give rise to increased vehicle conflicts in and around the access and around the road junction contrary to the free flow of traffic on the public highway and the free movement of pedestrians along the public footway. Accordingly the proposal is contrary to the aims and objectives of the National Planning Policy Framework, policy TRAN1, TRAN2 of the Black Country Core Strategy and saved policies, GP2, 3.6, ENV32, T4, T7 and T13 of the Walsall Unitary Development Plan.

# Notes

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This drawing to be read in conjunction with the specification and other drawings  
Do not scale to ascertain dimensions  
All dimensions to be checked and verified on site by the responsible contractor prior to commencement of work

## Health and Safety Notes



## Location Plan 1:1250 Scale

CLIENT

Mr. O. Wassall

PROJECT

Proposed Development at Pear Tree Cottage (PH) Site, Pear Tree Lane, Walsall, WS8 7NF

DRAWING

Site Location Plan

DRAWING NUMBER

Wal/056-001

REVISION

-

SCALE

1:1250

@A4

DRAWN BY

MS

DATE

MAY'14

CHECKED BY

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