



## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 16<sup>th</sup> October 2014

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3	65	14/1056/FL	Land off Clothier Gardens, Willenhall, WV13 1AF	Erection of 19 dwellings, associated car parking, landscaping, bin and cycle stores and associated works.	Grant Permission Subject to Conditions
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			Willenhall	on vacant industrial land.	
5	97	14/1243/FL	28 Hobs Hole Lane, Walsall, WS9 8QY	Construction of new dwelling, including alteration of information submitted in connection with application and consent referenced 12/0720/FL	Grant Permission Subject to Conditions
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# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 16/10/2014

**Plans list item no: 1.**

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

**Application Number:** 14/1014/FL

**Application Type:** Full application

**Applicant:** Mr Ted Bolton

**Proposal:** Demolition of existing buildings and the erection of 14 two-bedroom apartments and an electricity substation, together with a new access and parking facilities.

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

**Ward:** Paddock

**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652607

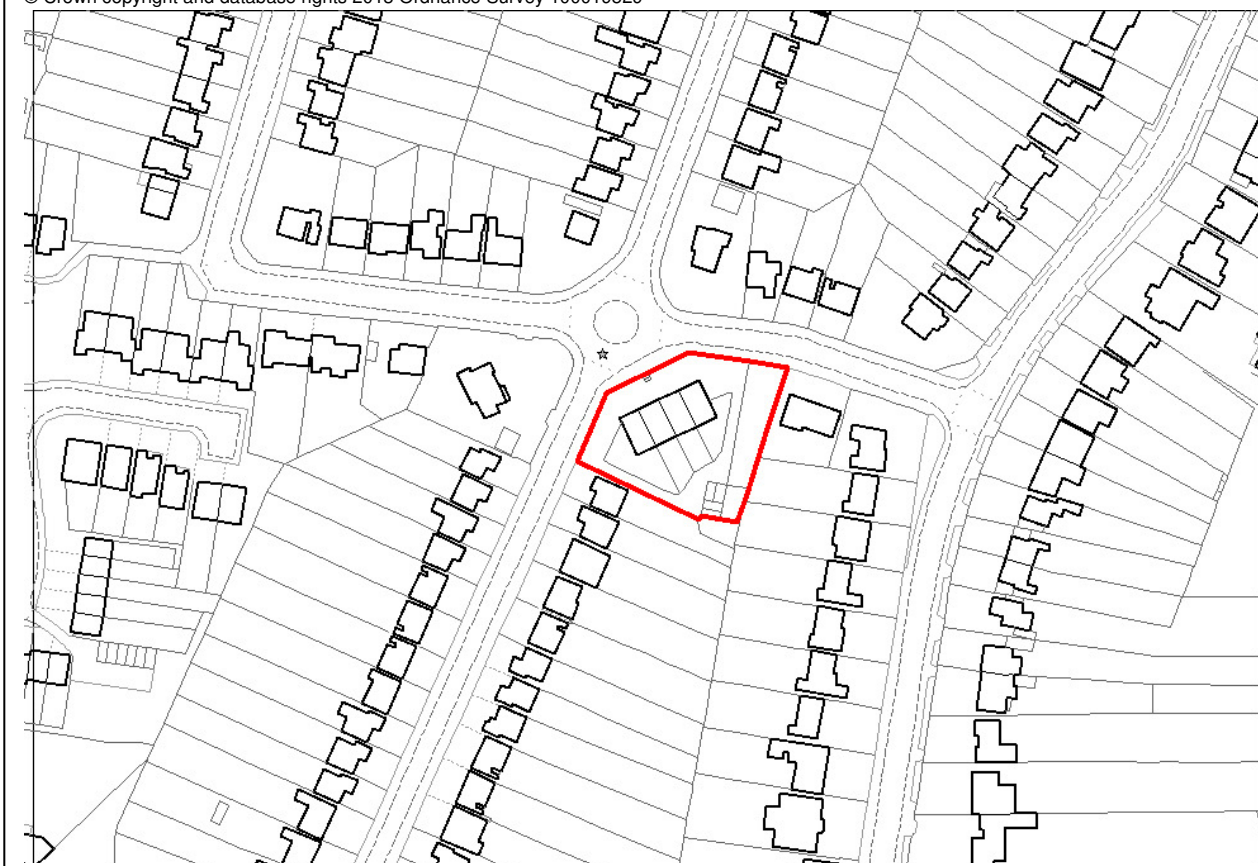
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Hancock Town Planning

**Expired Date:** 15/10/2014

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

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## **Application and Site Details**

This 0.16 hectare site is on the southern side at the corner of Woodside Road and Woodside Close with an existing pitched roof two-storey 1960's building set at an angle across the corner of the junction facing a small traffic island. The building was originally constructed as four retail shops with living accommodation above but has subsequently been converted to entirely residential purposes. There are 6 x 1 bed flats and a two-storey house in the block. The frontage of the site has an extensive tarmac surface used for parking.

There is an electric substation at the side of the existing building fronting Woodside Road in line with the frontage of 1A Woodside Road. A vehicular access to a detached double garage at the rear of the application site is alongside this. There is a large beech tree within the rear garden of 56 Skip Lane to the side and rear of the site, which is protected by a Tree Preservation Order. An area of amenity for the existing residential accommodation is set to the rear of the building. The site is located in a residential area characterised by two-storey detached houses, set back from the road in relatively large plots. Overall the area has an open and spacious appearance, with the density of Woodside Close 20 dwellings per hectare (dph), Woodside Road 22dph, Calthorpe Close 17dph, Calthorpe Road 20dph, Burnside Gardens 37dph and the neighbouring part of Skip Lane 14dph. The density of the current proposal is 87 dph.

This is a further planning application following refusal of six previous applications and the decision to decline a seventh application for:

- 07/0774/FL/E11 -16 x one and two bed apartments,
- 07/1815/FL/E1115 x two bed apartments,
- 09/0617/FL - 13 x two bed apartments plus one apartment which was specifically designed for disabled occupancy with ancillary carers accommodation,
- 10/0038/FL - 14 x two bed apartments,
- 10/1650/FL - 14 x two bed apartments,
- 11/1217/FL - 14 x two bed apartments,
- 12/1421/FL - 14 x two bed apartments.

The first two applications were appealed and both dismissed by a Planning Inspector in May 2008. The third and fourth applications were appealed and both dismissed by a Planning Inspector in October 2010. The fifth application was appealed and dismissed by a Planning Inspector in August 2011 whilst the sixth application was appealed and dismissed by a Planning Inspector in June 2012.

### **The last three appeals failed, principally, for reasons relating to the design of the repositioned substation.**

The seventh application was considered by the 10 January 2013 planning committee. Planning Committee resolved to exercise its powers under 70A of the Town and Country Planning Act 1990 to decline to determine this planning application, which was for 14 two-bedroom apartments and an electricity substation, together with a new access and parking facilities, on the basis that the application did not address the issues raised by previous refused planning applications relating to the site and that the application was an attempt to wear down opposition to the development.

### **This current planning application is identical to that considered in January 2013.**

LPA's have power under section 70A to decline to determine an application where, within the last two years, either the Secretary of State has refused a similar application or the LPA has refused more than one application without either of them being appealed and the LPA thinks that there has been no change in the relevant circumstances since then. That power was available when the seventh application was considered. As matters stand now, the **last planning decision on this site** was that dismissed at appeal on 28 June 2012. This application was submitted on 11<sup>th</sup> July 2014, meaning more than two years have passed since this decision. Accordingly the LPA is required to determine this application on its merits as set out in the report below.

The current application differs from the most recent refusal (i.e. the sixth application 11/1217/FL) in respect of the substation siting and design and as a consequence moving block 2 closer to block 3. The amended substation design also accommodates the bin store.

The current application proposes the demolition of the existing buildings and the erection of 14 x 2 bed dual aspect apartments within three separate blocks set around the corner. Blocks 1 and 2 would in effect be 2.5 storeys and have 5 apartments in each block. Block 3 would be 2 storeys and have 4 apartments. Each of the apartment blocks would remain the same in terms of design as the recent appealed application 11/1217/FL. Blocks 1 and 3 would remain in the same position as the last application. Block 2 has been moved closer to block 3, closing the gap at its narrowest point from 2.5m to 1.2m.

The three blocks would be set between 5m and 8.2m from the back of the pavement. Each block would have a width of between 12m and 13m and a depth of between 13m and 14m. The overall heights would range from 8m to 9.4m. The building design includes bay windows and gable features, with facing brickwork and pitched tiled roofs. Blocks 1 and 3 would have dormer windows to the front and blocks 1 and 2 have dormer windows to the rear of the roof elevations.

**The electricity substation would be relocated** within a purpose built brick and tile building which would also include a bin store. The building would have a width of 4.3m and a depth of 5.7m, with a pitched roof of 3.9m in height. The building would have double timber doors to the front and a single personnel door to the side. Rainwater goods would be aluminium and a colour to match the timber doors. This building has been designed to resemble a detached garage parallel to the side of block 2, set between 5.4m and 7.4m from the back of the footpath and 0.6m behind the front elevation of block 2. The 'garage' doors would open onto the hard-surfacing to the front of the building and would be adjacent to and accessible via the disabled parking space at the front of the site. Timber louvres are proposed within the base of each 'garage' door to provide ventilation to the substation and a louvre grille is proposed to the rear of the building. A new tree (Hornbeam) is proposed immediately adjacent to the side of the substation building.

The proposed residential layout includes 18 parking spaces. Of these, 16 spaces (including 1 disabled space) are in a secure communal parking area at the rear accessed via a gated driveway between blocks 1 and 2, off Woodside Road. A further parking space would be provided in front of block 1 and a disabled parking space would be provided in front of block 2.

A cycle shelter would be provided within the secure parking area at the rear of block 2. A total of 210m<sup>2</sup> of amenity space would be provided to the rear and between the residential blocks.

Supporting documents provided by the applicant includes:

Joint Planning and Design and Access Statement

Describes the existing site, the proposed development, the planning history including planning appeals, a critique of the various findings of Inspectors at each of the appeals and justification for the location and appearance of the substation. Confirms the application is the same as that proposed in application 12/1421/FL (i.e. the seventh application)

In regard to the substation it states:

- The owner Western Power will not accept any re-siting of the sub-station which is in a less accessible location than the existing location due to the need for unrestricted access from the highway. They will not accept a location within the rear parking court.
- The proposed substation is set back further into the block than the existing substation. A new tree is also proposed immediately adjacent to the structure.
- Refers to an electricity substation adjacent to the pavement at Pegasus Court, Chester Road and a garage built next to a property in Park Road.
- The applicant would also like to highlight that utility providers have permitted development rights to construct new electricity substations up to 29 cubic metres without the need for planning permission, which more often than not are unattractive GRP boxes.
- The previous appeal criticised the design and materials, not the location of the substation.
- The proposed substation would appear as a domestic garage, something one would expect to see in the street scene and which is commonly found in suburban areas such as this.
- Western Power confirms a requirement for 24 hour unrestricted access from the highway to ensure connections can be restored within a short duration. The maintenance regime includes a single visual inspection once every three years and a detailed inspection lasting up to one day every ten years. Installation/repair work may necessitate HGV access and heavy lifting equipment, which further supports a location fronting the highway.
- If the structure were to be used as a garage one would expect a far greater intensity of activity.
- Given Western Power's requirement there are no potentially alternative locations.
- Leaving the site undeveloped would be contrary to the Government's priority of increasing housing supply. The site would remain looking tired and run-down.
- Alternative forms of development which might be preferred by local residents are not viable. The values involved would be insufficient to justify the loss of the existing seven properties on site.

The EM Fields Appeal Statement – Explains there are scientifically based guidelines for human exposure to electromagnetic fields (EMF). It also states there is no compelling evidence that chronic conditions are related to low-frequency EMF exposure which includes emissions from substations. The statement concludes that the siting and proximity of the substation proposed under application 10/1650/FL is not inconsistent with the guidance of the International Commission on non-Ionizing Radiation Protection (ICNIRP) Guidelines. It also highlights the measured and expected EMF exposure levels from the substation in Woodside Close will be a small fraction of the ICNIRP guidelines and even closer to the substation are likely to be comparable to those from domestic appliances. There appears to be no consensus for precautionary measures or distances related to building homes near the type of substation in Woodside Road.

Phase 1 and 2 Bat Survey (23<sup>rd</sup> June 2014) – Makes reference to previous surveys in 2007, 2009 and 2012. A new survey was undertaken in June 2014. No evidence of bats were found in the houses/flats or garage. The houses/flats were considered of moderate bat roosting potential and the garage of limited roosting potential.

No bats were observed during previous nocturnal surveys. As there has been no significant changes to the buildings since these surveys were carried out and the majority of access holes and roosting areas could be visually inspected no further survey work is considered necessary. The development of the site is unlikely to have an impact upon bat populations and therefore no restrictions are considered necessary prior to, or during development of these buildings. Demolition work should be carried out carefully, and if bats are observed within the building work must cease immediately.

The report encourages incorporation of roosting opportunities for bats in the new buildings and restriction on lighting that may illuminate bats flying/foraging in the area.

#### Urban Open Space statement

Open space element of the proposed scheme is very similar to that previously proposed in planning application 11/1217/FL which the Council held to be acceptable. Understands that the Council may seek financial contributions towards maintenance and enhancement of public open space within development schemes for more than ten dwellings. A previous appeal inspector concluded that an urban open space contribution was not payable due to a net increase of seven dwellings and this view has since been accepted by the Council in its determination of planning application 11/1217/FL.

#### Substation cable arrangement

The cable routes have not been finalised, however the cable will come out from the direction of the substation double doors in a straight line towards the footpath. This would run under the car parking space and under the small strip of frontage landscaping at a minimum depth of 600mm.

#### Relevant Planning History

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

Reasons for refusal:

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

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

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

Reasons for refusal:

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

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

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

This was for one large apartment block building.

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

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

**10/0038/FL – Demolition of existing building and erection of 14 x 2 bed apartments. Appeal against non-determination submitted, no decision made by Walsall MBC.** This was for three separate apartment buildings on a similar footprint to the current application, with the substation located and accessed at the back of the footpath along Woodside Close between blocks 2 and 3. The substation was to be constructed out of coloured glass reinforced plastic (GRP) enclosed by a combination of gates, brick piers, walls and railings.

**Appeal dismissed 28-10-10 for the single reason relating to the position and appearance of the relocated substation** that would create an incongruous feature which would detract from the openness of the area to the detriment of its character.

**10/1650/FL – Demolition of existing building and erection of 14 x 2 bed apartments –**

Refused 4 May 2011. This was for three separate apartment buildings on a similar footprint to the current application, with the substation located close to the back of the footpath along Woodside Road, accessed from within the site and in front of block 1 adjacent to the boundary with 1A Woodside Road. The sub-station would have had brick walls with coloured glass reinforced plastic (GRP) roof. Reasons for refusal:

1. The siting and proximity of the substation in relation to the proposed block of flats is still an incongruous structure in the street scene by way of its design and proximity to neighbouring dwellings, which would detract from the openness of the locality and be detrimental to the character of the area.
2. The siting and proximity of the substation falls short of the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines.



**Appeal dismissed 30 August 2011 for a single reason relating to the incongruous position and prominence of the substation** which would not integrate with the pleasant and open residential character of the surrounding area. It would fail to integrate with the pattern of development due to its size, poor design and high public visibility. It would seriously harm the character and appearance of the surrounding residential area and the setting of the proposed apartment block 1.

**11/1217/FL** - Demolition of existing building and erection of 14 x 2 bed apartments. Appeal against non-determination submitted, no decision made by Walsall MBC. This was for three separate apartment buildings on a similar footprint to the current application, with the substation located between and level with the front of blocks 1 and 2 and accessed from within the site. The substation was to be constructed out of coloured glass reinforced plastic (GRP).

**Appeal dismissed 28 June 2012 for a single reason that the industrial and utilitarian appearance of the substation between the blocks would contrast stridently with the new residential development.** It would look wholly out of place with no attempt made to relate its design to the proposed new buildings in the scheme. The new development would not be integrated into the local built environment and this would be to the detriment of its character and appearance.

**12/1421/FL** - Demolition of existing buildings and proposed erection of 14 two bedroom apartments, electricity substation, new access and associated parking. The electricity substation proposed to be relocated within a purpose built brick and tile building.

On 10 January 2013 the Planning Committee resolved to exercise its powers under 70A of the Town and Country Planning Act 1990 to **decline to determine the application** on the basis that the application did not address the issues raised by previous refused planning applications relating to the site and that the application is an attempt to wear down opposition to the development.

### **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:

- Proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places the country needs.
- 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
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Encourage the effective use of land by reusing land that has been previously developed.

- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

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

4: Promoting sustainable transport

32. Decisions should take account of whether:

- 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.

35. Developments should be located and designed where practical to:

- Give priority to pedestrian and cycle movements and have access to high quality public transport facilities.
- Create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones.
- Consider the needs of people with disabilities by all modes of transport.

6. Delivering a wide choice of high quality homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area.
- Optimise the potential of the site to accommodate development.
- Create safe and accessible environments.
- Respond to local character and history and reflect the identity of local surroundings and materials.
- Are visually attractive as a result of good architecture and landscaping.

60. Decisions should not attempt to impose architectural styles of particular tastes and they should not stifle innovation. It is proper to seek to promote or reinforce local distinctiveness.

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.

10. Meeting the challenge of climate change, flooding and coastal change

103. LPAs should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a site specific flood risk assessment.

11. Conserving and enhancing the natural environment

109. The planning system should prevent new and existing development from contributing to...unacceptable levels of...noise pollution.

118. Local planning authorities should aim to conserve and enhance biodiversity by....incorporate biodiversity in and around developments.

120. To prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

125. Decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

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.

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

[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)

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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. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity.

The relevant key policies are:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

2b: Encourages sustainable management of material resources through minimising waste, ensuring all members of the community have the best access to housing, previously developed land is prioritised over greenfield sites and encourages a comprehensive approach to development.

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

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context and organise the urban environment in ways that encourage people to act in a civil and responsible manner.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

HOU2: Density and type of new housing will be informed by:

The need for a range of types and sizes of accommodation to meet sub regional and local needs.

- The level of accessibility by sustainable transport.
- The need to achieve high quality design and minimise amenity impacts.
- All developments will aim to achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness.

TRAN2: Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits. Consideration of crime prevention measures and Secured By Design principles.

ENV5: Developments should incorporate sustainable drainage systems unless it would be impractical to do so in order to reduce surface run-off and improve water quality.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion.

WM5: All new developments should address wastes as a resource, minimise waste as far as possible, manage unavoidable waste in a sustainable and responsible manner, and maximise use of materials with low environmental impacts.

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

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

[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: The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

XII. The effect on woodland or individual trees on or near the site.

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.

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

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV13: To protect the general amenity of occupiers' development in close proximity to substations will not normally be permitted.

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

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

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

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

#### 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.

T8: Encourages greater use of walking as a healthy and sustainable form of travel.

T9: New developments should meet the accessibility standards for cyclists. The design of cycling infrastructure should be safe and secure for all users.

T10 (a): Refers to accessibility standards. The standards for disabled car parking are minimal ones. The standards for residential car parking should be seen as neither maximum nor minimum but the typical requirement. Certain site specific and locational circumstances will justify a reduction.

T12: Residential development should be within 400m walking distance to a bus stop which has a service frequency of at least 1 bus every 30mins during the day (12.00 and 19.00), 1 bus every hour on Sundays between 12.00 and 19.00.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

10% of all parking spaces should be reserved for disabled people.

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

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

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

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

The following are the relevant policies;

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

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

DW3 – Character – new development to be informed by the surrounding character and to respond in a positive way to it by reflecting local urban design characteristics, such as street patterns, building scale, topography and culture.

DW4 – Continuity – New development proposals must give consideration to common building lines and how the development will give definition to streets and spaces to reinforce the existing urban structure and give significance to important streets and spaces.

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

DW6 – Legibility – New development must maximise its potential to enhance local distinctiveness by making positive visual connections with its surrounding environment.

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

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

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

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

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

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

Annexe D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

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

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

### **Education Supplementary Planning Document and Public Art (Contained with Designing Walsall)**

On 9th November 2011, the Council's Cabinet resolved to revoke the Education SPD and the Public Art appendix of Designing Walsall SPD because they are no longer consistent with the legal requirements for planning obligations, and cannot be applied in their current form. The Education SPD was formally revoked by the Secretary of State in February 2012.

The Council could still seek planning obligations towards education infrastructure pending the introduction of CIL, where it was justified. For example, Walsall Children's Services would have to demonstrate that existing services would not be able to accommodate the impacts from the proposed development and that to provide a satisfactory service to the residents of a new housing development, a new facility would have to be provided, or an existing facility would have to be upgraded. To be justified, it would also be necessary to identify the specific education project(s) that planning obligations would contribute to, and the timescale within which the specified project(s) would be implemented.

### **Consultations**

**Transportation** – no objection subject to the use of recommended conditions in regard to reinstating the redundant crossing, surfacing, demarcation and retention of parking spaces, provision and retention of cycle store, and provision of a residents travel plan.

The application looks to provide 18 parking spaces, including 2 disabled spaces to serve 14 apartments. The level of parking is consistent with UDP policies T7, T8 and T13 and has been endorsed by Planning Inspectors under appeals to similar previous applications on the site. The proposal looks to utilise the existing access off Woodside Road with improvements, which is considered acceptable. The redundant crossing in Woodside Close is to be removed subject to statutory requirements.



## **Pollution Control**

*Contaminated Land Team* – no objections subject to works being carried out to investigate and remediate any localised ground contamination and ground gas issues associated with the historic filled ground from a former pond or marsh.

*Scientific Team* – no objections. Recommends that demolition and construction times are controlled by condition to minimise impacts on neighbouring residential premises and the submission of a construction working plan.

**Arboricultural Officer** – no objections. The development is unlikely to affect the protected Beech Tree in the garden of 56 Skip Lane. The existing trees on site are few and of low amenity value.

**Environmental Health** – no objections.

**Natural Environment** – no objections subject to use of recommended conditions. Agrees with the recommendations of the Bat Survey report.

**Severn Trent Water** – no objection subject to the use of a condition requiring drainage details and a note for applicant in regard to the local public sewer.

**Fire Services** – no objection.

**WM Police** – no objection. The perimeter fencing around the site should be at least 2.1m in height, there should be no accessible areas down the sides of the building, the fencing should be as close to the front of the building line as possible, gates should have access control, be self closing with hinges mounted behind the attack face. All doors to the building should incorporate access control and self-closing mechanisms. Intercom systems should be in place to each flat. The proposed cycle shelter should be Secure by Design standards to provide maximum security. All ground floor windows should have an area of defensible space, car-parking areas should be overlooked by active rooms, cycle shelter should be Secure By Design standards.

**Western Power** – no objection.

**Housing Strategy** – no objection.

**Walsall Children's Services** – no objection. Confirms primary schools in the area have sufficient places. Notes a shortfall of places for secondary schools in the area.

**Walsall NHS** – no objection.

**Landscape** – no objection. The proposed Hornbeam tree could be protected with a cable protection root barrier.

**Greenspaces** – no objection.

## **Public Participation Responses**

Surrounding occupiers notified by letter, two site notices displayed and application advertised in the local newspaper.

Valerie Vaz MP objects on the following grounds:

- Contravenes Designing Walsall Policy DW3 that states "All new development must be designed to respect and enhance local identity"

- Local Character Guidance for Gillity Village, Park Hall and Pheasey in Designing Walsall states that “future development should respect spacious and low density form of development” and that “housing developments must cater for families and provide suitable garden sizes that reflect the character of the area”
- Saved Policy T13 of the UDP requires communal parking to have at least 1.5 parking spaces per dwelling. This would require the proposal to have at least 21 parking spaces. Plans indicate that only 18 will be provided.
- The requirement for 1.5 spaces is low. Census data in this area found 64% of households had two or more cars and 35.5% of households had 1 car in 2011. If the residents of the new development were to own cars at this rate, 23 parking spaces would be needed. Therefore approximately 5 cars would need to be parked on the congested roads in the adjacent narrow streets.
- Street parking results in obstruction of the highway. Residents have said that there is already damage to verges and pavements in the Park Hall area.

41 letters have been received objecting to the application on the following grounds that been set out in the following categories:

### **The effects of the proposed substation**

- Substation is in a very prominent position
- Substation is impracticable
- Siting and appearance of substation is incongruous to the street scene
- Substation does not appear as a domestic garage as its too short in length and there is no traditional driveway.
- Traditional domestic housing arrangement will not be achieved as there is not a garage to every block and only one single access.
- Difficult to screen the substation by landscaping as the location of planting could be limited by proximity to the underground cables.
- A plan of the proposed cables should be produced as they could affect landscaping areas and only be known after a decision is made and would be too late to consider.
- The only way the proposed substation could be made acceptable would be by screening it, but the screening would need to be very effective and retained and maintained for the life of the building and this could not be guaranteed.
- Reliance on screening confirms the serious nature of the design flaw.
- The proposed tree abuts a car parking space, insufficient space has been left to provide for trees or any effective landscaping to screen the substation.
- Hardly any difference between the location and design of the substation and the last proposal.
- All garages in the local area are built into the houses and do not stand alone
- Application a repeat of previous applications.

### **The adequacy of the proposed car parking provision**

- Insufficient car parking, vehicles will park on street increasing the risk of accidents
- Existing issue with cars parked on the narrow roads
- Localism Bill has removed the limit on car parking provision
- Front doors of the substation open out over a disabled car parking space.
- Insufficient manoeuvring area is available between the access to the site the front of the substation.

## **Design of the residential blocks**

- Buildings are over development and out of character
- Intrusive height and size of the buildings
- Built on much higher ground than the surrounding houses.
- Will overshadow the street
- Apartments would not fit in with the area
- Car parking spaces parallel to the footpath, width of the crossover, substation and bin store create impression of what the development really is, a high density flatted scheme different in character to the traditional two storey single family occupancy houses on the estate.
- Loss of greenery
- Limited detail in regard to landscaping, lack of detail around the substation and no reference to ecological enhancement.
- Lack of detail regarding boundary treatment.
- Conditions required in regard to full details of proposed boundary treatment, demolition of garage would leave gap in fence to boundary with 5 Woodside Close.
- Trees already removed from the rear of the property, fear further erosion of trees.
- Mature trees should be planted from the outset.

## **Density**

- Over density, mass and scale
- Density unsuitable for a suburban area and greater than local density
- No guarantee that Block 1 would be built due to the costs of relocating the substation.

## **Proposed housing mix**

- More appropriate development would comprise 3/4 bedroom houses
- No demand for apartments. Housing Needs Study states there is a surplus of apartments
- Designing Walsall SPD state housing development must cater for families and provide suitable garden sizes that reflect the character of the area
- Loss of property values (*not a material consideration*)
- Other brownfield sites and empty properties could be developed

## **Sustainable location**

- Area not well served by public transport

## **Loss of light, impact upon outlook and privacy**

- Loss of privacy
- Block 1 will project more than four meters beyond the rear elevation of 1a Woodside Road, creating a canyon effect and interfering with the flow of light
- Will dominate view from rear of property.

## **Impact upon the Tree Preservation Order protected beech tree in the garden of 56**

### **Skip Lane**

- Will affect Beech Tree in garden of number 56 Skip Lane

### **Noise and disturbance to nearby occupiers from the use of the parking and amenity areas**

- Car emissions close to back of house
- Increase in noise and traffic
- The applicant has produced no evidence that a close-boarded fence will have any effect in terms of noise attenuation.
- Potential for residents to be disturbed by vehicle noise, a Noise Impact Assessment is required.
- Potential for airborne pollution in the form of exhaust emissions, an Air Quality Assessment is required.
- Concerns at the impact the proposal will have on enjoyment of our home and our health issues.
- What assurances can be given that the worksite will be secured from children
- What assurances can be given that works will be happening at sensible times of the day

### **Amount of amenity space**

- Inadequate amenity space

### **Stability of the adjacent house 1A Woodside Road.**

- Reduction in ground level coupled with known very poor and unstable ground conditions presents a significant risk to the adjacent property at 1A Woodside Road which has suffered significant subsidence in the past and has had to be piled.

### **Danger to the local water table**

- Place an additional demand on the already inadequate drainage system
- Area prone to flooding and a high water table
- From a Health and Safety perspective the high water table creates risk to the substation being flooded

### **Provision for Education & Urban Open Space**

- Puts more pressure on local schools

A petition with 285 signatures has been received objecting to the application. The petition states that the siting and appearance of the sub-station is incongruous to the street scene, still an overdevelopment, out of character with the area, insufficient car parking, additional demand on an already inadequate drainage system and inadequate amenity space. A further copy of this petition has been submitted to full Council by Councillor Martin.

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

## **Determining Issues**

The Council is required to have full regard to the Inspector's findings in the previous appeal decisions for this site as a material consideration in the determination of any future applications. Consideration must also be given to whether there has been any material change in circumstances since that appeal decision:

**The substation was the key issue of concern** raised by the Planning Inspector in the most recent appeal decision, in particular:

- The effects of the proposed substation
- The adequacy of the proposed car parking provision

Other material considerations discussed by the previous Planning Inspectors related to:

- Effect of electromagnetic fields from the substation
- Fear about vandalism and graffiti to the substation
- Design of the residential blocks
- Density
- Proposed housing mix
- Sustainable location
- Loss of light and impact upon outlook and privacy
- Impact upon the protected beach tree in the garden of 25 Skip Lane
- Impact upon bats
- Noise and disturbance to nearby occupiers from the use of the parking and amenity areas
- Amount of amenity space
- Stability of the adjacent house 1A Woodside Road
- Danger to the local water table

Other matters to be considered

- Provision for Education & Urban Open Space
- Energy efficiency
- Local finance considerations
- Other comments from consultees

**The June 2012 decision of the Planning Inspector confirmed he was satisfied on all aspects of the proposal except for the substation, which he considered had a harmful impact on the character and appearance of the area.**

## **Observations**

### **The effects of the proposed substation**

The proposal includes a new substation between apartment blocks 1 and 2 adjacent to the proposed access leading to the proposed parking area and amenity space. The substation would replace an existing substation that serves the local area and which needs to be relocated to accommodate the development. The proposed substation would incorporate the bin store and would be of brick and tile with a pitched roof, 4.3m by 5.7m with a maximum height of 3.8m. There would be double timber doors to the front and a single personnel door to the side. Rainwater goods would be aluminium and coloured to match the timber doors. The building has been designed to resemble a detached garage parallel to the side of block 2, set back from the footpath between 5.4m and 7.4m and 0.6m behind the front of block 2. The garage doors including timber louvres for ventilation would open over the hard surfacing to the front of the block and would be adjacent to and accessible from the disabled parking space at the front of the site. A new tree is proposed adjacent to the side of the substation.

The previous appeal, which included a glass reinforced plastic substation, was dismissed due to the industrial and utilitarian appearance of the substation between the residential blocks, which would contrast with the new residential development. The Inspector stated that the development would not be integrated into the local built environment.

The currently proposed substation is to be contained within a structure designed to appear as a detached garage. The brick and tile construction would match the materials used within the residential blocks and the detailing of the front gable would be similar to the detailing proposed for the porch canopy above the entrances to blocks 1 and 2. There are detached garages to houses on three of the four corners of the road traffic island, with the proposal creating a fourth. The dimensions of the building (4.3m by 5.7m) would be similar to a detached garage. In front of the 'garage' would be hard surfacing, a further feature of the existing urban area.

In response to the last appeal decision, the design of the substation now better relates to the proposed residential blocks, it no longer contrasts stridently with them, but its design is considered to sit comfortably within the proposed development. The substation's location, set back from the established building line, ensures that the structure would appear as a detached garage to block 2. Block 2 would appear as a detached house with a detached garage, reflecting a local characteristic of the area. While the disabled parking space in front of the 'garage' would be 90° to the 'garage' doors, it would not distract from the substation appearing as a detached garage in the street scene. As a consequence the substation would not look out of place, but would be disguised as a garage that integrates into the local built environment and street scene. The planting of a tree to the side of the structure would contribute to enhancing the residential setting of the substation. The applicant has confirmed that the cables would be away from the tree, running directly from the front doors, beneath the parking space, landscaped area and towards the street. Landscape Officers raise no objection to the space available to accommodate this tree and notes that the tree could be protected by a root protection barrier. It is considered prudent that this is required by condition.

Western Power, who would operate the substation, confirm that for operational purposes, they would not accept any re-siting of the substation, in a less accessible location than the existing location, due to the need for unrestricted access from the highway. They require 24 hour unrestricted access from the highway to ensure connections can be restored within a short duration. The maintenance regime includes a single visual inspection once every three years and a detailed inspection lasting up to one day every ten years. Installation/repair work

may necessitate HGV access and heavy lifting equipment, which further supports a location fronting the highway.

The doors to the front of the substation would be 0.6m further from the back of the footpath than the doors of the existing substation and would open onto the area of hard surfacing around the residential blocks. The doors would not impede the use of the disabled parking space. Residents feel that parking space 18 should not be occupied at anytime to provide emergency access to the substation. Any future wholesale replacement of the substation could be installed through the two doors at the front of the building; users of the disabled parking space would be advised in advance should access across this space be required. Western Power advise wholesale replacement takes place on average once every 50 years. Western Power have no objection to the design and location of the substation. The design ensures routine maintenance can be achieved unimpeded.

The substation/bin store would be in front of and 3.6m away from the kitchen window to ground floor apartment B in block 1. The kitchen is part of a combined kitchen, lounge and dining area, which has another two windows to the front and side of block 1. The substation would not obscure outlook from this secondary window. The light and views to and from this living area would not be so seriously harmed as to warrant refusal of the application.

The planning agent refers to a substation built at the back of pavement at Pegasus Court, Chester Road and also points out that utility providers have permitted development rights to build a substation of up to 29m<sup>3</sup> without the need for planning permission and these are often unattractive GRP (glass reinforced plastic) boxes. For the reasons stated above the design of the substation is considered acceptable in this instance and a comparison with other substations in the borough is not necessary. It is recognised that a substation could be built without the need for planning permission providing it is no more than 29m<sup>3</sup>. Western Power require a substation whose volume is greater than 29m<sup>3</sup> to meet local electricity provision. The substation proposed would need planning permission and is found to be acceptable in this instance.

### **The adequacy of the proposed car parking provision**

The parking provision in this application is the same as the previous three applications and appeals. There are 18 parking spaces, including 2 disabled parking spaces. Sixteen spaces would be in a parking court at the rear and 1 space each in front of blocks 1 and 2. A shelter for five bicycles would also be within the parking court.

In the appeal decision for 10/0038/FL the Inspector was:

*"...satisfied that the development would not result in a level of on-street parking which would impair the safety of road users."*

In the appeal decision for 10/1650/FL the Inspector said:

*"The previous appeal decisions, particularly in Appeal Ref. 2128119 (10/0038/FL), considered this issue at some length and decided that the proposed numbers of spaces were acceptable."*

In the last appeal decision for 11/1217/FL the Inspector said:

*"The site is in a sustainable location within an urban residential area. Local resident argue that bus services are inadequate but, although they could be better, this is not a reason of sufficient weight to refuse permission."*

*“the proposed 18 spaces would be three – rather than five – below the maximum standard in the policy....in January 2011 the Government removed the requirement for maximum standards, so that appropriate standards could be set locally.....This issue was considered in the earlier appeals, when it was decided that the proposed provision would be acceptable.”*

Concerns have been raised about the level of off-street parking provision, with saved UDP policy T13 requiring a maximum of 21 spaces. Comment has also been made about census data for the area and the level of car ownership, suggesting 23 spaces are needed. Parking provision for this site has been considered at length by planning and highway officers, as well as three Planning Inspectors. There has been no material change in circumstances since the last appeal decision that would change this position. Comment has been raised that the Localism Bill removed the limit on car parking provision. The Localism Act 2011 did not change this position, with the NPPF guiding Council's that development should only be refused on transport grounds where the residual cumulative impacts are severe. Highways have no objection to the planning application and consider the level of parking to be acceptable in this instance. Concern about existing damage to highway verges in the Park Hall area is an issue that can be considered under separate legislation and is beyond the scope of this planning application.

There are bus stops on Skip Lane and Park Hall Road (both within 430m walking distance). Bus service 74 runs once an hour 9am-6pm Monday to Friday, 9am-5pm on Saturdays. UDP policy T12 seeks residential development to be within 400m walking distance of a bus stop with a frequency at least 1 bus every 30min during the day (Monday to Saturday). As found in the last appeal although bus services could be better in terms of frequency, given the site's location within an existing established residential area this is not a reason of sufficient weight to refuse permission.

### **Effect of electromagnetic fields from the substation**

The developer has provided electromagnetic fields evidence confirming the substation will be ICNIRP compliant and well below the guideline levels. This evidence has been accepted by the 10/1650/FL appeal Inspector and was sufficient to convince him that the substation would be safe. Although the substation is closer to both apartment blocks 1 and 2 than the earlier proposals (4m from block 1 and 1.2m from block 2) the evidence provided by the applicant has demonstrated that the potential electromagnetic fields pose minimal risk to the occupiers. The Inspector in the 11/1217/FL appeal recognised a change in design and location of the substation from the previous appeal, but found no reason to disagree with the conclusion of the previous inspector.

For the above reasons the proposed proximity of the substation to the apartment blocks will not have a significant impact on the living conditions of potential residential occupiers from electromagnetic fields.

### **Fear about vandalism and graffiti to the substation**

In the 11/1217/FL appeal the Inspector considered fears about vandalism and graffiti to the substation. He noted that the substation would be located within the private realm and there was no evidence to support such fears. The current proposal retains the substation within the private realm. Its design as a detached garage would increase its attachment to the private realm. There is no evidence of existing detached garages being subject to vandalism or graffiti.



## **Design of the residential blocks**

The 10/0038/FL appeal decision the Inspector considered:

*“...the separation distance between the blocks themselves would create a sense of spaciousness within the site and reflect the pattern of development within the area.....All three blocks would be of a similar size and the ridge heights would not be out of character in the street scene.....I am therefore satisfied that the size and scale of the three blocks would be consistent with the dwellings in the immediate area and would not create a dominant feature or appear incongruous in the street scene.”*

The 10/1650/FL appeal decision the Inspector considered:

*“...the size, scale and appearance of the three apartment blocks would be consistent with the design of existing dwellings in the area and would sit comfortably within the existing pattern of development and would not create dominant features or look out of place. The blocks, access and parking area (but not the sub-station) would sustain and reinforce the special character of this area of suburban development...”*

The 11/1217/FL appeal decision the Inspector said:

*“The new blocks would not look out of place on this quadrant of land at the roundabout in this residential area.”*

The height of the proposal remains unaltered. The position of the apartment blocks has been slightly altered to accommodate the substation by moving block 2 closer to block 3 reducing the gap at its narrowest point from 2.5m to 1.2m. It is considered this change would not alter the position arrived at by previous Inspectors in that the size and scale of the three blocks would be consistent with the dwellings in the immediate area and would not create a dominant feature or appear incongruous in the street scene. Neighbours comment that traditional domestic housing will not be achieved, as there is not a garage to every block. The previous proposals did not include garages and were found to be acceptable by the Inspectors. It is noted that some properties in the immediate area have also converted garages to living accommodation.

Concerns have been raised about the loss of greenery and trees within the site. The proposed layout includes landscaping to the frontage and private amenity space to the rear, with two parking spaces on the frontage, reflecting the character and appearance of the surrounding area. The proposal would increase landscaping to the street compared to the current situation. A full landscaping scheme has been provided with the application and received no objections from the Landscape Officer. The landscaping would provide an ecological value. Some small trees within the rear would be removed, they provide limited amenity value which would be mitigated for by additional planting. Neighbours comment that mature planting should take place from the outset to soften the development. As the design of the development is considered acceptable, mature planting is not necessary, but a condition to ensure planting is maintained for 5 years is required to ensure the proposed planting becomes established.

On balance, the design and layout of the apartment blocks are considered to reflect the vicinity and cause no significant harm to residential or visual amenities of the area.

## **Density**

The 10/0038/FL appeal decision the Inspector considered:

*“Whilst the density...would be greater than the average for the area, this is a direct result of the proposed development being for apartments rather than houses... although more intensive development may not always be appropriate, when it is well designed and built in the right location it can lead to a more efficient use of land without compromising the quality of the local environment.”*

The 10/1650/FL appeal decision the Inspector considered:

*“This proposed development would be at a high density, but Government advice makes it clear that this is acceptable provided, as here (with the exception of the substation), it is well designed and does not compromise the quality of the local environment – and that it is in the right location.”*

The 11/1217/FL appeal decision the Inspector said:

*“... there was no argument from the Council on density and no specific argument about conflict with any policies on this subject.”*

Despite objectors' concerns about high density and overdevelopment of the site these matters have been considered in earlier applications and appeals and as the layout and design of the current scheme is almost identical, consideration of density is the same.

Policy HOU2 of the BCCS states that all developments should aim to achieve a minimum net density of 35 dwellings per hectare: the proposal accords with this aim. It also states density and type of new housing will be informed by the need for a range of types and sizes of accommodation to meet sub regional and local needs, the level of accessibility and the need to achieve high quality design and minimise amenity impacts. The NPPF says that decisions should optimise the potential of the site to accommodate development.

Over-development results in designs which impact unduly on the character and amenity of the locality. The design approach in this instance, addresses these concerns and demonstrates that overdevelopment of the site would not occur.

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

On balance the accommodation provides a satisfactory layout that is considered not to be overdevelopment whilst providing a mix of housing types and size to the area, where apartments are not over represented, complying with policies CSP4 and HOU2 of the BCCS, ENV32 of the UDP and the NPPF. Designing Walsall SPD local character guidance indicates that new development should respect the spacious and low density form of development in the area. Whilst the proposals provide a higher density than the surrounding area, this is as a direct result of the provision of apartment accommodation, which is under represented in the area. The spacious form of development is respected through the provision of three separate blocks with gaps between the buildings and landscaping to the frontage, reflecting the character of the area.

Concerns have been raised that there is no guarantee that Block 1 would be built due to the costs of relocating the substation. The application has been submitted on the basis of three blocks of apartments and is considered on this basis.

### **Proposed housing mix**

Neighbours comment that the Housing Needs and Demand Study Update November 2007 confirms demand for new family houses and this is reaffirmed in Designing Walsall SPD that housing developments must cater for families and provide suitable garden sizes that reflect the character of the area; with a surplus of apartments in the borough.

The 10/1650/FL appeal decision the Inspector considered:

*"...the apartments here would result in a more mixed and varied housing provision in the area..."*

The 11/1217/FL appeal decision the Inspector considered the SHLAA, Housing Needs Study and the SPD and said:

*"...the SPD is design guidance only and the Housing Needs information is for the formulation of policies....The Government's recent Framework seeks a wide choice of high quality homes...The proposal would add to the choice of mix of housing accommodation in the area."*

The NPPF seeks to pursue sustainable development through widening the choice of high quality homes. The site is currently occupied by 6 x 1 bed flats and a two-storey house. The 14 apartments would widen the choice of high quality homes by increasing the mix of housing in the area whilst making an efficient use of the land. Residents consider 3/4 bedroom houses would be more appropriate or use of existing brownfields sites. The housing type as considered above is acceptable on this previously developed site.

### **Sustainable location**

The 10/0038/FL appeal decision the Inspector considered:

*"...the site lies within an established urban area and I am not convinced, on the basis of the evidence before me, that this is an unsustainable location for the proposed development."*

The 10/1650/FL appeal decision the Inspector considered:

*"...I agree with the assessments made in the previous appeal decisions that this development would be in a sustainable location."*

The 11/1217/FL appeal decision the Inspector said:

*"The site is in a sustainable location within an urban residential area."*

There has been no material change in circumstances to change the fact that the application site is in a sustainable location.

## **Loss of light, impact upon outlook and privacy**

There is concern about potential loss of light from block 3 which would be 2m from the side elevation of 5 Woodside Close and 24m from the rear of 60 Skip Lane, due to the orientation and separation distance, it is considered there would be no loss of light to 60 Skip Lane. A blank gable end wall would replace the relatively open aspect from the window in the side elevation of 5 Woodside.

The 10/0038/FL appeal decision the Inspector considered:

*"Whilst there would be a reduction in light levels entering the window it does not serve a main habitable room and on this basis I do not consider that the reduction in light and the consequent effect on living conditions of the occupiers of the property would be sufficient to warrant dismissing the appeal."*

The potential loss of outlook and privacy of the rear of neighbouring properties including their gardens; blocks 1 and 2 there would be apartments within the roof with the lounge and bedroom facing the rear.

The 10/0038/FL appeal decision the Inspector considered:

*"...the appeal site is at a lower level than most of the adjoining properties and given the separation distances and the significant tree planting within the gardens I consider that the outlook and privacy of the existing residents would not be unduly affected including during the winter months."*

The 10/1650/FL appeal decision the Inspector considered:

*"On the... potential loss of outlook, light and privacy... I agree with and endorse the conclusions of the October 2010 appeal decisions. There have been no material change in circumstances."*

The 11/1217/FL appeal decision the Inspector said:

*"...I agree with the previous Inspectors dealing with this site...that any loss of outlook would not be damaging and that there would not be serious harm to existing residents' light and privacy."* There has been no material change in circumstances to change the position that the development would not have an undue effect in regard to loss of light, outlook and privacy.

The proposed cycle store would be within the communal parking area, 4m from the rear of block 2. The indicative details provided show this to be a lightweight structure screened by landscaping. The location of the cycle store was closer to the rear of block 2 (1.8m) in the last application and did not give rise to any concerns. Setting the cycle store further away ensures that the cycle store would not unduly impact upon the outlook from the occupiers of block 2.

## **Impact upon the Tree Preservation Order protected beech tree in the garden of 56 Skip Lane**

The Arboricultural Officer does not object to the application and considers the development's proximity to the Beech tree, it is unlikely to be detrimentally affected.

The 10/0038/FL appeal decision the Inspector considered:

*“...with the use of appropriate methods of working and materials any damage to the tree would be avoided.”*

The 10/1650/FL appeal decision the Inspector:

*“...agree with and endorse the conclusions of the October 2010 appeal decisions.”*

The 11/1217/FL appeal decision the Inspector said:

*“The arboricultural evidence about the protected beach tree...is that it would be unlikely to be detrimentally affected.”*

Only a minor part of the root protection zone is within the application site, due to this it is considered that planning conditions regarding working methods and materials would not be necessary in this instance.

### **Impact upon bats**

The Council is required to consider the presence of protected species when determining planning applications. Bat surveys in support of previous applications have shown no evidence of roosting bats and provided recommendations for the conservation of local bat species. A further bat survey for this application was carried out in June 2014 which found no evidence of bats and states the dwellings are of “moderate” value for bats and the garage of “limited” value. The development is unlikely to have an adverse impact on bat populations. The report recommends incorporation of roosting opportunities for bats in the new buildings and restriction of lighting that may illuminate bats flying/foraging in the area. This can be achieved by condition. Natural Environment agree with the conclusions of the report and have no ecological objections to this application.

### **Noise and disturbance to nearby occupiers from the use of the parking and amenity areas**

Neighbours consider that a Noise Impact Assessment and an Air Quality Assessment should have been provided with the application. Under the Council's planning application validation requirements a Noise Impact Assessment is required for all major industrial or commercial applications. For this residential development an assessment is not required because by its very nature the residential development would not introduce a noise and/or vibration-sensitive development and it is not located within an area with a high level of background noise, e.g. a major road. Environmental Health and Pollution Control have no objections to the application on the grounds of noise.

An Air Quality Assessment would not be required for a residential development of this size in this location, Pollution Control have no objection to the application on the grounds of impact upon air quality.

The 10/0038/FL appeal decision the Inspector considered:

*“Parking to the rear of the buildings would generate an element of noise in an area which adjoins the private gardens of neighbouring dwellings. However the rear of the site already contains a garage and noise from vehicles manoeuvring close to the neighbouring property is already a possibility. Whilst there is the potential that the developments would generate more noise than at present, I am satisfied that any increase could be successfully addressed by appropriate fencing and surfacing to ensure that the use of the parking area would not be detrimental to the living conditions of local residents.”*

The 10/1650/FL appeal decision the Inspector:

*“... agree with and endorse the conclusions of the October 2010 appeal decisions.”*

The 11/1217/FL appeal decision the Inspector said:

*“Noise and disturbance to nearby occupiers from the use of the parking and amenity areas has been considered before and found to be acceptable and I see no reason to disagree. Indeed, the Environmental Health Officer has no objections on this subject.”*

The proposal remains the same for parking and amenity areas, which have been previously found not to have an adverse impact upon neighbouring properties. It is considered in accordance with the Inspectors comments on 10/0038/FL that conditions are used to ensure appropriate boundary treatment and surfacing are used within the development. The boundary treatment condition would ensure that the gap created by the removal of the existing garage would be blocked up.

Neighbours seek assurances that the worksite will be secured from children. Any developers would be subject to Health and Safety working practices, which include securing development sites from any intrusion.

### **Amount of amenity space**

A total of 210m<sup>2</sup> of amenity space would be provided to the rear and between the residential blocks. The ground floor apartments also have patio doors that open onto the amenity areas. Designing Walsall guides that there should be 20m<sup>2</sup> of useable space per dwelling where communal provision is provided. The amenity space in this case would be 15m<sup>2</sup> per apartment.

The level of amenity space has not significantly changed throughout the previous applications for 14 apartments and has never been raised as a reason for dismissing the previous appeals. In the last appeal the Inspector states that *“amenity areas has been considered before and found to be acceptable and I see no reason to disagree.”*

### **Stability of the adjacent house 1A Woodside Road.**

Neighbours concern that the reduction in ground level presents significant risk to the adjacent property 1A Woodside Close, which has suffered significant subsidence in the past. The proposal would require some of the uneven ground next to 1A Woodside Road to be removed to create a level surface. The 11/1217/FL appeal decision the Inspector considered these concerns, concluding that this issue was covered by other legislative safeguards. There has been no material change to this position.

It is recommended that a condition be imposed requiring details of the boundary treatment adjacent 1A Woodside Road, including any retaining structures is necessary.

### **Danger to the local water table**

The 10/0038/FL appeal decision the Inspector considered the effect of the development on the water table in regard to the protected beach tree in the garden of 56 Skip Lane and found that the development would not harm the tree.

The drainage element of the scheme has been considered by Severn Trent who have no objection to the proposal subject to a condition requiring full drainage details to ensure that the development is provided with a satisfactory means of drainage whilst reducing the risk of creating or exacerbating a flooding problem and minimising the risk of pollution.

The previous application the Flood Risk Management team commented that the application would not require a Flood Risk Assessment and that it is recommended that any drainage included sustainable drainage systems. This is included within the recommended drainage condition. For these reasons there is no evidence to suggest the development would cause additional flooding or that this would affect the safety of the proposed substation.

### **Other matters to be considered**

#### **Provision for Education & Urban Open Space**

Policies DEL1 of the BCCS and GP3, 8.8 and LC1 of the UDP require, where appropriate, provision and improvement of local education facilities and improvements to or provision of urban open space within the proximity of the application site on qualifying developments above the threshold of 10 units. The SPD for Urban Open Space is also relevant.

The 07/0774/FL/E11 and 07/1815/FL/E11 appeal decisions the Inspector calculated contributions on the net increase in the number of dwellings, concluding that the development would not trigger the threshold to require contributions. Four further planning applications and appeals were determined on the basis that no contributions were required as the net increase of dwellings was below threshold of 10 units.

The SPD for Education was revoked by the Secretary of State in February 2012. In the meantime, and until a CIL regime is in place, the Council will continue to seek planning obligations where they are justified and pass the “tests” in the regulations. In this case education do not request any contribution, noting primary schools in the area have sufficient places. They state that there is a shortfall of places for secondary schools in the area but do not request any contribution as a direct impact of the planning application.

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

Given the above circumstances it is considered that the requirement for the provision of urban open space and education is not required in this instance.

#### **Energy efficiency**

The agent advises that the contractor who would deal with the demolition recycles a high proportion of building waste. This would ensure that minimal construction waste would be disposed of at landfill. The proposed apartments would have recycling facilities to ensure residents would also minimise waste having to be disposed of at landfill.

Policy ENV7 of the BCCS requires all residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion. The agent confirms this is likely to be achieved through the provision of photovoltaic solar panels (converts sunlight into electricity) on the rear elevation of the roof pitches and supplemented by the use of wood burning stoves. While no details have been provided with the application, it is considered that this can be dealt with through a planning condition, which the applicant has accepted. Permitted development rights for solar panels would be available to the

apartments and therefore from a visual consideration the principle of solar panels would be acceptable.

### **Local Finance Considerations**

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 14 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

### **Other comments from consultees**

It is understood that part of the site was a pond or marsh that was filled in. To remediate any localised ground contamination, Pollution Control require a site investigation report including details of any remediation measures, if required, will need to be submitted under the terms of a recommended planning condition. A condition is also recommended in regard to demolition and construction hours.

The police do not object to the planning application but make recommendations in regard security measures to be used throughout the development. It is considered that boundary treatment, the cycle store and intercom access can be achieved through the use of planning conditions. The parking areas are overlooked by active rooms of the proposed apartments. Landscaping and boundary wall provide defensible space at the front of the proposal, with space at the rear enclosed on two sides by other property boundaries with access control measures to this area creating a secure space. In addition there is natural surveillance of the building from the street and to the rear from potential occupants.

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

The nature of the application has not required proactive working in this instance with the applicant to enable full support to be given to the scheme as all of the key issues have been previously resolved through earlier versions of the planning application and subsequent appeal decisions.



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

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

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

2. This development shall not be carried out other than in conformity with the application form and following plans and documents unless required to do so by other conditions of this approval:

- Substation Enclosure detail (1111/SK500 Rev B) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Existing site plan (111/P02 Rev A) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Proposed Block 1 elevations and sections (1111/P09) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Proposed Block 2 elevations and section (1111/P10) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Proposed Block 3 elevations (1111/P11) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Proposed site plan (1111/P05 Rev F) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Proposed first floor plan (1111/P06) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Proposed second floor plan (1111/P07) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Proposed roof plan (1111/P08) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Location plan (0917/P01) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Existing elevations (1111/P04) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Proposed boundary treatment (1111/P13) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Proposed site sections (1111/P12) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Existing site sections (1111/P03) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Urban Open Space statement received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Phase 1 and 2 Bat Survey by Ridgeway Ecology dated 23<sup>rd</sup> June 2013 received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- EM Fields Appeal Statement dated June 2011 received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Joint planning and design and access statement dated October 2012 received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Landscape proposals (12-84-01 Rev A) received by the Local Planning Authority on 11<sup>th</sup> July 2014.
- Photograph of cycle shelter detailed received by the Local Planning Authority on 11<sup>th</sup> July 2014

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

3i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

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

iv) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

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

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

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

4a) No development shall be carried out until a schedule of facing materials to be used in the external walls, roofs, windows, doors, rainwater goods and surfacing have been submitted to and approved in writing by the Local Planning Authority.

4b) The approved scheme shall be fully implemented in accordance with the submitted and agreed details and retained thereafter.

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

5a) The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall include where possible sustainable drainage methods and a demonstration that surface runoff would not increase beyond the current surface water runoff rates of the site.

5b) The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained thereafter.

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

6a) No development shall commence until full details of the design of the proposed cycle storage facility, which shall be covered and illuminated in accordance with Secure By Design principles, has been submitted to and approved in writing by the Local Planning Authority.

6b) The approved details shall be fully implemented prior to first occupation and shall thereafter be retained and used for no other purpose.

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

7a) The approved landscaping scheme shall be fully implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use.

7b) All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted. Any grassed area that fails to establish shall be reinstated.

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

8a) Prior to the commencement of development details for external lighting shall be submitted to and approved in writing by the Local Planning Authority. Any external lighting shall be low level high pressure sodium with UV filters and directional shrouding/ shields to prevent light spill. Floodlighting shall be avoided except at the front of the building.

8b) The development shall be fully completed in accordance with the approved details prior to first occupation and retained thereafter.

*Reason:* In the interests of community safety and to avoid disturbance to local bat populations.

9a) Prior to the commencement of the development, details of at least 10% of the energy supply for the development shall be secured from decentralised and renewable or low-carbon energy sources. Details how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority.

9b) The approved details shall be fully implemented prior to first occupation and retained as operational thereafter.

*Reason:* In the interests of energy efficiency.

10a) Prior to the commencement of the development details of all boundary treatment, including any retaining structures required to the boundary with 1A Woodside Road, in accordance with Secure By Design principles, shall have been submitted to and approved in writing by the Local Planning Authority. All gates should have access control measures, be self closing with hinges mounted to the rear of the public side. Any fences along the rear boundaries will need to be acoustic, including confirmation of its sound weighting

10b) The approved details shall be fully implemented prior to first occupation of the premises and shall be retained thereafter.

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

11a) Prior to the commencement of the development details for an intercom access control system to the apartments, in accordance with Secure By Design principles, shall be submitted to and approved in writing by the Local Planning Authority.

11b) The agreed details shall be fully implemented prior to the first occupation of the apartments and retained in working order thereafter.

*Reason:* In the interests of community safety.

12a) Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of noise, vibration, dust, flying debris and drag-out from the site during demolition, construction and engineering activities.
- a scheme for recycling/disposing of waste resulting from demolition and construction works

12b) The approved statement shall be fully adhered to throughout the construction period.

*Reason:* To prevent indiscriminate parking and in the interests of residential amenity.

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

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

14a) Prior to the first occupation of the development all parking, accesses and manoeuvring areas shown on the approved plan shall be fully consolidated, surfaced and drained.

14b) The car parking bays shall be clearly demarcated on the ground prior to first occupation and shall thereafter be retained for this purpose only.

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

15a) Prior to the commencement of the development a Residents Travel Plan Statement, drawn up in accordance with Government 'Good Practice Guidelines: Delivering Travel Plans through the Planning Process' shall be submitted for approval in writing by the Local Planning Authority.

15b) The Travel Plan shall be fully implemented in accordance with the agreed details.

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

16a) The following precautions shall be taken when implementing the planning permission:

i. Contractors undertaking demolition works shall be made aware that bats may be present and should assume that bats may be present when undertaking works. Particular care is required during the removal of ridge and hip tiles, roofing tiles, soffits and bargeboards.

ii. If no bats or evidence of bats are found during these operations, the approved works can continue.

16b) If bats or evidence of bats are found during these operations:

i. The vicinity of the roost shall be immediately reinstated.

ii. No further destructive works shall be carried out to the building until the need for Natural England licence has been established.

16c) Within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation.

16d) Work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued.

*Reason:* To contribute to the conservation of local bat populations.

17. Two bat tubes (Schwegler model 1FR/1WI) shall be incorporated in to south-facing walls of the new buildings just below eaves level together with an access point to be created permitting bats access to an unfilled cavity under ridge tiles. One bat tube and one access point to the ridge tiles shall be provided in each of the three proposed buildings. The access points created shall be lined with a bitumastic roofing felt in accordance with the recommendation in the Ridgeway Ecology bat report dated 23 June 2014. All roost entrances shall be away from windows and other light sources. These measures shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* To conserve local bat populations.

18. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 Monday to Friday and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

*Reason:* To safeguard the amenities of the occupiers of adjoining premises.

19. No ground fires shall be permitted on the application site during demolition, engineering and construction works.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises.

Note for applicant

*Severn Trent Water*

Severn Trent Water advise that there is a public sewer located very close to the application site. Public sewers have a statutory protection any may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval. If you require any further information please contact Rhiannon Thomas on 01902 793883.

*Contaminated Land*

**CL1:** Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework (2012); British

Standard BS10175: 2011 "Investigation of potentially contaminated sites – Code of

Practice"; British Standard BS5930: 1999 “Code of practice for site investigations”;

Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance.

You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same/

**CL2:** When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report –

SC050021/SR3 “Updated technical background to the CLEA model” and Science Report –

SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

**CL3:** Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided.

Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is

not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning

*West Midlands Police*

Attention is drawn to Secure By Design specifications and guidelines that can help secure this development from future crimes. Such information can be found at [http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2010.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf). You are advised that all doors should comply with PAS24, communal doors should meet LPS 1175 rating 2 or above or WCL 2 Burglary resistance 2 or above. All communal doors should incorporate access control and self closing mechanism. All ground floor windows should meet BS7950 or equivalent. Parking bays should not be marked so as to identify its user, as offenders can work out who is in and out (number should not correspond to the flat it is allocated to). Perimeter fencing should be at least 2.1m in height. A secure cycle unit such as the TPR Eco Friendly Secure By Design Storage Unit is recommended.

REGENERATION

- 5 AUG 2014

PETITION

1, Woodside Close, Walsall, WS5 3LU

Proposed demolition of existing shops and construction of 14 flats

Planning Reference 14/1014/FL (17/7/2014)

Residents request that the Council decline to determine this latest application because it is a repeat of previous applications. If the Council decide to determine the application, it should be refused for the following reasons. **Siting and appearance of the sub-station is incongruous to the street scene, still an overdevelopment, out of character with the area, insufficient car parking, additional demand on an already inadequate drainage system and inadequate amenity space.**

Name	Address	Signature
	4 Woodside Close	
	11 Woodside Close	
	9 Woodside Close	
	9 Woodside Close	
	9 Woodside Close	
	9 Woodside Close	
	12, Woodside Close	
	12, Woodside Close	
	16 Woodside Close	
	16 Woodside Close	
	18 Woodside Close	
	18 Woodside Close	
	"	
	"	
	20, Woodside Close	
	20 Woodside Close	
	22, Woodside Close	





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 16/10/2014

**Plans list item no: 2.**

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

**Application Number:** 14/0799/RM  
**Application Type:** Reserved Matters

**Case Officer:** Alison Ives  
**Telephone Number:** 01922 652604  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** BM3 Architecture

**Applicant:** Keepmoat

**Proposal:** Reserved matters application for erection of 412 new dwellings - 235 for private sale and 177 for affordable rent with associated parking, landscaping and road works (outline permission 12/0036/OL).

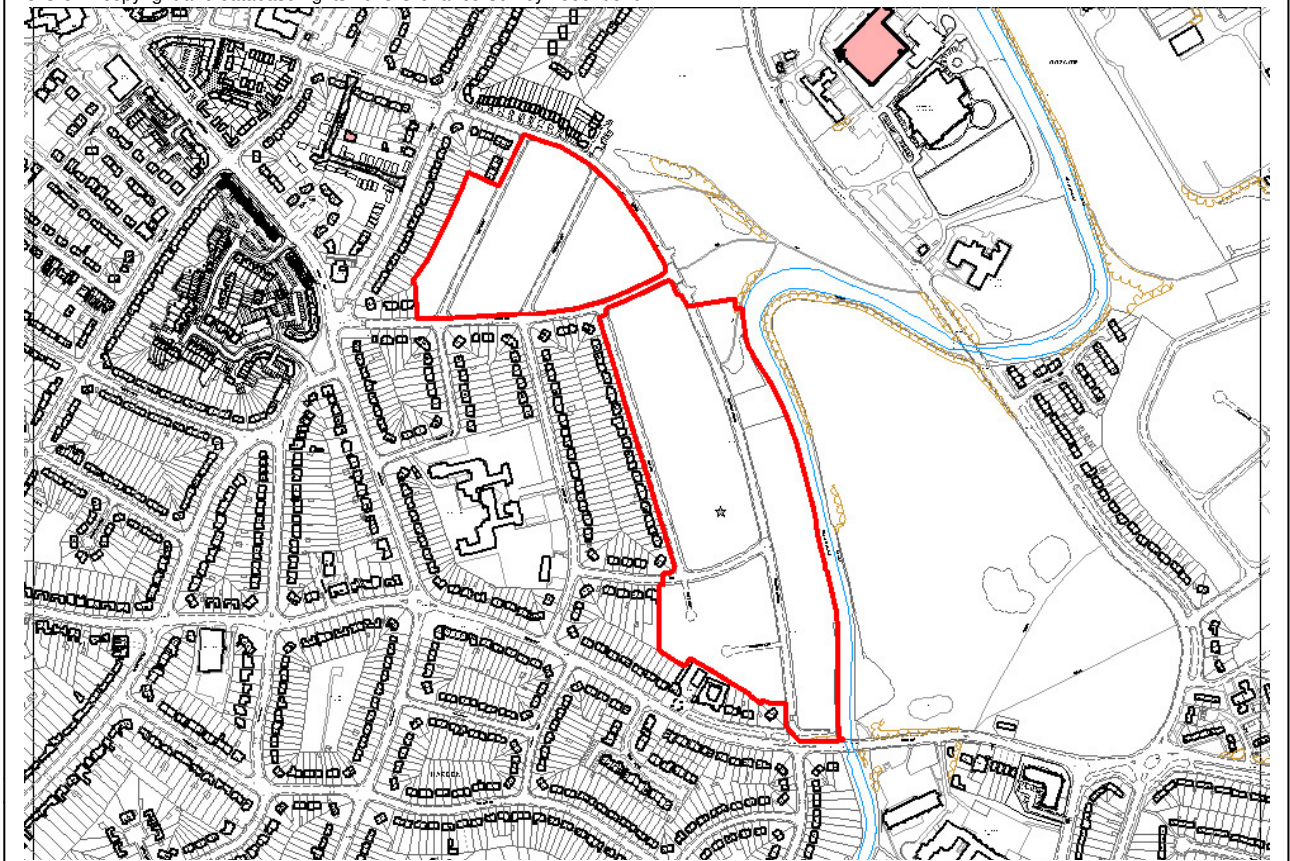
**Location:** Goscote Lane Regeneration Corridor incorporating sites in Shakespeare Crescent, Keats Road, Tennyson Road, Chaucer Road, Wordsworth Road, Dryden Road, Harden Road and Well Lane, Walsall.

**Ward:** Blakenall

**Expired Date:** 12/11/2014

**Recommendation Summary:** Grant permission subject to conditions, subject to no objections raising new material planning issues and subject to resolving the Canal & River Trust objections.

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## **Application and Site Details**

The application seeks approval of reserved matters for the erection of 412 dwellings on previously developed sites in the Goscote area following grant of outline permission 12/0036/OL on 13<sup>th</sup> August 2014. Means of access was determined at outline stage but the reserved matters submission seeks further approval of access plus appearance, landscaping, layout and scale. The outline permission referred to sites A, D and J. The reserved matters provided relate to sites A and D only as Site J was granted full planning permission on 27<sup>th</sup> February 2014 and is currently under construction.

The site is within the Goscote Lane Regeneration Area (GLRA) located approximately 2.7 miles north of Walsall Town Centre. The surrounding areas to the north, west and south are predominantly suburban residential areas but include Blakenall Village Centre, Blakenall Community Centre, local shops and schools. To the east of the sites on Goscote Lane there is the former Goscote Hospital site now occupied by Palliative and Dementia Care Units and offices. The application site was previously developed for housing.

The proposed dwellings comprise 235 private sale units (57%) and 177 (43%) affordable rented units. The private housing is being developed by Keepmoat and the affordable rented housing will be managed by Walsall Housing Group.

Site A is located between Keats Road and the Wyrley & Essington canal and there are 177 private sale and 83 affordable homes on this site. Site D is located between Chaucer Road and Shakespeare Crescent and there are 58 private sale and 94 affordable homes on this site. All houses face the street with secure private gardens at the rear. There are a mix of 2, 3 and 4 bedroom houses and 9 x 1 bedroom apartments including 2, 2.5 and 3 storey units. There are 5 wheelchair accessible properties on site A.

The reserved matters submission increases the number of dwellings by 9% which is within the tolerance of plus or minus 10% which was considered to be acceptable on the outline permission.

The appearance of the dwellings is a combination of brick and rendered properties with pitched roofs. There is a variety of house types that include plinth details, timber cladding, gables and dormer windows, porch canopies and Juliet balconies. The properties are of modern appearance.

The access roads are broadly as shown on the outline permission which reopen the existing highways and include new highways that break up the size of the existing perimeter blocks in order to improve permeability. The highways are designed with build outs to slow traffic on the main routes. All new housing has off-street parking either at the side or in front of the dwelling and across the site this averages at 1.6 spaces per dwelling. Some house types have a car port or integral garage. Improvements to the Harden Road/Goscote Lane roundabout are proposed as a result of increased traffic at this junction as a result of the development.

The applicant confirms the proposed dwellings are designed in accordance with Secure by Design, Code for Sustainable Homes Level 3, and that the affordable units are designed to Housing Quality Indicators standards.

The proposal includes new street tree planting and creation of open spaces within site A at the junction of Chaucer Road and Shakespeare Crescent and two spaces that include dry pond basins adjacent to the canal. A landscape buffer alongside the canal is also included.

For plots that have front gardens it is proposed to install 900mm high metal railings, between rear gardens it is proposed to erect 1.8m high close boarded fencing with 300mm trellis on top (2.1m overall height) and 2.4m close boarded fencing along vulnerable areas such as private rear accesses. On some corner plots it is proposed to erect a 750mm brick wall with 1050mm piers and feather edge fencing.

A Habitats Regulations Assessment (HRA) was previously considered and agreed by Planning Committee on 13<sup>th</sup> March 2014 for the outline permission 12/0036/OL. Further consideration of the implications of the reserved matters application is made in the observations section of this report.

The Design & Access Statement – Describes the site and details of the development and relates to relevant national and local planning policies. It describes the character of the surrounding area and the design and layout, scale, appearance, landscape proposals, boundary treatments, materials and access.

The Ecological Appraisal – Identifies that a Phase 1 Survey was undertaken in March 2014. It recommends a further bat survey of a mature lime tree with low bat roost potential prior to its removal. Recommendations are made regarding the removal of Japanese Knotweed. Vegetation should be checked for breeding birds before clearance and a stand-off zone from the canal. Ecological enhancements are recommended for the site.

The Code for Sustainable Homes Assessment – Considers the ecological credits of the development to support a Code for Sustainable Homes submission. It makes recommendations for ecological enhancements.

The Tree Survey – Identifies a site visit was undertaken in April 2014. Forty five trees, six groups of trees and two hedges were surveyed. Of these 26 trees and one hedge are recommended for removal predominantly those of poor condition due to fire damage or health issues.

### **Relevant Planning History**

13/1221/ND – Screening opinion for residential development of sites A, D and part of site J in Goscote Development Area including Shakespeare Crescent, Keats Road, Tennyson Road, Chaucer Road, Wordsworth Road, Dryden Road, Harden Road and Well Lane – Determined that an Environmental Impact Assessment was not required - 11/10/13

12/0036/OL – Outline permission for residential development on sites A, D & J (Goscote Lane Regeneration Corridor) – Approved Habitat Regulations Assessment and Granted subject to conditions and a S106 Agreement on 13/08/14.

11/1570/ND - Screening Opinion for Goscote Development Corridor residential/redevelopment (sites A, B, C, D and J) – Determined that an Environmental Impact Assessment was not required – January 2012

07/2335/OL/E11 – Outline: Proposed construction of 182 1, 2, 3 & 4 bed dwellings with garages and parking on land between Shakespeare Crescent/Chaucer Road/Tennyson Road/Wordsworth Road and corner of Well Lane and Shakespeare Crescent (now Site D) – Refused for 2 reasons broadly relating to (1) Failure to demonstrate that 182 residential units can be satisfactorily accommodated on the site and provide a satisfactory residential environment with good design and adequate parking and amenity space (2) Unacceptable demand on limited educational capacity, accessible community healthcare facilities, affordable housing and public open space provision in the locality.

There are several approved applications for prior notification for demolition of the former housing on the sites throughout 2005/2006.

### **Adjacent sites**

#### Site G – Well Place

10/0864/FL – Erection of 32, 2 and 3 bed houses – granted subject to conditions – October 2011. This site is now complete.

#### Site H – Barracks Lane

10/1047/FL – Construction of 73 no. affordable dwellings comprising 39 apartments and 34 houses – granted subject to conditions – October 2011.

#### Site J – Shakespeare Crescent

13/1604/RM – Erection of 29 dwellings for affordable rent – approved Habitats Regulations Assessment and granted full planning permission subject to conditions 27/2/14.

### **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:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

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

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 32 states all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

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

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

**The Spatial Objectives** include

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

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

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

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

CSP4: A high quality of design of the built and natural environment is required.

CSP5: Emphasises the need to develop and manage movement and ensure sustainable modes of transport are promoted.

DEL1: Development proposals will only be permitted if all necessary infrastructure improvements, mitigation measures and sustainable design requirements are provided.

DEL2: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV4: Development Proposals will promote the multifunctional nature of the Black Country canal network.



ENV5: Development must demonstrate the level of flood risk associated with development is acceptable.

ENV6: Development that enhances the open space, sport and recreation network will be encouraged.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the energy demand of the development.

ENV8: Residential development should be located, where possible, in areas where air quality meets national objectives.

WM5: Sets out general principles for managing waste associated with new developments.

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

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

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:

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

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

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

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

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

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

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

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

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

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

H1: The Council will promote and encourage the renewal of existing residential areas.



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

H4 (only clauses (g) to (j) are “saved”): Provides more detail about affordable housing in support of BCCS policy HOU3.

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

T1: Seeks to improve access and help people get around

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Residential development should be within easy walking/cycling distance of a range of facilities with direct/safe access to surrounding areas and measures to improve links between the development and its catchment area. It also seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

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

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

4 bedroom houses and above 3 spaces per unit

Flats with communal provision: 1.5 spaces per unit

Flats with allocated parking: 2 spaces per unit

### **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 NPPF policy. The relevant SPD's are:

#### **Designing Walsall SPD**

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

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

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

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

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

DW5: Ease of Movement – connections to existing routes

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

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

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

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

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

Appendix E identifies privacy and aspect distances between dwellings, garden/amenity dimensions and design considerations. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

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

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

### **Supplementary Planning Document Urban Open Space**

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

### **Consultations**

**Transportation** – No objections subject to conditions to secure details of access, layout, parking and phasing. There are 691 parking spaces which equates to 166% parking provision across the site as a whole. This includes a mixture of on and off street parking. All 3 and 4 bedroom properties have 200% parking and all 1 and 2 bedroom properties have 100% parking. This level of parking is acceptable given the location of the site which has

good access to public transport and local facilities. Improvements to the Harden Road/Goscote Lane roundabout are proposed as mitigation measures as a result of the predicted increase in traffic at the junction as a result of the development.

**Pollution Control (Scientific Team)** – No objections. Recommendations on the outline permission should be carried forward.

**Pollution Control (Contaminated Land)** – No objections subject to works being carried out to remediate any localised ground contamination and ground gas issues associated with the previous use of the site. Conditions to address these concerns are recommended.

**Birmingham & Black Country Wildlife Trust** – The development offers the opportunity to create a semi-natural habitat along the Wyrley & Essington Canal to benefit wildlife on the canal and the wider Green Belt and enhancing the canal as a wildlife corridor. More native plant species should be used and small scale features such as bat and bird boxes could be used.

**Canal & River Trust** – Objects. There is insufficient information to establish the impact on the canal infrastructure and water levels from the proposed swale which is close to the canal edge. There is a reed bed fringe alongside the canal at present which does not provide protection to the bank from boat wash and could erode the swale or cause flooding of the swale from the canal. Details of the proposed swale design including levels are required. The Trust also comment on the appearance of the apartment block on site A, potential for incorporation of a footpath along the canal and opportunities to redesign the roads to reduce the impact of parked cars on the canal frontage. Further details of landscaping, lighting and drainage are recommended and landowner issues.

**Coal Authority** – No comments. A condition was included on the outline permission 12/0036/OL to require the development to be carried out in accordance with the agreed Mining Investigation Report.

**Fire Service** – No objections.

**Housing Strategy** – Supports the proposals as the majority of the private housing contributes to the tenure balance of the wider area whilst offering in excess of 25% affordable housing to meet local needs.

**Inland Waterways** – Although generally well designed there are some concerns about the incorporation of the continuous swale and “dry ponds” along the canal frontage and accessibility of the canal corridor by the public.

**Landscapes** – The information provided is generally acceptable but further details of planting and soils are required.

**Local Access Forum (Walsall Ramblers)** – Welcome the approach of introducing more green space and linear parks but has reservations about shared surfaces where pedestrians share the space with vehicular traffic with no clear definition between the two. The existing public footpaths WAL 23, 24 and 25 (Goscote Lane to Shakespeare Crescent) are not impacted by the development.

**Natural England** – The site is close to two European designated sites the Cannock Extension Canal and Cannock Chase Special Areas of Conservation (SAC) and Sites of Special Scientific Interest (SSSI). A Habitat Regulations Assessment (HRA) to assess the impacts on these European sites is required. The developer has supplied an HRA which states there are unlikely to be any significant effects on Cannock Extension Canal SAC and

Natural England concurs with this view. The site lies within 15km of the Cannock Chase SAC and there is currently insufficient information to rule out the likelihood of significant effects. The proposals do not damage or destroy the SSSI so there are no objections in this respect. Consideration of local sites, landscape character, biodiversity priority habitats and species and protected species should be made.

**Police** – There are still some Secure by Design factors that have not been met and it is recommended that enhanced measures in terms of boundary treatment are included.

**Severn Trent Water** – No objections subject to provision of adequate drainage. A condition to secure details is recommended. An informative regarding the public sewer within the site is also recommended to be included on any decision notice.

### **Public Participation Response**

Two letters have been received from the “Friends Around The Lea”. Their comments are summarised as follows:

- No issues with the regeneration of a Brownfield site which is long overdue
- Further details of proposals to use of parts of The Lea for an infiltration basin/balancing pond for collection of storm water are required as part of the consultation to inform residents
- No details about the balancing pond filtration of contaminated water, levels of water, landscaping, maintenance and community benefits have been provided
- The canal could be destabilised if water runs onto Swannies Field

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

Publicity on the amended plans has not yet expired hence the recommendation to grant permission subject to no further representations raising new material issues.

### **Determining Issues**

- Principle of residential development
- Layout, scale and appearance
- Landscaping
- Relationship to surrounding properties
- Access and parking
- Provision for affordable housing
- Provision for Urban Open Space and Education
- Local Finance Considerations
- Habitats Regulations Assessment

### **Observations**

#### **Principle of Residential Development**

As this is a reserved matters submission the principle of residential development has already been accepted under the outline permission 12/0036/OL.

Housing renewal and the provision of good quality housing in the Goscote area is supported by the BCCS. The sites were formerly occupied by housing and provision of new housing is acceptable in principle as it brings forward vacant land in accordance with UDP policy ENV14. UDP policy H3 also encourages provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved. Surrounding residents also support the regeneration of this Brownfield site which they consider is long overdue.

There has been no change to the Development Plan that would alter the previous recommendations to grant planning permission and the principle of development is accepted.

### **Layout, scale and appearance**

The layout is based around retaining the existing highways with the introduction of new highways that dissect the perimeter blocks to reduce their size and make the site more permeable. All new dwellings face the street and have off street parking and secure rear gardens. New cul-de-sacs proposed on site D are well observed and it is recommended that the gates indicated are removed to prevent creating a gated community. Amended plans have been requested to address this.

The reserved matters submission increases the number of dwellings by 9% from those numbers identified in the outline permission. This fluctuation was considered acceptable by Planning Committee in considering the outline permission where a threshold of 10% of the numbers stated in the application (plus/minus 38 units) so as not to place unnecessary restriction on the eventual design and layout of the development. The proposal increases the number of units by 35 units.

The layout does not achieve the space and separation distances recommended in Appendix E of the SPD: Designing Walsall for all plots. There is only 20m between facing elevations of housing in most cases instead of the recommended 24m, for example between plots 79 & 94, 160 & 165 and 115 & 136. This is reduced to 16m between facing rear elevations on the far side of Shakespeare Crescent due to the narrowing of the plot. On balance these shortfalls are considered acceptable as each house does have an adequate private garden space. The developer is seeking to achieve secure back to back gardens and maintain an adequate buffer alongside the canal which reduces the developable area. The houses are off-set where possible so there will not be significant potential for overlooking or lack of privacy.

There are instances where there is a minimum of 11m between a two storey gable and facing elevation instead of 13m, for example between plots 72 & 66 and between the rear elevation of plots 317/318 and the gable wall of 15 Dryden Road. There is only an obscure glazed window in the side elevation of 15 Dryden Road so privacy is maintained for those plots. This minor shortfall does not cause significant harm to the outlook of future occupiers. There is a minimal distance between the gable of plot 160 and rear elevation of plot 161 but the latter is designed so that the main aspect faces the open space rather than the gable which reduces any potential adverse impact on the outlook.

There is over 35m between the proposed housing and existing housing on Harden Road with the exception of plot 331 and 332 which back onto Anson Court Nursing Home. There is a minimum 8m distance between the houses and boundary to the nursing home giving a poor outlook. Nevertheless these plots have at least 50m<sup>2</sup> garden space and are in an almost identical position to the housing which previously occupied the site. There is 11m between the rear of plots 328/330 and the garage on Harden Road but the garden length is only 1m short of the recommended length so this relationship is considered acceptable.

The apartment block (plots 404-412) is located on site A adjacent to the canal and whilst there is minimal amenity space surrounding the building for shared amenity it is close to "The Lea", the canal and the proposed new open space so there is alternative amenity space available for future occupiers.

There are instances where new houses are in close proximity to existing trees which is likely to create shading and is unacceptable, for example plots 279, 355/356 and 382. Amended plans have been requested to address this.

Objectors have referred to the lack of information regarding the provision of a balancing pond on "The Lea" which is required to provide adequate flood risk measures for the new housing. In particular they are concerned about the impact on The Lea, contamination, landscaping and maintenance, benefits for residents and the potential for water run-off to destabilise the canal. Provision of adequate flood risk measures was a requirement of the outline permission and a condition included to preclude any development until such measures are agreed and implemented. A similar condition is recommended on this reserved matters application. Whilst the developers are considering a new balancing pond on The Lea this would be subject to a separate planning application as it is an engineering operation that is outside the scope of the current application. At such time as an application is made residents will be given the opportunity to review proposals for any new development on The Lea.

The Police concerns about meeting the Secure by Design standards have largely been addressed by provision of more robust boundary treatment.

The Canal & River Trust have commented on the design of the canal frontage in terms of the height and position of the proposed apartment block on site A. Although this is a three storey building given the space beyond towards The Lea it is considered not to be overbearing on the canal. The Trust also requests a continuous footpath along the canalside and redesign of the roads along the canal to reduce the impact of parked cars. The introduction of a footpath conflicts with the ecological benefits of retaining a buffer along the canal which will enhance its function as a wildlife corridor. With regard to parking and the design of the highways, the parking is predominantly at the side of the dwellings where it is more discreet rather than immediately in front of the dwellings.

The scale of the buildings is acceptable as it is predominantly two storey buildings with some taller 2.5 and 3 storey buildings to mark key vistas for example along the canal and adjacent to the open spaces.

The housing has a modern appearance and construction reflecting current design and is considered acceptable.

The layout, scale and design are considered acceptable.

### **Landscaping**

The proposal includes provision of a landscape buffer along the boundary of the canal plus two more open areas incorporating landscaping and dry ponds. There are two areas of open space along Shakespeare Crescent adjacent to the canal. One of these is an area where mine shafts have been identified and therefore no buildings can be constructed and the other forms the focus at the end of a tree lined avenue. There is another open space area at the junction of Shakespeare Crescent and Chaucer Road allowing open views onto The Lea and connecting to existing paths.

The Canal & River Trust have objected on the basis that there are insufficient details on the design and operation of the swale to demonstrate that it would not harm the structural integrity of the canal. The developer was made aware of this objection and has removed the swale which addresses this concern. Further comments will be reported to Committee.

The Wildlife Trust recommends that native species are used for any planting and provisions to benefit the ecology along the wildlife corridor. Landscaping details and ecological measures will be secured by condition. Although the Inland Waterways Authority recommends culverting the canal or providing footbridges so residents can use the space this would conflict with the aims of protecting the wildlife corridor along the canal.

Amended plans have been requested to address the relationship between existing trees and proposed new housing. Replacement trees will be required if the circumstances require removal of the trees.

The level of landscaping throughout the site is to be enhanced and is considered appropriate. Full details of planting will be secured through a recommended condition.

### **Relationship to surrounding properties**

The proposed dwellings maintain an adequate distance between existing properties surrounding the site and respect the existing street pattern. Where distances are shorter this is across a highway where vehicles and pedestrians using the highway would be closer than any proposed houses. The proposal does not have any significant impact on the outlook, daylight or privacy of surrounding occupiers.

The nearest dwellings are those on Harden Road, including a garage and nursing home. The proposed new housing is no nearer to these properties than existing dwellings on Harden Road despite minimal separation at the rear.

The proposed development layout maintains an acceptable relationship to surrounding occupiers.

### **Access and parking**

The proposed layout utilises the existing highways but introduces new highways to increase permeability and slow traffic. Highway improvements are also to be secured under the S106 Agreement for the outline permission. This includes junction improvements to the roundabout at Harden Road/Goscote Lane.

Each house has at least 1 parking space with the level of parking at 166% providing at least two spaces per dwelling for the larger units. This is considered adequate as the parking is convenient and well observed and given the sustainable location of the site access to alternative transport provision and services are available.

The Ramblers are concerned that shared spaces with no delineation between pedestrian and vehicle areas may be hazardous to pedestrians but the spaces are designed to slow traffic and the design and landscaping will provide a traffic calming function whilst enhancing the appearance of the street.

Where parking is provided in front of the houses new landscaping and tree planting is introduced to try to break up the spaces and soften the appearance in the street scene.

The means of access and parking are acceptable.

### **Provision for affordable housing**

Policies HOU3 of the BCCS, GP3 of the UDP and Supplementary Planning Document Affordable Housing require provision of 25% affordable houses on schemes of 15 units and over. The scheme proposes 43% affordable housing for this site to be managed by Walsall Housing Group. This is almost double the required provision but Housing Strategy supports this proposal and this level of affordable housing was accepted on the outline permission. The affordable housing can be secured by condition as on the outline permission.

### **Provision for supporting infrastructure (including education, healthcare and urban open space)**

In accordance with BCCS policy DEL1 and UDP policies GP3, 8.8 and 8.9 provision for education and healthcare are required where a need can be demonstrated for particular developments. Policies DEL1 of the BCCS, policy LC1 (d) of the UDP and SPD: Urban Open Space also requires the developer to contribute towards provision for urban open space.

The above issues were considered as part of the outline permission and in light of the viability of the scheme, which was reviewed by the District Valuer, the committee resolved to waive contributions towards education and healthcare and to accept the developers offer to enter into a Section 106 Agreement to secure contributions towards local highway improvements and to deliver some environmental improvements to open spaces that would form part of an integrated approach to stewardship for the whole development area. The Section 106 Agreement was completed on 13 August 2014 and secures these measures.

### **Local Finance Considerations**

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 412 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

### **Habitats Regulations Assessment (HRA)**

The Local Planning Authority has a duty under Regulation 9 (5) of the Conservation of Habitats and Species Regulation 2010 ("2010 Regulations"). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "have regard to the Habitats Directive in the exercise of its functions".



Regulation 61 (1) of the Habitats Regulations states the following:

*“A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:*

*a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*

*b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives”.*

The first stage (screening) of Habitats Regulations Assessment is to identify the likely impacts (if any) upon a European site of a project or plan, either alone or in combination with other projects or plans, and consider whether these impacts are likely to be significant.

The HRA considered for the outline permission concluded that the development would not result in a significant effect on the Cannock Chase Special Area of Conservation (SAC) for the following reasons:

- *The one dimensional nature of the 15km ‘zone of influence’;*
- *The additional visitor impact on Cannock Chase SAC expected from the proposed development is negligible;*
- *The alternative open space resource in the local area surrounding the proposed development site.*

*In conclusion, the local area within which the proposed development site is located benefits from access to a wide variety of open space, which exceeds local open space quantity standards. In particular there is a large surplus of accessible natural and semi-natural greenspace, including areas of lowland heathland within 3km of the proposed development site. There is significant spare capacity within existing open space networks to absorb all additional recreational demands likely to arise from the addition of 29 dwellings in this area. Alternative open space resource options therefore exist to safeguard the SAC.*

*Taking into account these factors, it is considered that the new residential development proposed, Walsall will have no likely significant effects on Cannock Chase SAC, either alone or in combination. It can therefore be screened out for the purposes of the HRA, and does not need to proceed to Stage 2: Appropriate Assessment.*

Given this conclusion, it is considered the requirement to complete an appropriate assessment has not been triggered. Although the reserved matters submission increases the number of dwellings by 9% this fluctuation was considered at the time of the outline permission and HRA. As a consequence, officers consider the development is in compliance with the provisions of Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

In assessing the proposal recognition is given to Regulation 61(6) which acknowledges that consideration can be given to any conditions or restrictions subject to which the consent is proposed.

Natural England consider that more information should be provided to demonstrate that there will be no significant adverse impact on Cannock Chase SAC as this development in combination with others in the area is likely to impact on visitor numbers.

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme

### **Summary of Reasons for Grant permission subject to conditions, subject to no objections raising new material planning issues and subject to resolving the Canal & River Trust objections.**

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

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act, 1990.

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

(For the purposes of this condition each site shall be considered as a separate entity. The parts of this condition state which sites need to comply.)

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

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

3a. No development shall take place until a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority. This should include details of:

- i. Surface water attenuation to the 1:100 year event 30% climate change standard.
- ii. Limitation of surface water discharge from the site to the greenfield rate as outlined in the FRA submitted with the outline permission 12/0036/OL.
- iii. The inclusion of SuDS where possible as outlined in the Flood Risk Assessment, paragraph 7.23.

3b. The scheme shall be fully implemented and subsequently maintained, in accordance with the agreed scheme.

*Reason:* To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

4a. Prior to the commencement of the development details of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be completed with the approved details and retained thereafter.

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

5a. No development shall take place until such time as a flood risk management scheme has been submitted to, and approved in writing by, the local planning authority. This should include details of:

- i. Finished floor levels and ground profiles to mitigate against the risk of flooding from surface water, overland flows, and canal overtop & breach scenarios as outlined in the Flood Risk Assessment section 7.20.

5b. The scheme shall be fully implemented and subsequently maintained, in accordance with the agreed scheme.

*Reason:* To reduce the risk of flooding to the proposed development and future users.

6a. Prior to commencement of the development the applicant shall commence proceedings to secure the amendment to the existing permanent prohibition of driving traffic regulation order on the existing highway network and all associated costs to be met by the applicant.

6b. The approved dwellings shall not be occupied until the amendment has been secured.

*Reason:* To allow the approved development to be undertaken.

7a. Prior to the commencement of any development, the following details shall be submitted and approved in writing by the Local Planning Authority in conjunction with the Highway Authority;

- (i) An overarching Masterplan and proposed phasing of intended highway improvement works on the following roads and other transport links to the wider area, namely:-

- Shakespeare Crescent
- Tennyson Road
- Wordsworth Road
- Chaucer Road
- Keats Road
- Dryden Road
- 

- (ii) Full engineering details and location of the proposed highway improvement proposals as agreed in the phasing point (i) and including the highway improvements to the Harden Road/Goscote Lane roundabout required as

mitigation measures as set out under the Transport Assessment submitted under Outline application 12/0036/OL.

7b. Prior to the first occupation of any new dwelling on the development, all highway infrastructure works detailed in parts (i) and (ii) of this condition, shall be fully implemented in accordance with the approved phasing plan, to the satisfaction of the Local Planning Authority in consultation with the Local Highway Authority.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with BCCS policy TRAN1, TRAN2, TRAN4 and UDP Policies T4, T6, T7, T8, T9 and T1.

8a. Prior to the commencement of the development, full engineering details of any new estate road, footway and footpath to be offered for adoption as highways maintainable at public expense, shall be submitted to the Local Planning Authority for technical approval including layouts, alignments, widths and levels, together with all necessary drainage arrangements and run off calculations, which shall comply with any plans approved under the planning consent. Any adoptable street lighting shall be with the agreement in writing with Walsall Council's Street lighting partner Amey.

8b. Prior to the commencement of any dwelling on the development, all adoptable highway works specified under part (a) of this condition shall be fully implemented in accordance with the approved details and to satisfaction of the Highway Authority.

*Reason:* In the interests of highway safety and to ensure the satisfactory operation of the development in accordance with UDP Policy GP2, T1, T6, T8, T10, T11 and T12, Black Country Core Strategy TRAN4 and Manual for Streets.

9a. Prior to the commencement of development a construction methodology statement shall be submitted to and approved in writing by the Local Planning Authority, detailing where parking and turning facilities for site operatives and construction deliveries will be provided during the period of construction.

9b. The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

10. Appropriate Traffic Regulation Orders to i) prohibit through traffic along Shakespeare Crescent and ii) introduce 20mph speed limits on all roads within the development, shall be advertised and confirmed, in accordance with the approved layout and phasing plan and implemented at the developer's expense.

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

11a. Prior to the commencement on site of the three story apartments on Plots 404 to 412, full details and location of a covered, secure cycle shelter facility to serve the dwellings shall be submitted to and approved in writing by the Local Planning Authority.

11b. Prior to the first occupation of any of the apartments, the cycle shelter facility shall be fully implemented in accordance with the approved details and shall thereafter be retained and used for no other purpose.

*Reason:* To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

12a. Prior to the first occupation of any dwelling on the development, all car parking areas, vehicle hard standing areas and access ways serving that dwelling shall be full consolidated, hard surfaced and drained and brought into use.

12b. These areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13.

13a. All existing and proposed road junctions, shared access drive entrances and car parking court entrances within the development shall have 2.4m x 25m visibility splays within which no planting or structures exceeding 600mm in height above carriageway level shall be permitted at any time.

13b. All individual direct frontage access points having 2.4m x 3.4m pedestrian visibility splays within which no planting or structures exceeding 600mm in height above carriageway level shall be permitted at any time.

*Reason:* In the interests of highway safety.

14. A revised site layout plan shall be submitted to and approved in writing by the Local Planning Authority demonstrating refuse bin collection point to serve the following plots: 92 to 96, 133 to 138, 153 to 160, 270 – 276, 355 to 361, 339, 395 to 396 and 404 to 412 and located as near as possible to the main public highway accessible to a 10.7m long refuse wagon.

*Reason:* To ensure the satisfactory operation and servicing of the development in accordance with UDP Policy GP2, Manual for Streets and highway safety.

15. Prior to the first occupation of any dwelling on the development, the measures and commitments contained within the submitted JMP Residential Travel Plan shall be fully implemented and the said measures and commitments shall thereafter be monitored, reviewed and the targets adjusted accordingly in accordance with the plan.

*Reason:* To encourage use of sustainable travel and to reduce the reliance on motor cars in accordance with UDP Policy T10 and Black Country Core Strategy TRAN2.

16a. Prior to the commencement of the development an assessment is to be carried out by the developer, to ascertain the current condition of any existing highway infrastructure (inclusive of carriageways, footways, street lighting and highway drainage) that is to form part of the highway network, any recommended remedial measures and proposed phasing of said works, and shall be submitted and agreed in writing by the local planning authority in conjunction with the Highway Authority.

16b. The agreed recommended remedial measures shall be fully implemented and brought into use in accordance with the approved phasing plan to the satisfaction of the local planning authority and all associated costs to be met by the applicant.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

17a. Prior to any demolition and/or construction operations commencing, a method statement shall be submitted to and agreed in writing with the Local Planning Authority for the purposes of controlling noise and dust from such operations.

17b. The agreed method statement shall be fully implemented and thereafter maintained until construction and demolition works are complete.

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

18. The development shall be carried out in accordance with the approved landscape scheme shown on drawings C-1132-01, 02, 03, 04, 05 & 06 and implemented fully in accordance with the approved scheme before any part of the development is brought into use and retained thereafter. Full details of planting and soils shall be submitted to the local planning authority for approval in writing.

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

19a. Before any part of the development is brought into use a 5 year management plan shall be submitted to the Local Planning Authority and approved in writing. The management plan shall be carried out to an accepted methodology and provide full details of:

- i. How the ecological planting will be maintained through the establishment period and managed thereafter.
- ii. Monitoring and reviewing the effects of management and incorporating any remedial works required to implement the approved landscape scheme.
- iii. How the ornamental landscape schemes will be maintained through the establishment period and managed thereafter.
- iv. Provision for the replacement of any plant which dies, becomes diseased or damaged.
- v. Details of routine maintenance such as pruning/ litter picking/ cutting/ watering in dry period/ weeding.
- vi. Full details of all management operations will be set out together with a timetable for each operation.
- vii. Monitoring and review of management plan to assess its effectiveness particularly in terms of the retention of populations of butterflies and moths.

19b. The landscape scheme shall be managed in accordance with the approved management plan.

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

20a. Prior to the commencement of the development a scheme to provide bat boxes, bat tubes and bat bricks incorporated into new buildings shall be submitted for approval in writing of the Local Planning Authority.

20b. The approved scheme shall be fully implemented and retained thereafter.

*Reason:* To ensure proper regard is taken to the impact of development on protected species.

21a. Prior to the commencement of the development full details of all external lighting, particularly to the open space areas shall be submitted to and agreed in writing by the Local Planning Authority. The lighting shall be designed to retain dark corridors particularly along the canal corridor.

21b. The agreed scheme shall be fully implemented and thereafter retained in accordance with the agreed details.

*Reason:* To protect the visual amenities of the area and ensure proper regard is taken to the impact on protected species.

22a. No development shall commence on site A or D unless details of proposed levels across that site has been submitted to and agreed in writing by the local planning authority.

22b. The development shall be carried out in accordance with the agreed details.

*Reason:* In the interests of the amenity of the area and to ensure satisfactory development of the site.

23. No more than 15 dwellings shall be built on sites A, D and J together unless the developer has made appropriate provision towards affordable housing on the site, or any alternative provision as may be agreed in writing by the local planning authority.

*Reason:* To ensure adequate provision for affordable housing in accordance with policies HOU3 of the BCCS and policy GP3 of the UDP and Supplementary Planning Document: Affordable Housing.

24a. The development shall be carried out in accordance with the schedule of materials identified on approved drawings D10 Rev B, D11 Rev B and D12 Rev B and all boundary treatments shall be carried out in accordance with the details identified on the approved drawing D02 Rev B.

24b. The development shall be completed with the approved details and retained thereafter.

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

25. All site clearance shall take place outside the bird breeding season unless carried out under the supervision of a qualified and experienced ecologist.

*Reason:* To ensure proper regard is taken to the impact of development on protected species.

26. During construction all open trenches or hazardous areas should be securely fenced off to prevent animals becoming trapped.

*Reason:* To ensure proper regard is taken to the impact of development on protected species.

27. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment

associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

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

28. This development shall not be carried out other than in conformity with the following plans and documents in addition to the plans and documents identified in condition 30 of planning permission reference 12/0036/OL: -

- Site Location Plan (D99) received 30/05/14
- Proposed Site Layout (D01-B Rev S) received 26/09/14 (amended plan expected)
- Proposed Boundary Treatments (D02 Rev B) received 18/09/14
- House Type 651 Plans & Elevations (D100 Rev A) received 17/06/14
- House Type 764 Plans & Elevations (D101) received 30/05/14
- House Type 842 Plans & Elevations (D102) received 30/05/14
- House Type 857 Plans & Elevations (D103 Rev A) received 12/09/14
- House Type 867 Plans & Elevations (D104 Rev A) received 12/09/14
- House Type 915 Plans & Elevations (D105) received 30/05/14
- House Type 1149 Plans & Elevations (D106 Rev B) received 12/09/14
- House Type 1154 Plans & Elevations (D107 Rev A) received 17/06/14
- House Type 1216 Plans & Elevations (D108 Rev B) received 18/06/14
- House Type 01A Plans & Elevations (D110) received 30/05/14
- House Type 03A Plans & Elevations (D111) received 30/05/14
- House Type 05A Plans & Elevations (D112 Rev B) received 12/09/14
- House Type 07A Plans & Elevations (D113) received 30/05/14
- House Type 09A Plans & Elevations (D114) received 30/05/14
- House Type 11A Plans & Elevations (D115) received 30/05/14
- House Type 13 Plans & Elevations (D116 Rev B) received 22/09/14
- House Type 17A Plans & Elevations (D117 Rev B) received 22/09/14
- House Type 19A Plans & Elevations (D118 Rev B) received 12/09/14
- House Type 23A Plans & Elevations (D119) received 30/05/14
- House Type WC Plans & Elevations (D120 Rev B) received 12/09/14
- Flats Plans & Elevations (D121 Rev A) received 19/06/14
- Flats Plans & Elevations (D122 Rev B) received 12/09/14
- Street Elevations (D152 Rev B) (D153 Rev B) (D155 Rev B) received 12/09/14
- Street Elevations (D150 Rev C) (D151 Rev C) (D154 Rev B) received 25/09/14
- Street Sections (D160 Rev A) received 19/06/14
- Site D Materials Schedule (Plots 1-152) (D10 Rev B) received 07/10/14
- Site A Materials Schedule (Plots 153 – 338) (D11 Rev B) received 07/10/14
- Site A Materials Schedule (Plots 339-312) (D12 Rev B) received 07/10/14
- Detailed Landscape Proposals Sheet 1 of 6 (C-1132-01) received 30/05/14
- Detailed Landscape Proposals Sheet 2 of 6 (C-1132-02) received 30/05/14
- Detailed Landscape Proposals Sheet 3 of 6 (C-1132-03) received 30/05/14
- Detailed Landscape Proposals Sheet 4 of 6 (C-1132-04) received 30/05/14
- Detailed Landscape Proposals Sheet 5 of 6 (C-1132-05) received 30/05/14
- Detailed Landscape Proposals Sheet 6 of 6 (C-1132-06) received 30/05/14
- Code for Sustainable Homes Assessment prepared by ECUS Environmental Consultants (4888) received 30/05/14
- Ecological Appraisal prepared by ECUS Environmental Consultants (4888) received 30/05/14



- Tree Survey prepared by Marlow Consulting Ltd received 30/05/14
- Design & Access Statement prepared by BM3 Architecture

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

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

**CL1:** Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2011 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

**CL3:** Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

### **Note for applicant regarding Mud on Highway**

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

### **Note for applicant regarding Drainage over the public highway**

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning areas do not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway or vice versa.

### **Note for applicant regarding highways:**

1. The applicant will be expected to enter in agreements under S38/ S278 of the Highways Act 1980 in respect of all adoptable works and works within the public highway.
2. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
3. It is strongly advised that any estate roads on the development that are not being offered for adoption as highway maintainable at public expense but to remain in private ownership, the carriageways are constructed to an adoptable standard if they are to be accessed by a Council 24 tonne refuse wagon in order to minimise any future maintenance issues.

**Note for applicant – Canal & River Trust**

The applicant/developer is advised to contact the Works Engineering Team in order to ensure that any necessary consents are obtained and that the works comply with the Trust's "Code of Practice for Works affecting Canal & River Trust". The Canal & River Trust offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location. The applicant/developer is advised that the inclusion of land owned by the Canal & River Trust within the site shall require a formal agreement.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 16/10/2014

**Plans list item no: 3.**

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

**Application Number:** 14/1056/FL

**Application Type:** Full application

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

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

**Agent:** BM3 Architecture

**Applicant:** WHG Developments Ltd

**Proposal:** Erection of 19 dwellings, associated car parking, landscaping, bin and cycle stores and associated works.

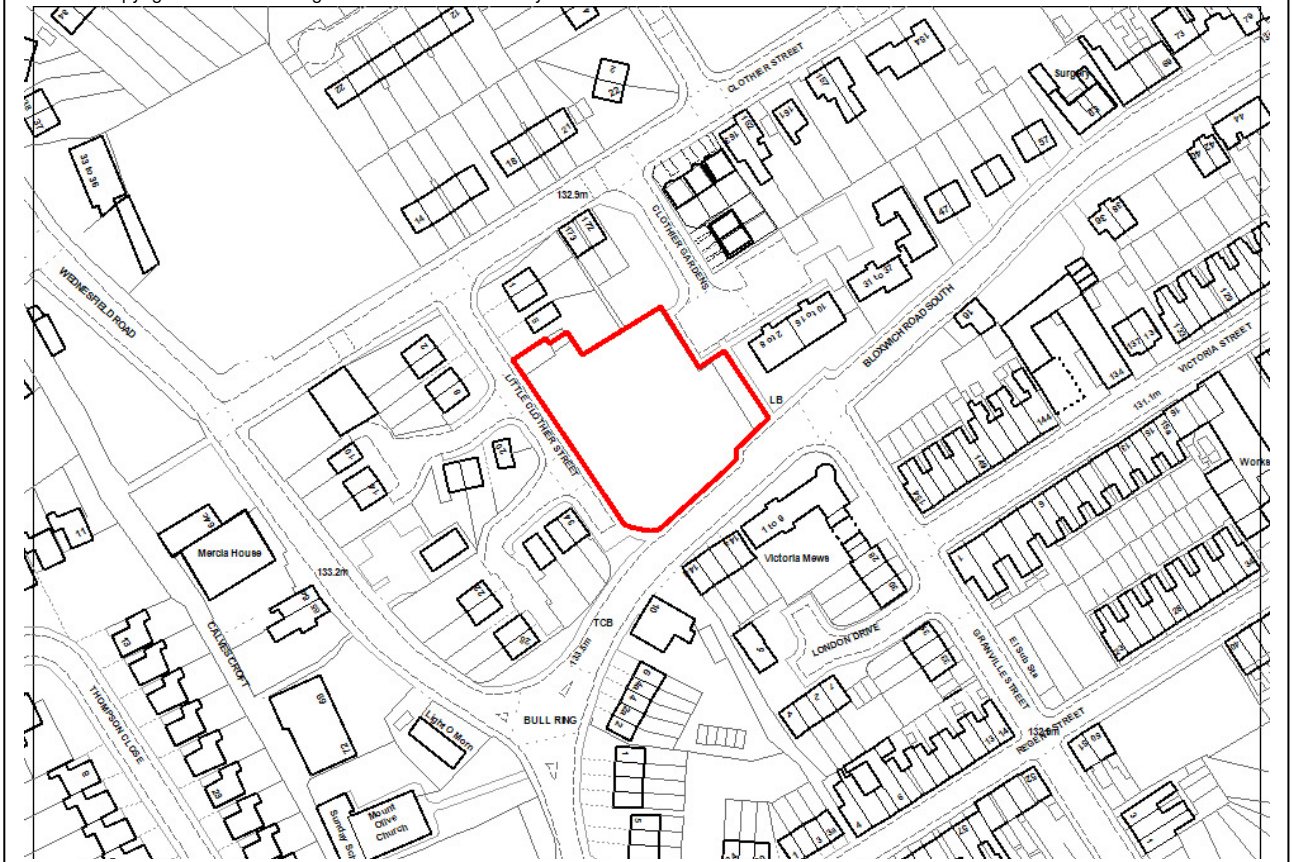
**Location:** LAND OFF CLOTHIER GARDENS, WILLENHALL, WV13 1AF

**Ward:** Willenhall South

**Expired Date:** 24/10/2014

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

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## **Application and Site Details**

The application site is located between Clothier Gardens, Bloxwich Road South and Little Clothier Street. There is a public footpath linking Clothier Gardens to Bloxwich Road South. The site is vacant but was formerly developed as a two storey elderly persons care home. There is a mix of predominantly 2-storey houses and small blocks of 2 and 3-storey flats and maisonettes directly opposite and adjacent to the site and a modern apartment building facing the site on Bloxwich Road South. There are mature trees around the perimeter of the site.

The proposal is for the erection of a part two part three storey building to accommodate 19 flats comprising 6 x 1 bedroom and 13 x 2 bedroom flats for social rent. The proposed building is "L" shaped with a parking courtyard off Clothier Gardens and landscaped areas facing Bloxwich Road South and Little Clothier Street. There is additional parking facing Little Clothier Street.

The proposed building is a maximum of 11m deep with the northern and eastern wings 32m and 22.5m long respectively. There are 7 flats on each of the ground and first floors and 5 flats on the second floor with staircases at each end of the building and two staircases in the central sections. Most of the flats are dual aspect.

The building is a modern design with a mixture of brick and render. There is gold and grey cladding depicting key elements of the building such as doors and the corner feature windows. There are grey windows and doors. The roof is a combination of shallow sloping sections of dark grey membrane.

There are refuse stores at each end of the building and a cycle store shown at the northern end. There are 20 off-street parking spaces, 12 of these within the gated courtyard off Clothier Gardens.

The properties are to be managed by Walsall Housing Group.

The Design & Access Statement – Describes the proposal and its location, the surrounding area and layout and scale of the proposals including landscaping.

The Viability Assessment – Identifies that Walsall Housing Group are providing an additional subsidy of £85,500 as well as accepting a lower investment rate return and longer loan repayment. The scheme delivers 100% affordable housing. Abnormal costs are identified as £139,059.79 to include demolition, filling/grouting of shallow coal seams and the need for piled foundations.

The Ecological Walkover Survey – Notes a selection of bird species on site but no evidence of badgers or hedgehogs. It recommends a daytime bat survey, vegetation clearance outside the bird nesting season and covering excavations overnight to assist small mammals. It also recommends tree protection.

The Preliminary Risk Assessment for Bats & Birds – States that during the inspection none of the trees provided opportunities for roosting bats but that opportunities to create new habitats should be considered.

The Code for Sustainable Homes Ecological Assessment – Describes the methodology, ecological value of the site and ecological credits. It recommends good horticultural practice, tree, shrub and bulb planting, bat and bird boxes, log piles and climbing plants.

The Tree Survey & Tree Constraints Plan – The survey covered 9 individual trees. All trees are suitable for retention with removal of tree suckers and crown lifting of only one tree recommended.

The Phase 1 Desk Study Report – Gives an analysis of the site history in terms of its geology, mining and ground stability as well as gas analysis, hydrogeology, hydrology and flood risk. It concludes that past mining is a potentially significant risk, there is a moderate sensitivity and low risk of contamination and no significant flood risk.

The Interpretive Phase 2 Ground Investigation Report – Recommends further gas monitoring and installation of gas protection measures, testing of any imported topsoil, recycling and re-use of materials where possible and makes recommendations for foundation design.

### **Relevant Planning History**

12/0955/FL – Erection of 10 dwellings, associated car parking, landscaping, bin and cycle stores and associated works – Granted Subject to Conditions 19/10/12.

06/1681/PD/W6 – Prior notification of demolition of two storey traditionally constructed buildings – Approved 23/10/06.

### **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:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

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

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

### **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. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

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

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include provision of a high quality environment.

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

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

CSP4: A high quality of design of the built and natural environment is required.

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable.

DEL2: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.



TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the energy demand of the development.

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

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

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

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

H1: The Council will promote and encourage the renewal of existing residential areas.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

H4 (only clauses (g) to (j) are "saved"): Provides more detail about affordable housing in support of BCCS policy HOU3.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

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

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



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

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

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

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

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

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

Flats with communal provision: 1.5 spaces per unit

Flats with allocated parking: 2 spaces per unit

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

## **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 NPPF policy. The relevant SPD's are:

### **Designing Walsall SPD**

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

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by

itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

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

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

### **Supplementary Planning Document Urban Open Space**

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

### **Consultations**

**Transportation** – No objections. Conditions are recommended to secure access and parking. The proposal shows 20 parking spaces for 19 flats. Policy T13 requires 29 spaces so the development is 9 spaces below the required amount. The site is within 500m walking distance of Willenhall District centre on a frequent bus route and in a cul-de-sac where on street parking would not create a severe highway impact. On balance the level of parking is acceptable.

**Pollution Control (Scientific Team)** – No objections. It is recommended that construction times are controlled by condition to minimise impacts on neighbouring residential premises and a requirement for submissions of a construction working plan that outlines how the applicant will control noise, vibration and dust during construction and engineering works.

**Pollution Control (Contaminated Land)** – No objections subject to works being implemented to investigate and remediate any localised ground gas issues associated with the site as recommended by the “Interpretative Phase 2 Ground Investigation Report” (JPB 5th May 2011 reference KB47801/13/ACJ/FT/GP). Conditions to address these concerns are recommended.

**Asset Management** – No objection. There is a deficit in the build cost for this development for 100% affordable accommodation, on this basis the assessment demonstrates that the scheme would not be able to support any further S106 contributions.

**Environmental Health** – No comments.

**Fire service** – No objections.

**Housing Strategy** – No objections. The mix of 1 and 2 bedroom apartments is acceptable.

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**Landscape** – No objections. A condition is recommended to secure detailed soil specifications and to retain existing grass and tree areas.

**Local Access Forum (Walsall Ramblers)** – There are no public rights of way but clarification as to whether there is any impact on pedestrian access from Little Clothier Street to Clothier Gardens is sought.

**Natural England** – No objections. Consideration of protected species, local sites and risk zones for statutory sites should be made.

**Natural Environment (Ecology)** – No objections. The site is within 50m of scattered mature trees but there is little feeding habitat for bats in the immediate neighbourhood. The severance of the landscape by residential streets and the lack of substantial tree belts or hedges make bat presence low risk so no bat survey is required.

**Police** – The site is located in Willenhall South Neighbourhood Policing Beat Team. There have been 1604 recorded crimes in the last 12 months. Due to the high crime rate it is recommended that Secure by Design accreditation is achieved. Measures are recommended for security of the building, doors and windows, access control, provision of defensible space and perimeter fencing and gates. It is also recommended that parking bays are not allocated to specific flats.

**Severn Trent Water** – No objections subject to securing drainage details. A condition is recommended.

### **Public Participation Response**

There are three representations which are summarised as follows:

- There are foxes and squirrels that use the site which are not mentioned in the assessments
- If new homes have more than 1 car they will park in Little Clothier Street causing a difficulty for large vehicles on this narrow road
- Overlooking from the apartments
- Objects to social housing as the area has already declined since social housing was built nearby
- Existing social housing has caused concerns over personal safety and anti-social behaviour so additional housing will exacerbate the problem

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

### **Determining Issues**

- Principle of residential development
- Layout and design
- Relationship to surrounding properties
- Means of Access and Parking
- Provision for affordable housing and urban open space
- Local Finance Considerations

### **Observations**

#### **Principle of residential development**

The principle of redevelopment for new residential properties on this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies.

The principle of development of the site for 10 flats was approved under application 12/0955/FL. This showed three separate blocks with walkways between. The current proposals are broadly the same footprint but show a single building filling in the spaces between blocks.

It is considered that residential development is appropriate in this residential area subject to an acceptable layout and design which is discussed below.

### **Layout and design**

The layout shows the proposed apartment building located on broadly the same footprint as that approved for application 12/0955/FL except where the previous permission showed three separate buildings the current proposal joins these together into one block.

The layout has secure parking close to the building and enables retention of the mature trees facing Bloxwich Road South and Little Clothier Street which provide an attractive setting for the building and amenity value for future occupiers. The public footpath between Clothier Gardens and Bloxwich Road South is retained which addresses the Local Access Forum concerns. There are 900mm high metal railings proposed around the perimeter of the site to Bloxwich Road South and Little Clothier Street which maintains an open aspect and 1.8m high railings to secure the parking courtyard on Clothier Gardens. The refuse stores will comprise hit and miss fencing and a close boarded fence is proposed along the boundary with existing property gardens.

The modern design of the building is considered acceptable as the proportions and scale are in keeping with similar developments in the vicinity. There are three storey flats opposite on Bloxwich Road South.

The ecologist is satisfied that there are no ecological impacts as a result of the development. The foxes and squirrels mentioned by the neighbour are not protected species but the layout does retain some trees and landscaping to provide cover.

The layout and design of the site is considered acceptable.

### **Relationship to surrounding properties**

The proposed building is broadly in line with the existing housing 2-16 Clothier Gardens which also fronts Bloxwich Road South. The proposal continues this built frontage along Bloxwich Road South and as the relationship is a gable to gable with no windows there is no potential overlooking between the two.

The facing elevations of the eastern wing of the building are over 36m away from the properties in Clothier Street whose gardens back onto the site and 14m away across the main highway from new flats on Bloxwich Road South. Although an objector from the new flats considers that the proposal will result in overlooking the distances between properties are often less between properties facing the street and the relationship is no different to that between existing properties.

The proposed building is set back between 5-7m from Little Clothier Street and the nearest houses are 12m away. This relationship is across a street and as referred to above distances are often less in this situation as the footway is closer and the highway interrupts

views. The retention of trees will also help assimilate the building into its surroundings and provide some screening throughout the summer months.

On the basis of the above comments the relationship to surrounding properties is considered to be acceptable.

### **Means of access & parking**

The means of access utilises the existing access off Clothier Gardens and does not adversely affect the public footpath between Clothier Gardens and Bloxwich Road South. There are footpaths from the lobbies of the building to the car parking areas and leading out to join the existing footways surrounding the site. This enables easy access to the bus stops and Willenhall District Centre.

There are 20 parking spaces for 19 flats which equates to just over 1 space per flat. Despite this being 9 spaces below that recommended in policy T13 the Transportation Officer is satisfied that this level of parking is adequate given the sustainable location of the site close to local bus stops and within 500m of Willenhall District Centre. An objector considers overspill parking from the site may cause congestion from parking in the surrounding roads that could cause difficulty for larger vehicles to manoeuvre on narrow roads. The Transportation Officer has considered the potential for overspill parking on the surrounding streets but concludes that this would not have a severe highway impact.

On this basis the means of access and parking is acceptable.

### **Provision for affordable housing and urban open space**

Policy HOU3 of the BCCS and Supplementary Planning Document: Affordable Housing requires provision of 25% affordable housing on qualifying sites of 15 units or over. This scheme proposes all 19 flats for social rented affordable housing to be managed by Walsall Housing Group. The Housing Strategy officer has no objections to this mix and welcomes the inclusion of 1 bedroom units. The provision of 100% affordable housing is considered acceptable and will be secured by a condition.

An objector considers there has been a decline in the area already by development of social housing nearby and that the proposals will increase concerns over personal safety and anti-social behaviour caused by residents. These are matters that would be monitored by the Police and the landlord and are not material planning considerations.

In accordance with policies GP3 and LC1 of the UDP, policy DEL1 of the BCCS and Supplementary Planning Document: Urban Open Space the proposal also triggers the need for urban open space provision. This would equate to £22,176 for this development.

The developer offers nil contributions and has provided a Viability Assessment which has been reviewed by Asset Management. Officers agree that the scheme is unable to support any further contributions over and above the affordable housing.

The proposals offer the opportunity to re-develop a vacant previously developed site within an established residential area and the provision of 100% affordable units is acceptable.

It is recommended that in light of the viability of the scheme the contribution towards open space is not collected in this instance.

## **Local Finance Considerations**

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 19 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

## **Recommendation**

Grant permission subject to conditions.

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

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

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

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

- i. Prior to built development commencing an additional survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii. Prior to built development commencing a copy of the findings of the survey and ground gas assessment, together with an assessment of the hazards arising from any ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii. Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

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- iv. The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

3a. Prior to the commencement of development samples of all facing and roofing materials shall have been submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed with the approved details and retained thereafter.

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

4a. Prior to the commencement of the development full details of the depth and specification of new topsoil or detailed operations for improving the existing soil shall be submitted to and approved in writing by the local planning authority.

4b. The approved details and all landscaping shall be carried out in accordance with the approved plan C-1113-01 Revision A and implemented within 12 months of the completion of the development.

4c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

5a. Prior to the commencement of the development a construction working plan shall be submitted to and approved in writing by the local planning authority which demonstrates measures for controlling noise, vibration, dust, flying debris, and drag-out from the site.

5b. All agreed measures shall be implemented and maintained throughout the duration of demolition, construction and engineering activities.

*Reason:* To protect visual amenities and the residential amenities of surrounding properties.

6a. Prior to the commencement of the development, full details of the cycle shelter for the use of residents and visitors shall be submitted to and approved by the Local Planning Authority. The facility shall be covered and secure.

6b. The cycle shelter facility shall be fully implemented in accordance with the approved details prior to the development first coming into use.

6c. The cycle shelter facility shall thereafter be retained and used of no other purpose.

*Reason:* To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

7a. Prior to the development first coming into use the following matters shall be addressed:

- i. All parking areas shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground.
- ii. New footway dropped kerbs (not bellmouth type accesses) shall be installed at the vehicle access points on Clothier Gardens and Little Clothier Street, constructed to a specification to be approved and agreed in writing by the Local Planning Authority. Any works shall meet all statutory requirements.

7b. The parking areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13.

8a. The developer shall make appropriate provision for affordable housing on the site, or any alternative provision as may be agreed in writing by the local planning authority in accordance with policies HOU3 of the Black Country Core Strategy and policy GP3 of Walsall Unitary Development Plan.

8b. The agreed affordable housing provision shall be maintained throughout the life of the development.

*Reason:* To ensure adequate provision for affordable housing in accordance with policies HOU3 of the BCCS and policy GP3 of the UDP and Supplementary Planning Document: Affordable Housing.

9a. The development shall be carried out in accordance with the approved drainage strategy and drainage details shown on drawings CW-14-106-500 Revision P0 and CW-14-106-501 Revision P0.

9b. The drainage scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

10. The boundary treatments throughout the site shall be carried out and retained in accordance with the agreed boundary treatments identified on the approved drawing D02 Revision B.

*Reason:* To preserve the visual amenities of the surrounding area.

11. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.



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

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

12. No ground fires shall be permitted on the application site during demolition, engineering and construction works.

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

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

-

- Location Plan (D00) received 25/07/14
- Site Layout Plan (D02 Rev B) received 15/07/14
- Ground & First Floor Plans (D03 Rev B) received 15/07/14
- Second Floor & Roof Plan (D04 Rev B) received 15/07/14
- Elevations (D07 Rev B) received 15/07/14
- Perspectives (D08) received 15/07/14
- Detailed Landscape Proposals (C-1113-01 Revision A) received 15/07/14
- Proposed Drainage Strategy (CW-14-106-500 Rev P0) received 15/07/14
- Drainage Details (CW-14-106-501 Rev P0) received 15/07/14
- Design & Access Statement prepared by BM3 Architecture (May 2014) received 15/07/14
- Viability Assessment prepared by GVA (August 2014)
- Walkover Survey prepared by Middlemarch Environmental received 15/07/14
- Preliminary Roost Assessment for Bats & Birds prepared by Absolute Ecology (3 June 2014) received 15/07/14
- Tree Survey & Tree Constraints Plan in accordance with BS5837 prepared by Marlow Consulting Ltd (27 May 2014) received 15/07/14
- Code for Sustainable Homes Ecological Assessment prepared by Middlemarch Environmental (RT-MME-117043-02)
- Geotechnical & Geoenvironmental Investigation prepared by Applied Geology received 28/07/14
- Phase 1 Desk Study Report & Interpretive Phase 2 Ground Investigation Report prepared by JPB received 28/07/14

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

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

**CL1:** Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework (2012); British Standard BS10175: 2011+A1:2013 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

**CL3:** Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 16/10/2014

**Plans list item no: 4.**

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

**Application Number:** 14/0810/FL

**Application Type:** Full application

**Applicant:** Powertrain Ltd

**Proposal:** Erection of a two storey vehicle workshop and offices on vacant industrial land.

**Location:** EXISTING VACANT INDUSTRIAL SITE, STRINGES LANE, WILLENHALL

**Ward:** Willenhall South

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

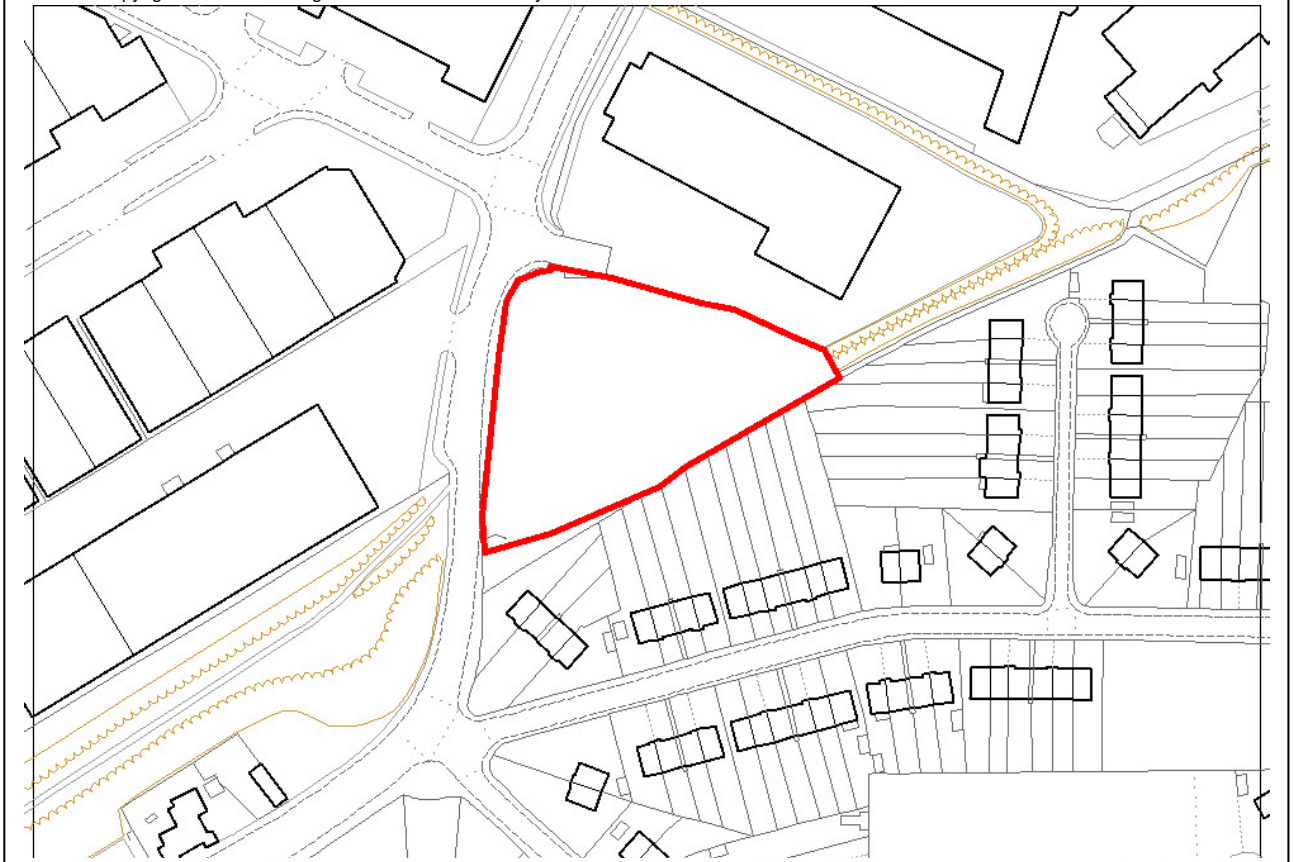
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Alexminster Ltd

**Expired Date:** 01/10/2014

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

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## **Application and Site Details**

The proposal is for the erection of a new industrial building with ancillary offices and staff facilities at a vacant site in Stringes Lane. The site is broadly triangular in shape and has boundaries with housing in Gough Street and Slater Street, a disused railway and existing industrial premises. There is a vacant overgrown site along the boundary of 73 Gough Street that was formerly occupied by 90a Stringes Lane. The railway land is identified as a potential future Metro link. The area to the north of the site is predominantly industrial within a core employment area. There is an existing 3m high embankment along the boundary with the disused railway which is overgrown. The existing access to the site is off a short spur of highway shared with the adjacent industrial premises.

The proposal is to erect a new building parallel to the boundary with the adjacent industrial premises and introducing a new independent access directly from Stringes Lane. The proposed building is approximately 46m long and 21m wide with the reception and offices over two floors at the front near to Stringes Lane and the workshop and staff facilities over two floors at the rear. There is a glazed elevation to the front corners of the building which is angled. There are five proposed bays within the workshop each with roller shutter doors facing the disused railway. The building is 9.2m high with a shallow pitched roof.

The proposed premises will enable Powertrain who occupy premises in nearby Stringes Close to expand their business. It is proposed that there will be 12 new employees. Hours of use are requested between 07.00 to 18.00 hours Mondays to Fridays and 08.00 to 13.00 on Saturdays with no Sunday or bank holiday working.

The proposed new access is directly off Stringes Lane and is staggered to avoid the access on the opposite side of the road. The proposals include provision of a new footway along Stringes Lane in front of the site where there is presently no footway.

There are 18 proposed car parking spaces including 2 disabled spaces. There is a cycle stand to accommodate 4 cycles located within the parking area. The parking is split so that there are spaces at the rear and front of the building.

Supporting information has been provided regarding the potential noise risk from the facility. The applicant highlights that the site is allocated for employment uses so an element of noise is to be expected and the nearest residents 46 metres away will already experience ambient noise from surrounding industrial premises so the proposal will result in only a minor increase in noise levels. No work or activities will take place outside the building and insulated doors will remain closed during the working day only opening to allow vehicles to enter and exit. Anticipated vehicle movements are between 4/5 per week. All vehicles parts are made in the existing premises in Stringes Close so the new premises will be mainly for assembly only using hand tool only. Staff use of car parking areas that could emit noise will only occur during the requested operational hours.

Information regarding the operation of the business explains that the main business is manufacture of axles and gearboxes on the Stringes Close site and that these are used by national and local bus operators. The new facility is proposed as a reception point and workshop where vehicles are received for repairs on an appointment basis. In a typical week there will be 4/5 vehicles booked in for repair (1 per day). No repairs will be undertaken outside the proposed building and no MOT facility is proposed. The majority of vehicles are 10.6m long but in the event that a towing vehicle is used the new access can accommodate this. Roller shutter doors will be closed for security as well as noise mitigation.

The total floor space is 1090m<sup>2</sup> including the offices.

The Design Statement – Describes the site and proposals including landscaping, appearance and access.

The Ground Investigation Report – Studies the ground conditions and makes recommendations in relation to past coal workings, foundation design and contamination.

### **Relevant Planning History**

04/1642/FL/W2 – Passenger vehicle repair and maintenance centre – Granted subject to conditions 30/06/2005.

BC57754P – Erection of an industrial unit (B2 – General Industrial)(Amendment to BC55600P) – Granted subject to conditions 30/07/2001.

BC55600P – Erection of 1 industrial unit for B2 general industrial use and 11 industrial units for B1 light industrial/office and B8 storage and distribution plus ancillary parking – Granted subject to conditions 26/04/2000.

#### **90a Stringes Lane**

07/0165/FL/W5 – Detached dwelling – Refused 21/08/07. Appeal dismissed on the grounds of highway safety due to the introduction of a new access with insufficient visibility.

### **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:

- Support sustainable development
- Promoting sustainable transport

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

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 121 Development sites should be suitable for new uses taking account of ground conditions and land instability, including from natural hazards or former activities such as mining and pollution.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

### **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. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

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

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors free-standing employment sites to provide local employment opportunities to serve communities outside the corridors will be supported.

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

EMP1: Aims to provide industrial land and warehouse jobs in the Black Country and to protect jobs and support economic growth.

EMP2: Encourages development of high quality employment land and safeguards it for B1(b), B1(c), B2 & B8 purposes.

EMP3: Provides for local quality employment land.

EMP5: Seeks to improve access to the labour market by securing recruitment and training.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV5: Seeks to minimise the probability and consequences of flood risk.

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

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

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

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

ENV32: Proposals should take in to account the surrounding context including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

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

JP5: Core employment areas will be safeguarded for core employment uses, permissions for which may be subject to conditions to prohibit change to other uses, such as Class B1(a) offices. Proposals for other uses will only be permitted where it can be demonstrated that a



need would be met which could not be satisfied elsewhere in the Borough; or the range and quality of employment opportunities would be significantly increased.

JP8: Bad neighbour industries will be given careful consideration and should be capable of providing satisfactory screening and landscaping and must be subject to stringent operational control to minimise disturbance.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

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

T8: Seeks to improve pedestrian access.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

Class B2 (Industrial) – 1 car park space per 50m<sup>2</sup> up to 250m<sup>2</sup> then 1 space for every additional 100m<sup>2</sup> of gross floor area

### **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 NPPF policy. The relevant SPD's are:

#### **Designing Walsall SPD**

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

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

### **Consultations**

**Transportation** – No objections subject to conditions to secure the details of the access, visibility and parking. The parking provision is acceptable for a Class B2 use. Improvements to the existing visibility splays and pedestrian facilities are to be provided. The revised access shows adequate separation from the future Metro line level crossing on Stringes lane.

**Pollution Control (Scientific Team)** – No objections subject to conditions to secure measures to address potential noise issues.

**Pollution Control (Contaminated Land)** – No objections. The findings of the ground investigation report (AJM/21864; dated 20 May 2014; by GIP Ltd) have been assessed and the report findings are accepted. Based on the proposed end use of the site as commercial/industrial use, the report considers that any contamination on site is within acceptable levels and that no remedial measures are required.

The report highlights that made ground overlaying the site is heterogeneous in nature; therefore there is the potential for undiscovered contaminated material to be present. The recommendation in the report is that a watching brief be adopted during any earthworks for such contamination. If any such material is exposed, in the first instance the geo-environmental engineer should be informed and secondly it should be reported to the Local Planning Authority. A condition to secure this watching brief is recommended.

**Landscape** – No objections subject to detailed landscaping. Further tree planting is suggested to enhance the area and Stringes Lane frontage.

**Natural Environment (Ecology)** – No objections subject to no encroachment onto the land zoned for a future Metro line as this is currently functions as a wildlife corridor.

**Network Rail** – No comments.

**Severn Trent** – No objections subject to provision of drainage details. A condition to secure this is recommended.

### **Public Participation Response**

None received.

### **Determining Issues**

- Principle of development
- Layout and Design
- Relationship to surrounding properties
- Means of access and parking

### **Observations**

#### **Principle of Development**

The premises are located on the periphery of a core employment area where there are established industrial uses adjacent. In accordance with policies EMP2 and EMP3 of the BCCS and JP5 of the UDP these types of sites are safeguarded for employment uses including classes B1, B2 and B8. The proposal is for a Class B2 general industrial use with ancillary offices and staff facilities. This accords with the policy to protect employment land.

The proposal will benefit the existing business in Stringes Close and will employ 12 staff thus contributing to the employment within the borough and helping to safeguard existing jobs.

Planning permission has also been granted for industrial uses on the site in the past which is a material planning consideration.

For these reasons the proposals are considered in accordance with BCCS policy EMP2, EMP3 and UDP policy JP7.

#### **Layout and Design**

The proposed building is perpendicular to the highway in Stringes Lane due to the triangular shape of the site and need to accommodate the proposed size of the building. This mirrors the alignment of adjacent industrial units on this side of Stringes Lane. The design of the

building incorporates offices at the front which presents a strong frontage to Stringes Lane and offers increased surveillance of the street and parking areas.

The proposed new access, parking and manoeuvring areas are located to the side and rear of the proposed building. Although visible from the street new landscaping is proposed to the Stringes Lane frontage which will enhance the setting. Details of landscaping are to be secured by a recommended condition.

The layout retains the embankment alongside the disused railway to protect it for the future Metro line. This addresses the ecologist concerns and will provide a greater buffer to the adjacent housing. A condition is recommended to secure detailed landscaping to address the landscape officer comments.

The modern but purposeful design of the building is considered acceptable and will enhance the visual amenities of this vacant site.

The layout and design of the proposal are acceptable.

### **Relationship to surrounding properties**

The layout of the site is such that the roller shutters for the work bays are at the rear of the building which faces residential gardens. There is an existing 3m embankment along the disused railway which separates the site from the gardens. The applicant considers this will reduce any potential noise impact on residents. They have explained that as the proposal is for restricted working hours and any works will take place only within the building with the shutters closed there will be little change to the ambient background noise already experienced by these neighbours.

The houses in Slater Street are between 25m and 42m away from the boundary of the site with the embankment in between. In the circumstances the proposed building will not cause significant harm to the outlook from these properties. The gable of 73 Gough Street is 13m away from the boundary of the site separated by land that was previously occupied by 90a Stringes Lane (a vacant overgrown site). There is proposed landscaping and a cycle shelter in this location so there will be no significant impact on the outlook for these houses either.

A key concern is the potential impact on residential neighbours from noise and disturbance at the site. The applicant has requested limited working hours that do not impinge into the evening, Sundays or bank holidays. They have also confirmed that all works will take place within the building itself with only hand tools used and that the shutters will remain closed except for vehicle manoeuvring. It is recommended that MOT's are precluded from the use to prevent potential for disturbance. The embankment is to remain in place to help screen the site and the insulation properties of the building also provide a certain amount of noise mitigation. In the circumstances, the combination of these measures which are to be secured by conditions will help protect residential amenities from any significant adverse impact. Consideration is also given to the fact that the site was previously developed for industrial purposes, there has been a previous approval for new industrial premises and the site is allocated for employment purposes.

It is considered that the measures secured by the layout coupled with safeguarding conditions will protect the amenities of surrounding occupiers from any significant adverse impact from noise and disturbance.

### **Means of access and parking**

A new access is proposed directly off Stringes Lane as the position of the building requires the closure of the existing access. The proposed new access is offset from the access to premises opposite and at a sufficient distance from the northern boundary to allow adequate visibility. This is particularly important as there needs to be adequate stopping distance between the junction with Gough Street and Slater Street. Vehicle tracking diagrams have been supplied which demonstrate how vehicles can turn into and out of the site safely.

The parking proposed accords with policy T13 and is acceptable.

**Positive and Proactive working with the applicant**

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant amended plans and supporting information has been submitted. In light of the submitted details officers are able to support the scheme.

**Recommendation:** Grant Permission Subject to Conditions

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

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act, 1990.

2a. Prior to the commencement of any works at the site a noise impact investigation shall be undertaken and the report submitted to and approved in writing by the Local Planning Authority.

2b. Any mitigation measures arising from the noise impact assessment report shall be first submitted to and agreed in writing with the Local Planning Authority.

2c. All agreed noise mitigation measures shall be fully implemented prior to the site coming into operational use.

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

3a. Prior to the commencement of the development details of the disposal of both surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed fully in accordance with the approved details and retained as such.

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

4a. Prior to the commencement of development samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be fully completed in accordance with the approved details and retained thereafter.

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

5a. Prior to the commencement of the development full details of hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. The details shall include the following:

- i. correct botanical names
- ii. numbers/planting densities for each/any block of planting proposed
- iii. size supplied of any trees /shrubs / plants at time of planting
- iv. planting details of tree planting to include min, 5m<sup>3</sup> available soil, staking and tree pit details (preferably shown on a scaled drawing)
- v. details of proposed turf / seeded areas
- vi. topsoil and mulching depths and specifications
- vii. details of landscape establishment / maintenance proposals to be undertaken during the standard conditioned maintenance period
- viii. details of the future management of the landscape scheme
- ix. ground preparation measures to be adopted

5b. The scheme shall be completed fully in accordance with the approved details before the development is occupied and retained as such.

5c. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

6a. Prior to the commencement of the development a construction management plan shall be submitted to and agreed in writing with the Local Planning Authority for the purposes of mitigating noise, vibration, dust and site drag-out of debris.

6b. The development shall be carried out in accordance with the agreed construction management plan.

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

7a. Prior to the commencement of the development full details of all boundary treatment shall be submitted to and approved in writing by the local planning authority.

7b. The boundary treatment shall be fully implemented and maintained thereafter in accordance with the agreed details.

*Reason:* To protect the visual amenities of the area and maintain highway safety.

8a. Prior to the commencement of the development full details of the acoustic properties of the building structure, including glazing, shall be submitted to and agreed in writing by the local planning authority.

8b. The building shall be constructed in accordance with the agreed details and retained thereafter.

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

9a. Prior to the commencement of the development, full engineering details the new bellmouth access point and 2 metre wide footway across the site frontage, shall be submitted to the Local Planning Authority for technical approval in writing.

9b. Prior to the development first coming into use, the highway infrastructure works detailed under Condition 9a shall be fully implemented in accordance with the approved details to the satisfaction of the Local Highway Authority.

*Reason:* To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2 and T8 and in the interests of highway safety.

10a. Prior to the development first coming into use, all vehicle hard standing , parking and manoeuvring areas shown on the approved plan no. 13.242.22 Rev F shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground.

10b. All vehicle hard standing, parking and manoeuvring areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13 and in the interest of highway safety.

11a. Prior to development first coming into use, all 2.4m x 43m visibility splays at the existing and proposed access points, shall be fully implemented and kept free of any structures - including the proposed 2 metre high boundary palisade fence - and planting exceeding 600mm in height above carriageway level.

11b. The visibility splays shall thereafter be kept free of any structures and planting exceeding 600mm in height above carriageway level and used for no other purpose.

*Reason:* To provide adequate inter-visibility at the existing and proposed access points in the interests of highway safety and UDP Policy GP2.

12a. Prior to the development first coming into use, full details of the proposed cycle shelter, which shall be covered and illuminated shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented and brought into use.

12b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

*Reason:* To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

13a. Prior to the installation of any external lighting systems full details shall be submitted to and agreed in writing with the Local Planning Authority.

13b. Any agreed external lighting shall be implemented and maintained in accordance with the agreed details.

14. A watching brief for potential contamination on the site shall be adopted during any earthworks. If any contaminated or potentially contaminated material is exposed this should be reported to the geo-environmental engineer and the local planning authority. Proposals for dealing with the exposed contaminated material and a method statement for undertaking any additional works shall be submitted to and approved in writing by the local planning

authority prior to the commencement of works. The works shall be carried out in accordance with the agreed method statement.

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

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

15. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

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

16. The site shall not be open on any Sunday, Bank and/or Public Holiday, and otherwise shall only be open for business (including collections, deliveries, and despatches) between

- 07.00 to 18.00 Monday to Friday;
- 08.00 to 13.00 Saturdays

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

17. No industrial process shall take place external to the building.

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

18. Fixed plant and/or machinery shall be located within the building or located within acoustic enclosures.

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

19. No washing of vehicles using machine pumped or high pressurised equipment shall take place in the open.

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

20. All doors and windows that face residential premises shall remain closed other than when used for access and egress or emergency purposes.

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

21. No amplification equipment or public address systems, other than emergency alarms, shall be installed in the premises.

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

22. Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987 (as amended) the premises shall only be used for Class B2 general industrial purposes with ancillary offices and staff facilities and shall exclude the carrying out of MOT's at the site.

*Reason:* To ensure that adequate on-site parking and servicing is available in order to minimise potential indiscriminate parking on the public highway in the interests of the free flow of traffic and highway safety and to protect the amenities of surrounding occupiers.

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

- Location Plan (13/242/01 Rev A) received 18/06/14
- Site Layout Plan (13/242/22 Rev F) received 12/09/14
- Proposed access related to Stringes Lane road alignment (13/242/34) received 12/09/14
- Ground floor Plan (13/242/17 Rev C) received 02/06/14
- First Floor Plan (13/242/18 Rev C) received 02/06/14
- Elevations (13/242/28 Rev A) received 02/06/14
- Section AA (13/242/19), Section BB (13/242/20), Section CC (13/242/21 Rev A) received 02/06/14
- Sections 1-1, 2-2 and 3-3 (13/242) received 22/09/14
- Site Survey Plan (13/242/SP) received 02/06/14
- Sewer Record Plan received 02/06/14
- Desk Top Study prepared by GroundSure GeoInsight received 02/06/14
- Ground Investigation Report prepared by GIP received 02/06/14

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

### **Note to applicant regarding Noise surveys**

Noise surveys may need to adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation point, and may also need to take account of changes in noise levels on account of height above ground floor level to account for noise exposure at sensitive receptor points. Additionally, a noise survey may have to take into consideration changes in noise climate between normal weekdays, and weekends, effects of holiday periods, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys may be required to corroborate a single noise survey.

Submitted noise measurement data should include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of performance verification checks, recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum. Sound level measuring instrumentation shall conform to either: 'Type 1' of either British Standard BS 5969: 1981 'Specification for sound level meters', and/or BS EN 60651: 1994 'Specification for sound level meters', and/or BS 6698: 1986 'Specification for integrating-averaging sound level meters', and/or BS EN

60804: 1994/2001 'Specification for integrating-averaging sound level meters' and/or 'Class 1' of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications' (or any superseding standards as applicable).



Instrumentation shall have been verified either in accordance with British Standard BS 7580 'Specification for the verification of sound level meters'

Part 1: 1996 'Comprehensive procedure' or BS EN 61672: 2003 'Electroacoustics - Sound Level Meters - Part 3: Periodic Tests' within a preceding 2 year period of measurements being conducted, or else verified with a multifunction acoustics calibrator that has been UKAS certified within a preceding 2 year period.

In regard to specifying suitable noise mitigation measures to protect internal and/or external residential areas, reference can be made to guidance and criteria contained in British Standard BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings', British Standard

BS4142:1997 ' and World Health Organisation 'Guidelines for Community Noise 2000'.

**Note for applicant - highways**

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to enter into agreements under S38 or S278 of the Highways Act 1980 for all adoptable highway works or works within the existing public highway.





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 16/10/2014

**Plans list item no: 5.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 14/1243/FL  
**Application Type:** Full application

**Case Officer:** Devinder Matharu  
**Telephone Number:** 01922 652602  
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**Agent:** Philip Taylor Associates

**Applicant:** Mr Gary Hill

**Proposal:** Construction of new dwelling, including alteration of information submitted in connection with application and consent referenced 12/0720/FL

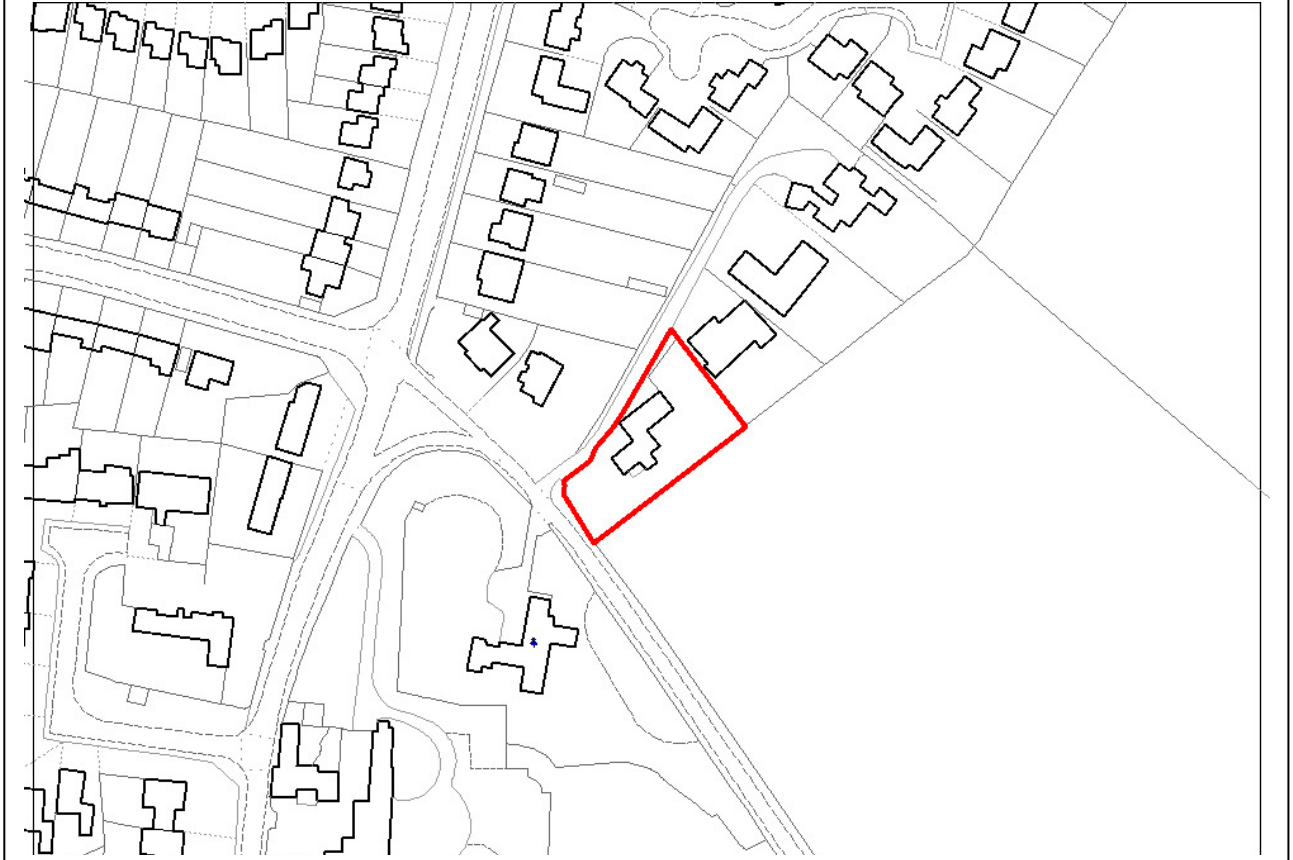
**Location:** 28 HOBS HOLE LANE, WALSALL, WS9 8QY

**Ward:** Aldridge Central & South

**Expired Date:** 21/10/2014

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

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## **Application and Site Details**

Hobs House, 28 Hobs Hole Lane is a large "L" shaped detached dwelling with a single storey side extension (eastern elevation) and a rear conservatory (southern elevation). Access is from the private drive leading off Hobs Hole Lane. The main part of the house is two storeys high and set back with the site. A front extension has been added to the property fronting Hobs Hole Lane having a steep pitch and dormer windows. The side facing eastern elevation has a ground floor kitchen window, a first floor WC window and two dormer windows, one belonging to a bathroom and the other a secondary habitable room window.

The application site forms the side garden of Hobs House, 28 Hobs Hole Lane; the boundary treatment fronting Hobs Hole Lane from the side garden is a boundary conifer hedge.

There are 3 bungalows and Hobs House (number 28) which are accessed from the private drive off Hobs Hole Lane.

Number 26 Hobs Hole Lane is a large detached bungalow to the west of 28 Hobs Hole Lane and is the closest neighbouring property to the application site. A close board fence approximately 1.8m high forms the boundary between the application site and this property. The bungalow has a bathroom window, utility window which faces the application site and a rear conservatory in close proximity to the boundary with the application site. The main habitable room windows of this bungalow face to the rear garden, southern elevation away from the application site. The lounge to this bungalow is located to the east of the site adjacent number 26 Hobs Hole Lane and projects out approximately 2.6m from the main elevation of the bungalow. Within this projection there is a secondary lounge window that faces towards the application site.

Opposite number 28 Hobs House is number 2 Hobs Hole Lane which is a detached two storey property with side dormer windows at first floor and ground floor habitable room windows facing towards 28 Hobs House. The boundary of this property with the Hobs Lane consists of a 1.8m high fence behind which are a row of conifer trees which form a boundary hedge. Number 55 Walsall Wood Road sits to the north of number 26 and has a rear garden length of approximately 35m.

Beyond the southern boundary of the site is open countryside classed as Green Belt.

The site is located 768 metres from Lazy Hill Local Centre, 90m from Walsall Wood Road and approximately 150m from the nearest bus stop on Walsall Wood Road where there is a peak time service to and from Walsall and Aldridge via Lazy Hill Local Centre.

The application proposes the construction of a new house measuring 12.2m by 12.2m and 7.1m high with the first floor being within the roof space with 5 dormer windows. The principle dormer windows would be to the front and rear of the house serving bedrooms with two smaller dormers facing towards 26 Hobs Hole Lane serving bathrooms and a single dormer facing 28 Hobs House serving the landing.

The design of the house is a dormer bungalow with two principle dormer windows one facing the front and the other the rear of the site and three side dormers, two facing towards number 26 Hobs Hole Lane and 1 facing towards Hobs House. The main windows on the ground floor face the front and rear with secondary windows on the side elevations as well as utility, WC bathroom windows. The design would also include a chimney to the lounge adjacent 26 Hobs Hole Lane.

The house would be set back within the site from Hobs Hole Lane by 8.2m adjacent 26 Hobs Hole Lane and 5.2m adjacent 28 Hobs House.

The rear garden of the proposed house would be 7.2m in length with a total amenity area of 122 square metres. The proposal would retain an amenity area of 73 square metres for 28 Hobs House.

The side extension to Hobs House, 28 Hobs Hole Lane would be retained along the front side boundary of the proposed house reducing the side boundary to the proposed house to 1.4m.

The submitted block plan illustrates 3 off road parking spaces for both the proposed house and 28 Hobs House.

Under planning reference 12/0720/FL the construction of a detached dormer bungalow measuring 12.6m by 12.6m with a height of 7m high was approved in April 2013. This involved the demolition of the garage to the existing property. The dormer bungalow had:

- 3 bedrooms with one on the ground floor
- Vehicular access adjacent Hobs House.
- double integral garage with 2 parking spaces on the front drive way.
- Main rooms constructed within the roof space with main room dormers facing the front and rear of the site.
- A rear garden length of 7.4m.
- A total amenity area of 142 square metres.
- The dormer bungalow was positioned 1.2m further back from the rear side elevation of Hobs House and 4.8m further back from the rear laundry room at 26 Hobs Lane.
- The agent has confirmed that the roof height of the dormer bungalow would be 0.8m lower than Hobs House and 0.4m lower than 26 Hobs Hole Lane.
- The proposal retained an amenity area of 131 square metres for 28 Hobs House.

The design of the house was a dormer bungalow with two principle dormer windows facing the front and rear of the site and three side dormers, two facing towards number 26 Hobs Hole Lane and 1 facing towards Hobs House. The main windows on the ground floor face the front and rear with secondary windows on the side elevations as well as utility, WC bathroom windows. The design included a chimney to the lounge adjacent 26 Hobs Hole Lane. The ground floor window to the WC on the eastern elevation was not shown on the submitted plans.

The differences between the current scheme and the scheme approved under planning reference 12/0720/FL are as follows:

- The separation distance between the application site and 26 Hobs Hole Lane in the north eastern part of the site has been reduced by 0.4m from 3.4m to 3m.
- The building has been positioned 0.2m further forward towards Hobs Hole Lane from 8.4m to 8.2m.
- The side boundary between the proposed house and 28 Hobs House has been reduced from 3.4m to 1.4m. This is due to the retention of a small utility room on the south west corner of Hobs House.
- The ground floor window to the WC on the north west elevation was not shown on the original submitted plans, this has now been included.

The density of development in the immediate vicinity of the site Hobs Lane and Walsall Wood Road averages as 10 dwellings per hectare (dph), the development would have a density of 9 dph.

A Design and Access Statement has been submitted which states:

- The application is to make alterations to the drawings to reflect the adjustment of the fence line between the new and existing number 28 due to inaccuracies in the Ordnance Survey information used and the retention of the part of the existing garage.
- To make alterations to the drawings to reflect the adjustment of the proposed levels, due to inaccuracies in the estimated existing levels previously shown.
- To make alterations to the drawings to show dwarf walls introduced to cope with the revised levels.
- To make alterations to the elevation to show windows previously shown on the ground floor plan but not on the north and south elevations.

### **Relevant Planning History**

BC64397P. Erection of garage at Hobs Hole House, Hobs Hole Lane - granted subject to conditions 2001.

BC36057P – Erection of dwelling rear of Hobs House – refused 1992. Local appeal dismissed 1992.

12/0720/FL - Construction of new dwelling – granted subject to conditions 4<sup>th</sup> April 2013.

### **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:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.
- Contributing to conserving and enhancing the natural environment.

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

#### **4: Promoting Sustainable Transport**

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

39. If setting parking standards for residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

## 6: Delivering a Wide Choice of High Quality Homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

## 7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

60. It is, proper to seek to promote or reinforce local distinctiveness

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.

## 11. Conserving and enhancing the natural environment

118. opportunities to incorporate biodiversity in and around developments should be encouraged.

On **conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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.

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

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. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The key planning policies include

### **ENV3: Design Quality**

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

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

States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF



## 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:

Policies GP2, 3.6, 3.7 seek to make a positive contribution to the quality of the environment, whilst protecting people and not permitting development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

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

ENV17 new planting will be encouraged.

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

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

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

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T10: Accessibility Standards – General

(b) Standards will apply to all development proposals with the exception of:

i small residential developments within existing residential areas including infill plots

7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.

### T13: Parking Provision

3 bedroom houses and above, 2 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

### **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 (2013)**

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

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

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

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

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

### **Conserving Walsall's Natural Environment (2013)**

Expands on the policies contained within the environment chapter of the UDP. The document provides criteria for European Protected Species survey requirements.

### **Consultations**

**Transportation** – No objection subject to a condition relating to parking

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

**Pollution Control Scientific Team** – No objection subject to condition to control working hours

**Police – No objection**

**Environmental Health** – No objection

**Coal Authority** – No objection

**Ecology** – No objection subject to planning conditions to address bats.

**Severn Trent Water** – No objection subject to drainage condition

**Fire Officer** – No objection

**Arboricultural Officer** – No objection subject to tree protection measures being implemented.

### **Public Participation Responses**

Five letters from three residents have been received objecting to the proposal on the following grounds:

- Works on site continue without planning permission.
- Concerns over the distance between habitable room windows
- Loss of privacy to main lounge and garden
- Loss of privacy to neighbouring properties
- Overlooking of neighbouring properties and bathroom window
- Windows on the east elevation have now been moved to the west elevation resulting in loss of privacy
- Building moved 3ft towards Hobs House
- Concerns over if boundary vegetation should die leaving lounge and garden exposed
- Increase in levels is not shown on plans
- Concerns over the levels of the building and whether the building will be higher
- Should replace front window with velux or reduce height of window cill
- First floor windows should be reduced to a high level window
- House will dominate the area and sky line
- Chimney is industrial in proportion
- Loss of view due to free standing chimney

One of the objection letters has been submitted three times.

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

### **Determining Issues**

- Principle of the Development
- Design and Layout
- Impact on the Amenities of Surrounding Occupiers
- Impact on Trees and wildlife
- Parking and Access
- Local Finance Considerations

### **Observations**

#### **Principle of the Development**

The principle of residential development on the site has been accepted through the granting of planning permission for a dormer bungalow under planning reference 12/0720/FL.

The house would be in a residential area within easy walking distance (maximum of 1000m defined in paragraph 7.51 of the UDP) of Lazy Hill Local centre and within walking distance of Walsall Wood Road with regular bus services to and from Walsall and Aldridge via Lazy Hill Local centre. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

Whilst the proposals would result in the development of part of a residential garden which is not defined as previously developed land in the NPPF, in this case it is considered that the proposals would not harm to the local area and would not adversely impact on the character and identity of the local area as the house has a street frontage and reflects the immediate character.

An appropriate level of private amenity would be retained for the existing property, 28 Hobs House.

The principle of an additional dormer bungalow is considered appropriate in this location.

Objectors have raised concerns that works on the site have continued without a valid permission in place. Any works that have taken place on site are undertaken at the applicant's own risk as there is no guarantee planning permission would be granted.

### **Design and Layout**

Objectors have raised concerns that the proposed dormer bungalow has been repositioned 1.0m (3ft) towards Hobs House, 28 Hobs Hole Lane. The position of the dormer bungalow within the plot has moved forwards towards Hobs Hole Lane from 8.4 to 8.2m. The side boundary between the proposed house and 28 Hobs House has been reduced from 3.4m to 1.4m.

The width and length of the proposed dormer bungalow has been reduced from 12.6m to 12.2m, a reduction of 0.4m. It is considered that the repositioning and reduced footprint of the proposed dormer bungalow would not unduly impact upon the street scene or the character of the area and the proposal would not significantly deflect from the previously approved scheme under planning reference 12/0720/FL.

The rear garden length of the proposed dormer bungalow has been reduced from 7.4m to 7.2m, however, the total amenity area for the proposed house exceeds the Council's Residential standards by 54 square metres and therefore considered acceptable.

The design of the proposed dormer bungalow would remain as that previously approved under planning reference 12/0720/FL. Objectors have raised concerns that the chimney is of an industrial scale and would result in loss of view. The proposed chimney was approved under the previous application 12/0720/FL, so is not an additional feature. The chimney would be set back into the site seen against the backdrop of the proposed dormer bungalow and as such would not unduly impact upon the character of the area to warrant refusal of the chimney feature. From number 26 Hob Hole Lane, the chimney would be viewed against the backdrop of the dormer bungalow; the chimney would not be free standing but incorporated into the design of the dormer bungalow. The chimney resulting in loss of view is not a material planning consideration.

Objectors have raised concerns with the levels of the building, the building will be higher and that the house will dominate the skyline. The highest part of the proposed dormer bungalow would be 0.9m lower than the existing property Hobs House, 28 hobs hole lane and 0.3m

Higher than 26 Hobs Hole Lane. It is considered that the proposed dormer bungalow would neither unduly impact upon the character of the street scene nor dominate the skyline, as it would sit comfortably between numbers 28 and 26 Hobs Hole Lane.

Objectors have raised that the increase in levels is not shown on plans. All the dimensions on the plans have been shown and the agent has confirmed that the existing levels at the front of the site are lower than previously shown under planning reference 12/0720/FL.

### **Impact on the amenities of surrounding occupiers**

The side facing windows on the ground floor belonging to the utility and WC and the three dormer windows at first floor facing towards numbers 26 and 28 Hobs Hole Lane can be conditioned to ensure they are obscurely glazed to protect the amenities of the occupiers of both 26 and 28 Hobs Hole Lane in terms of overlooking and loss of privacy.

Objectors have raised concerns over loss of privacy to neighbouring properties, in particular overlooking of neighbouring lounge, garden and bathroom. The secondary windows to the habitable rooms on the side elevations facing numbers 26 and 28 Hobs Hole Lane would not unduly result in loss of privacy or overlooking of the adjacent properties 26 and 28 Hobs Hole Lane, as they are secondary windows with principle windows facing towards the front and rear of the site. The submitted plans shows the existing boundary with number 26 and the application site will remain and a proposed 1.8m high close board fence between the application site and 28 Hobs Hole Lane will be erected. A condition can be attached to ensure a boundary fences remain in perpetuity to protect the amenities of the occupiers of the proposed dormer bungalow and the occupiers of 26 and 28 Hobs Hole Lane.

Objectors have states that the windows on the east elevation have now been moved to the west elevation resulting in loss of privacy. The layout of the proposed dormer bungalow being considered under this application remains as previously approved under planning reference 12/0720/FL.

Objectors have raised concerns over the separation distance between the habitable room windows and the habitable room windows of neighbouring properties, in particular number 2 and 26 Hobs Hole Lane.

Number 26 Hobs Hole Lane has a secondary side facing lounge window that is positioned approximately 15m away from the boundary with the proposed dormer bungalow. The first floor bathroom dormers facing 26 Hobs Hole Lane will be obscurely glazed and the secondary ground floor window to the lounge will be screened by the existing 1.8m high close board fence. It is considered that the proposed dormer bungalow would not unduly result in overlooking or loss of privacy from these windows to warrant refusal of the application.

The separation distance between the application site and 26 Hobs Hole Lane in the north eastern part of the site has been reduced by 0.4m from 3.4m to 3m. It is considered that the revised position of the dormer bungalow at this part of the site would not unduly impact upon the amenities of the occupiers of 26 Hobs Hole Lane to warrant refusal of the scheme.

A planning condition will be attached to ensure that no new openings or doors are installed on the proposed dormer bungalow once constructed to protect the amenities of the occupiers of both 26 and 28 Hobs Hole Lane.

Number 2 Hobs Hole Lane has been extended at ground floor and there are ground floor lounge windows and first floor dormer windows that face towards 28 Hobs Hole Lane. Number 2 Hobs Hole Lane is currently overlooked from the existing building known as Hobs House, 28 Hobs Hole Lane. The separation distance from the front dormer window of the proposed dormer bungalow to the side extension of 2 Hobs Hole Lane is 27m, which exceeds the Council's separation distance by 3m.

Objectors have raised that the first floor front window should be replaced with velux, or reduce height of window cill or reduce it to a high level window. They also state if the boundary vegetation should die leaving the lounge and garden of 2 Hobs Hole Lane exposed. The application is a retrospective application and under part construction where the front dormer window timbers have been installed. From where the front dormer window will be located, it is evident that there is no direct overlooking of the rear garden of 2 Hobs Hole Lane, whilst the lounge and dormer windows of this property can be seen they are seen against the long view and there is no direct overlooking of this property. The vegetation within the grounds of 2 Hobs Hole Lane provides interrupted long views. It is considered that the proposed dormer bungalow would not unduly result in any significant direct overlooking of this property to impact upon the amenities of the occupiers.

The proposal complies with the Council's 45 Degree code on light from the adjacent laundry room at 26 Hobs Hole Lane and the rear conservatory at 28 Hobs Hole Lane.

The proposed dormer bungalow would be positioned to face the rear of 55 Walsall Wood Road. Number 55 Walsall Wood Road is positioned at an angle. It is considered that the proposed dormer bungalow would not unduly result in any direct overlooking of this property, as any views would be interrupted by the private drive and existing conifer hedge. It is considered that the proposed dormer bungalow would not unduly result in any significant direct overlooking of this property to impact upon the amenities of the occupiers.

A condition restricting construction work on site would be imposed to protect the amenity of surrounding residential occupiers.

Number 28 has a side facing kitchen window at ground floor, it is considered that the proposed dormer bungalow would not unduly result in loss of light to this window, as the slope of the roof would still allow light into the kitchen. The rear wing of 28 has a secondary dormer window facing the application site; the proposal would not unduly impact upon the amenities of the existing occupiers at 28 as there is a main window to the bedroom facing the private driveway.

### **Impact on Trees and wildlife**

Natural Environment have no objection to the proposal subject to conditions to protect bats and ensure roosting opportunities on site are available.

The Arboricultural Officer has no objection to the proposal subject to the Sycamore tree towards the rear boundary with the Green Belt being retained and the root area protected during construction works, this can be secured by condition.

### **Parking and Access**

The proposal provides 3 off road parking spaces for the proposed dormer bungalow and 3 off road parking spaces for Hobs House, in line with Policy T13 of the UDP. The vehicular access to the site will utilise an existing access point used by the occupiers of Hobs House and Transportation have no objection to the proposal.

## Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes the erection of a single house.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 792 new homes during 2010-2011 the award of £1,095,219 (which included a premium for affordable housing but also a deduction for an increase in vacancies) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards might be offset against reductions in the 'formula grant' the Council will receive from Government.

The weight that should be given to this, including in relation to other issues is a matter for the decision-maker.

## Positive and proactive working with the applicant

The proposal seeks amendments to the original scheme have been seen on site as building works have been continuing.

The proposal is consistent with the NPPF and is considered to accord with the aims and objectives of the Regional Strategy (2008), the Black Country Core Strategy (2011), in particular policies HOU2, ENV3 and ENV2, Walsall Unitary Development Plan (2005), in particular saved policies GP2, ENV32, ENV33, T7, T10, 7.51 and T13 and Supplementary Planning Documents – Designing Walsall (2013) and Natural Environment (2013).

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

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

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

2. The dormer bungalow hereby approved shall be constructed in accordance with the following drawing numbers:

- location plan submitted 26<sup>th</sup> August 2014
- block plan 1122-31c submitted 26<sup>th</sup> August 2014
- floor plans 1122-32f submitted 26<sup>th</sup> August 2014
- front and rear elevations 1122-35c submitted 26<sup>th</sup> August 2014
- overview from north 1122-37c submitted 26<sup>th</sup> August 2014
- ground view of front 1122-38c submitted 26<sup>th</sup> August 2014

- side elevations 1122-36c submitted 26<sup>th</sup> August 2014
- site plan 1122-34c submitted 26<sup>th</sup> August 2014
- Overview from rear 1122-40c submitted 26<sup>th</sup> August 2014
- ground view of rear 1122-39c submitted 26<sup>th</sup> August 2014

*Reason:* To define the permission.

3a. Prior to the commencement of work on the construction of the roof or driveway details of roofing materials and driveway surface materials shall be submitted to and approved in writing by the Local Planning Authority.

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

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

4a. Within three months of the date of this permission details of all boundary treatments, including the proposed dwarf walls, including the facing materials to be used to erect the dwarf wall shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be fully completed with the approved details and retained as such.

*Reason:* In the visual amenities of the area.

5a . Within three months of the date of this permission, details of any external lighting to be installed shall be submitted to and approved in writing by the Local Planning Authority.

5b. The development shall be completed with the approved details and retained and maintained at all times.

*Reason:* To prevent light pollution and to protect the amenity of surrounding residential occupiers.

6a. Within one week of the date of this permission, tree protection measures for the retained Sycamore tree in accordance with BS: 5837 2012 approved under planning reference 12/0720/FL shall be fully implemented on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times.

*Reason:* To safeguard the Sycamore tree included in the Tree Preservation Order on the site.

7a. Bat survey work has found a low risk that bats may be present in the buildings within the site (as identified in the bat report by S Christopher Smith dated 16/8/11) and the following precaution shall be taken when implementing the planning permission:

1. Contractors undertaking demolition works shall be made aware that bats may be present and undertake demolition works in accordance with the method of working set out in S Christopher Smith's bat report on pages 17-18.



If no bats or evidence of bats are found during these operations, the approved works can continue.

7b. If bats or evidence of bats are found during these operations:

1. bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
2. no further destructive works shall be carried out to the building until the need for Natural England licence has been established.
3. within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
4. work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued.

*Reason:* To conserve local bat populations.

8. A scheme for the provision of bat roosting sites as set out on pages 15-17 of S Christopher Smith's report dated 16/8/11 shall be installed before any part of the development is brought into use and retained thereafter with access openings maintained free of obstructions at all times.

*Reason:* To conserve local bat populations.

9. No external lighting scheme shall be installed other than in accordance with the requirements set out below. Namely:

- There shall be no direct illumination of the new bat roosts installed or the hanging tiles on the house frontage.
- Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.
- Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased.

All external lighting shall be carried out in accordance with the above requirements.

*Reason:* To conserve local bat populations.

10a. The development shall be completed in accordance with the landscaping scheme submitted and approved under reference number 14/0001/DOC on 6<sup>th</sup> March 2014.

10b. The approved scheme shall be implemented within 12 months of any part of the development being brought into use.

10c. Within 5 years any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

*Reason:* In order to safeguard the satisfactory development of the application site.

11. The dormer bungalow hereby approved shall only be constructed in facing brick Staffordshire Smooth 0288.

*Reason:* To define the permission.

12. The development shall be completed in accordance with the drainage details submitted and approved under reference number 14/0001/DOC on 6<sup>th</sup> March 2014.

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

13a. Prior to the development first coming into use, the proposed driveway / vehicle hard standing area shall be fully consolidated, hard surfaced and drained.

13b. This area, together with the frontage parking area for no. 28 Hobs Hole Lane, shall thereafter be retained and used for no other purpose.

*Reason:* To ensure adequate parking is retained at the new and existing dwellings in accordance with Policy T13.

14. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday\*, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(\*Bank and Public Holidays for this purpose shall be: Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Monday, May Day, Spring Bank Holiday Monday and August Bank Holiday Monday.)

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

15. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (N02) (England) Order 2008, or succeeding Orders, no works shall be carried out under Part 1, Classes A to E.

*Reason:* To enable the Local Planning Authority to retain effective control over future development of this site.

16. The three dormer windows at first floor and the ground floor utility and WC shall comprise obscure glazing of Pilkington Level 4 standard of privacy, or equivalent, and retained thereafter.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises, and the privacy of occupiers of the application property and to comply with policy GP2 of Walsall's Unitary Development Plan.

17a. The existing 1.8m high close board fence between the application site and number 26 Hobs Hole Lane shall be retained in perpetuity.

17b. The proposed boundary 1.8m high close board fence between the application site and number 28 Hobs Hole Lane shall be retained in perpetuity.

*Reason:* To protect the amenities of the occupiers of the neighbouring properties and the occupiers of the proposed dormer bungalow.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

#### Notes for Applicant

- 1) DEVELOPMENT LOW RISK AREA – STANDING ADVICE - The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk) Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com). This Standing Advice is valid from 1st January 2013 until 31st December 2014
- 2) The Police have advised that the developer be mindful of Secure by Design. [http://www.securebydesign.com.pdfs/SBD\\_new\\_homes\\_2010.pdf](http://www.securebydesign.com.pdfs/SBD_new_homes_2010.pdf)





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 16/10/2014

**Plans list item no: 6.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/1036/FL

**Application Type:** Full application

**Applicant:** Mr Christopher Dyche

**Proposal:** Resubmission of Planning Application 14/0558/FL for Proposed Two Storey and Single Storey Rear Extensions, Removal of Existing Side Dormer, New Roof and New Rear Dormer

**Location:** 31 FOLEY ROAD EAST, WALSALL, B74 3HP

**Ward:** Streetly

**Case Officer:** Helen Smith

**Telephone Number:** 01922 652606

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

**Agent:** Upson & Co Ltd

**Expired Date:** 09/09/2014

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

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## **Application and Site Details**

This is a detached house within a row of similar houses set back 16 metres from Foley Road East with the exception of a pair of adjacent semi-detached houses, no's 27 and 29, which are positioned 13 metres forward of the application house. This is an amended scheme following the refusal of a previous planning application.

The proposed extensions would remove an existing rear sun room and provide an enlarged kitchen, dining room and office with two additional bedrooms at first floor plus two bedrooms in the extended roof space with en suite facilities. The total number of bedrooms would increase from four to five (excluding the existing small first floor home office). The current plans have been amended to remove the proposed utility and laundry room.

The proposed two storey rear extension would be positioned 1.2 metres from the side garden boundary with property no. 33, which is a dormer bungalow, and would extend 3.5 metres from the existing two storey rear elevation (1.5 metres less than previous proposal). This extension would be separated from the side garden boundary with no. 29 by a distance of 4 metres. The existing roof height and hipped design would be retained. Two roof lights would be installed in the side of the main roof, opposite no. 33.

The proposed single storey rear extension would extend 2.5 metres further than the proposed two storey extension (1 metre longer than the previous proposal) and would be separated from the side garden boundary with no. 29 by a distance of 4.1 metres and a gap of 1.2 metres to the shared boundary with no. 33. This new roof would be pitched with a maximum height of 3.8 metres.

The existing garage would be reduced in depth and the rear part extended 1.8 metres to the rear to form a small home office. New roof tiles would be added to an existing pitched garage roof with three roof lights installed opposite the side boundary with no. 29.

An existing side dormer extension would be removed and a replacement rear dormer would be added to the rear with a central position on the rear roof slope, 0.1 metres lower than the new roof.

The rear elevations of the application house and adjoining properties face south. No. 33 has rear facing habitable room windows and a single storey extension near to the side boundary with no. 31 with a rear non-habitable room window. There is a separation distance of 1.2 metres between no. 33, which has two obscurely glazed side facing windows, and the shared garden boundary with no. 31. The obscure glazed side window towards the rear of no. 33 serves a bedroom.

No. 29 has ground floor, side facing, non-habitable room windows in a rear extension facing the rear garden boundary and a bathroom window above at first floor. No. 31 has a rear conservatory near to the shared boundary with no. 31 and first floor rear facing bedroom window.

The length of the remaining rear garden at no. 31 would be 42 metres and there is mature planting along neighbouring shared garden boundaries.

A bat and bird survey by S. Christopher Smith dated 2/6/14 has been provided in support of this proposal.

## **Relevant Planning History**

14/0558/FL - Proposed two storey and single storey rear extensions plus removal of existing side dormer roof extension and new rear dormer - refused permission 11/6/14 on the following grounds;

1. *The design of the proposed extension would introduce a flat roof at ridge height is considered reflects poor design and is to the detriment of the design of the existing dwelling and character of the area.*
2. *The increase depth, bulk and massing of the proposed first floor extension and rear dormer are considered would create a disproportionate addition to the existing dwelling and would be visible from the street above the roofline of no. 33 and to the rear of no. 29. The depth, scale and position of this addition would introduce an incongruous feature having a harmful impact on the existing skyline and spacious character of the area.*

BC62537P - Loft conversion with side and rear dormers - granted subject to conditions 23/11/01

BC01545P - Erection of garage and bedroom extension - granted subject to condition 22/10/81

## **Planning Policy**

### **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:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Contribute to conserving and enhancing the natural environment

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

#### **7: Requiring Good Design**

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. 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.

## 11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

### **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.

### **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. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

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

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. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

#### **ENV23: Nature Conservation and New Development.**

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

#### **ENV32: Design and Development Proposals.**

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

#### T7: Car Parking

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

#### T13: Parking Provision

1, 2 and 3 bedroom houses    2 spaces per unit

4 bedroom houses and above            3 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

### **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 NPPF policy. The relevant SPDs are:

#### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).
- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq m of useable space per dwelling where communal provision is provided.

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

Provides guidance on development which may adversely affect trees, important species and habitats.

It is considered in this case that the relevant provisions of Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

**The Streetly Area of Special Townscape Character** was approved by Cabinet on 03/09/03 with supplementary planning guidance to stimulate good quality, modern design solutions. These guidelines are not intended to rigidly dictate future development, but can be used as a 'toolkit' to stimulate good quality, modern design solutions. They certainly should not be used as a 'set of rules', to be ticked off in an attempt to ensure that a planning application gains approval. Just as when this area of townscape was first developed, the social implications of new housing design must be addressed. For this to be responsive, it must take cues from these special surroundings.

### **Consultation Replies**

**Transportation** - No objections

**Conservation Officer** - No objections

**Natural Environment Team, Ecology** - No objections on ecological grounds subject to the inclusion of planning conditions in any permission granted.

**Tree Officer** - No objections

### **Public Participation Responses**

Representations have been received from three neighbours objecting to the proposal on the following grounds;

- impact on highway during construction (*this is not material to the determination of this planning application*)
- impact on Weeping Silver Birch tree which requires at least 6 hours full sunlight each day and adds to the overall green aspect of the area (*this is not a protected tree and would be a private legal matter for neighbours*)
- access will be needed across neighbours garden which is unfair and will be stressful and if access is not provided finish may be poorer (*a private legal matter for neighbours rather than a material planning consideration*)
- months of noise and inconvenience for neighbours
- effect on buildings in Area of Special Townscape Character
- depth, size, width, height and bulk not in keeping with area and three stories high (*the height of the existing property will remain*)
- roof plan confusing and wrong (*amended plan provided*)
- loss of sunlight and impact on shrubs, mature hedges and trees (*the rear gardens of these properties are to the south of the dwellings which would limit any impact on existing light and any damage to neighbours planting would be a private legal matter between neighbours*)
- loss of privacy and outlook
- impact on main road as would be visible some 100 metres away
- increase in living area by 2.4 times the original area
- proposal exceeds the allowable 3 metres and eaves height of 3 metres (*this proposal is a planning application which will be assessed in relation to national and local planning policies and guidance rather than Permitted Development Legislation. This*

*legislation enables most householders to extend their houses within specific limits without the need to submit a planning application to the Local Planning Authority)*

- side room in no. 33 opposite the existing house only has one window but enjoys plenty of light. The proposal far exceeds the 45 degree rule and due to its height will greatly reduce the light to this room
- concerns about the foundations, drainage, rights of support, encroachment and access rights for construction. The property was underpinned due to subsidence in the past (*not material to the determination of this planning application*)
- it is considered that this proposal is more problematic and would have more impact on neighbours than the previous one.

### **Determining Issues**

Whether the application has addressed the previous refusal reasons;

- flat roof at ridge height
- bulk and mass visible from street scene

Or raised any new issues in respect of;

- Design and Character of Area
- Amenity of Nearby Residents
- Protected Species
- Impact on Trees
- Parking

### **Observations**

#### **Previous Refusal Reasons**

The current scheme has reduced the scale and mass of the proposed extension at first floor and has removed the flat roof design from the ridge. This was considered to be poor design and to the detriment of the appearance of the existing dwelling and character of the area. This amendment is considered to have overcome the first refusal reason.

The reduced depth of the proposed first floor rear extension from 5 to 3.5 metres is now considered to be in proportion with the existing dwelling house. Whilst the proposal retains the replacement rear dormer, it is considered that the visual impact of this on the street scene would be lessened as the scale of the proposed first floor roof has been reduced. The combined impact of the first floor rear extension and dormer is considered to be to an acceptable level. The revised application is considered to have overcome the second refusal reason.

The proposed floor plan drawing includes part of the existing house within the proposed increased extension depth and for clarity a condition would be including to define the depth of the proposed first floor extension to 3.5 metres for clarity.

## **Other Issues including:**

### **Design and Character of Area**

The removal of the existing side dormer is considered would be a positive improvement to the appearance of the existing dwelling house and would also reduce the bulk and mass of the existing house when viewed from the street.

The proposed design would retain many of the existing features of the application house when viewed from the street including the two chimneys which are considered to be typical for this type and age of house. Furthermore, the Streetly Area of Townscape Character states that;

*“Infill development should reflect the density of the existing development along the particular street or near area of townscape within which the proposed development site lies. As an absolute maximum, the ‘footprint’, or ground area, of a new building or buildings should not exceed 25% of the total area of the plot within which it is to be set.”*

In this instance, the building, including the extension would be considerably less than 25% of the plot area and the amended proposal is considered would be proportionate in relation to the plot and house and is acceptable in this instance.

### **Impact on Amenity of Nearby Residents**

The proposed extension and rear facing habitable room windows in house no's 29 and 33 face south. It is considered that this orientation and reduced first floor length to 3.5 metres would result in this proposal having a limited additional impact on neighbours' existing light and amenity.

The proposed two storey extension would be set in, between 4 and 1.2 metres from the shared side boundaries with no's 29 and 33 respectively and is considered would avoid the extension having an overbearing impact on adjoining properties. There is a further gap of 1.2 metres between the side elevation of no. 33 and the shared boundary with no. 31.

The application house is set back into the site and positioned 8.8 metres further back than the existing conservatory to no. 29. The existing house (number 31) breaches the Council's 45 degree guidance. The proposed extension would extend beyond the existing house, and whilst it is acknowledged the adjacent occupiers (number 29) would see more brick work, it is considered the proposed extensions would not be significantly worse than the existing situation. Furthermore, the proposed two storey extension would be 4 metres away from the shared side boundary with no. 29.

The length of the proposed single storey rear extension has increased by 1 metre since the previous application and is considered would meet the Council's 45 degree guidance in relation to rear facing habitable room windows in no. 33. The proposed utility and laundry room extension has been removed from the proposal which is considered would reduce the impact of the proposed single storey extension on the existing amenity experienced by the occupiers of no. 29.

The side bedroom window in no. 33 faces the existing two storey elevation of the application house and is obscurely glazed. Whilst the owners of no. 33 have advised this is the only window serving this bedroom, it is considered that the proposed extension would not materially alter the existing amenity available to this room. Utilising the Council's 45 degree guidance to protect neighbours outlook, is considered would be insufficient grounds to sustain a reason for refusal in this instance.

The proposed roof lights would face upwards and are considered would have little impact on neighbours' existing privacy. The proposed replacement dormer window is similar in scale to the existing rear dormer window and is considered would not be worse than existing privacy levels for neighbours.

The applicant could convert the loft space of number 31 utilising permitted development rights, which would essentially create a third floor. This reflects other properties in the locality and is considered would not have a greater impact on neighbours than currently exists.

The plans indicate there would be two home offices which is considered are unlikely to be used independently from the existing house because of the room configuration of the property and as they would be accessed via the primary rooms of the property.

The impact of construction works on neighbours' amenity is not a material planning consideration in this instance and as household extensions are usually completed within a short period of time it is likely any disruption would be limited. A safeguarding condition could be imposed to control the hours of work to assist in mitigating any concerns of impact. Any obstruction of the highway can be reported to local police by residents.

### **Protected Species**

The application house is set in a neighbourhood of large mature gardens and a bat survey was requested for the previous application. This was provided and there were no adverse comments in respect of bats.

Consequently, the Council's Specialist had no objections on ecological grounds subject to the inclusion of planning conditions to conserve local bat and bird populations.

### **Impact on Trees**

Whilst the application is likely to result in the loss of a small number of Conifers they are considered to be of low arboricultural value and do not merit protection.

No trees at the application property or neighbouring properties are protected and consequently the Council's Tree Officer has no objections to the application.

### **Parking**

The application property has at least three off-street parking spaces to meet the requirements of UDP Policy T13 and Transportation Offices have no objections to the proposal on highway grounds.

The revised application is considered to have overcome the previous refusal reasons and no new issues are considered to have been created.

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

Officers have spoken with the applicant's agent and in response to concerns raised in respect of the previous planning refusal amended drawings have been submitted which enable full support to be given to the scheme.

**Recommendation:** Grant Permission Subject to Conditions

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

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

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

- Location Map, deposited 15/07/14
- Block Plan, deposited 15/07/14
- Amended Existing and Proposed Plan and Elevations, drawing no. 03J, deposited 03/10/14

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

3: Bat survey work has found nesting birds and a low risk that bats may be present in the buildings within the site (as identified in the bat report by S. Christopher Smith dated 2/6/14) and the following precautions shall be taken when implementing the planning permission:

1. Contractors undertaking demolition works shall be made aware that bats may be present and undertake demolition works in accordance with the method of working set out in S. Christopher Smith's bat report on pages 19-20.

If no bats or evidence of bats are found during these operations, the approved works can continue.

(b) If bats or evidence of bats are found during these operations:

1. Bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
2. No further destructive works shall be carried out to the building until the need for Natural England licence has been established.
3. Within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation.
4. Work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England Licence issued.

Reason: To conserve local bat and bird populations in accordance with protected species legislation.

4: A scheme for the provision of bat roosting sites as set out on pages 16-19 of S. Christopher Smith's report dated 2/6/14 shall be installed before any part of the development is brought into use and retained thereafter with access openings maintained free of obstructions at all times.

Reason: To conserve local bat and bird populations in accordance with protected species legislation.

5: The walls and roof of the extension shall comprise facing materials that match in colour, texture and size those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

6. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect the amenities of surrounding properties.

7: Notwithstanding the information provided on the approved plans the maximum depth of the proposed first floor rear extension shall be 3.5 metres and retained as such thereafter.

Reason: To define the permission.

8: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 16/10/2014

**Plans list item no: 7.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/0947/FL

**Application Type:** Full application

**Case Officer:** Peter Attwell

**Telephone Number:** 01922 652648

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

**Agent:** I G Design

**Applicant:** Mr Arvinder Singh Khara

**Proposal:** Enlargement and alterations to roof to form loft conversion, including; 5 dormer windows, 1 balcony, 1 juliet balcony and 3 roof lights.

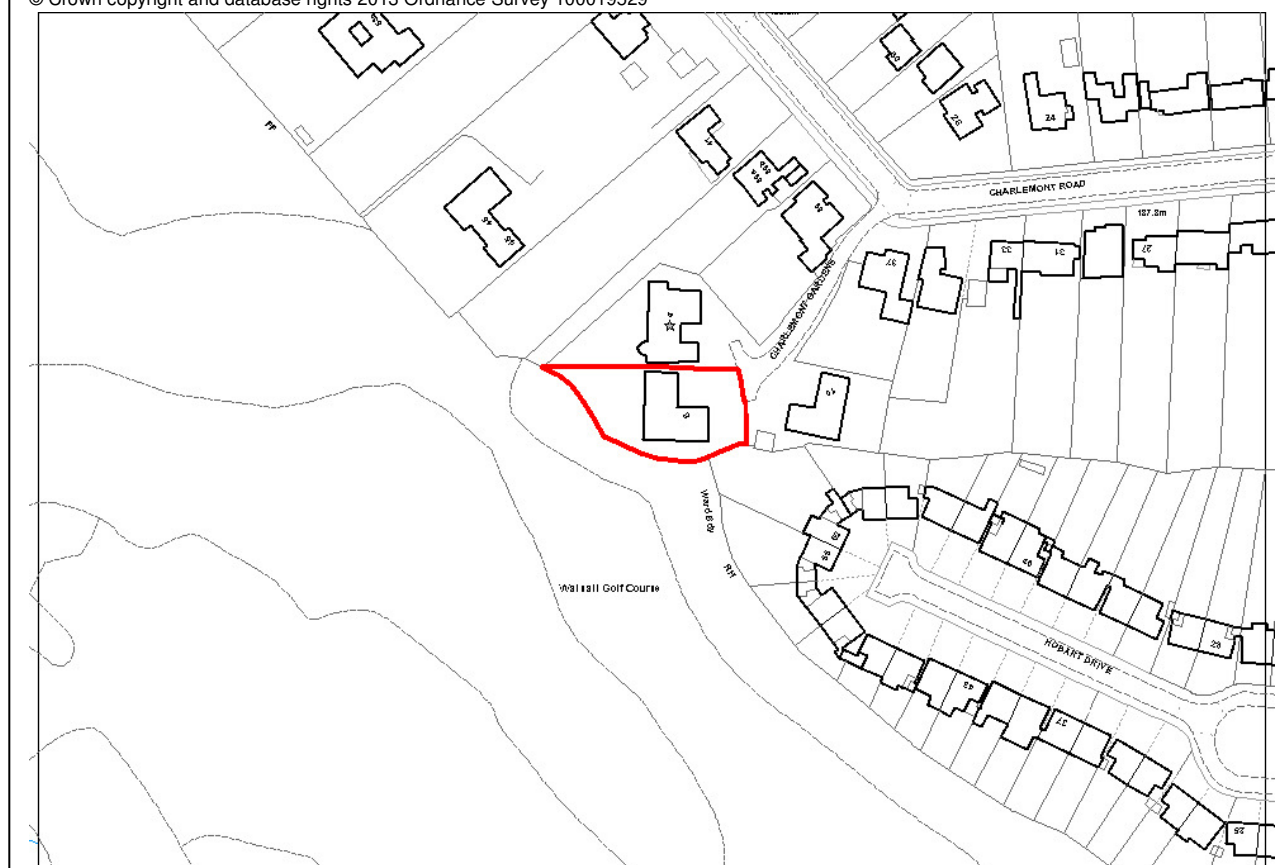
**Location:** 6 CHARLEMONT GARDENS, WALSALL, WS5 3NG

**Ward:** Paddock

**Expired Date:** 20/08/2014

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

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## **Application and Site Details**

This application is to enlarge, raise its height and alter the roof of a bungalow to provide a loft conversion resulting in a dormer bungalow. The first floor level created will provide three bedrooms (each with an en-suite), two dressing areas, one rear juliet balcony, one rear balcony and a rear dormer window facing the golf course. Facing number 4 will be a gable roof replacing the existing hipped roof with a high-level roof light. The elevation, facing the golf course and rear Hobart Drive gardens would be three dormer windows, two of which serve en-suites and the other a bedroom. The front elevation gains two high level roof lights, one dormer window and a traditional window within a gable wall.

Charlemont Gardens is gated from the public highway and includes three detached bungalows, which occupy large footprints, with spacious frontages and rear gardens. The wider area includes detached properties of Charlemont Road, some of which have been converted to form apartments and the semi-detached properties of Hobart Drive. To the rear and the south of the application site is Walsall Golf Course screened by mature trees. Two of the bungalows are of a similar gable roof design, whilst the application property is a hipped roof design.

The footprint of the property is to remain the same, as the proposal is within an enlarged roof space.

To accommodate the proposed rooms within the loft space, includes replacing the hipped roof with a taller gable roof, from ground level being raised from 6.25 metres to 7.3 metres overall. The ridgeline, along with an overall increase in height of 1.05 metres will begin 4.75 metres forward of its current position and 4.8 metres closer to the boundary with number 4.

The application property sits lower than the nearby properties of Charlemont Road as the access road to Charlemont Gardens falls towards the site.

Number 4, lies to the North of the application house with its rear elevation in line with the application house and the front projecting beyond the hipped roof side elevation of the application house. The property has one ground floor side facing window serving a utility room. There is approximately 2.8 metres separating the properties. Along the eastern boundary of this property there is a large hedgerow and trees providing screening between it, the application house and the properties of Charlemont Road to the North and North-East. Number 4 has a gable roof design and sits higher than the application property.

Number 10 is a bungalow situated approximately 21 metres to the East of the application house. The windows to the front of the property serve habitable rooms and face directly towards the application property. The property also has a detached garage positioned between the application property and it.

Number 45 Charlemont Road is approximately 46 metres to the North West of the application property. There are 4 garden boundaries between the application site and the side elevation of number 45.

To the rear and South facing side elevation are Walsall Golf Course and the rear gardens of Hobart Drive which are screened by mature trees and a variety of other planting.

## **Relevant Planning History**

None.

## **Relevant Planning Policy Summary**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

## **National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)**

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

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

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

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.

## **Local Policy**

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV1: Nature Conservation

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals

### **Supplementary Planning Document**

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

- Development with the potential to affect species, habitats or earth heritage features
  - NE1

#### **Designing Walsall**

- Policy DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

### **Consultations**

**Natural Environment Ecology Officer** – No objection subject to conditions

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

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

**Transportation** – No objection

### **Public Participation Response**

2 letters of objection have been received relating to 3 separate residential neighbouring properties.

Issues raised include:

- Overlooking
- Loss of privacy / amenity

## **Determining Issues**

- Design of Extension and Character of Area
- Amenity and Privacy of Nearby Residents
- Protected Species- Bats

## **Observations**

### **Design of Extension and Character of Area**

Charlemont Gardens is a collection of 3 detached bungalows and the wider character area of Charlemont Road is a varied mix of house type designs. The proposed dormer bungalow within Charlemont Gardens is considered acceptable within the wider character area, with its gable roof reflecting the design of numbers 4 and 10 Charlemont Gardens.

### **Amenity and Privacy of Nearby Residents**

The application site, is lower than number 4 Charlemont Gardens and other properties fronting Charlemont Road, between which there are boundary treatments and natural screening from the application site. The properties to the North East along Charlemont Road are in excess of 44 metres away, 20 metres more than is set out in the Council's Annex D of Designing Walsall SPD. The properties would face a single North facing roof light positioned approximately 1.7 metres from first floor level. The front elevation windows are positioned 6 metres and more behind number 4's forward projecting garage and its gable roof. This, in combination with the site levels will restrict the direct view towards 39, 39a and 39b Charlemont Road and their gardens, whilst protecting privacy of neighbours.

The front habitable room windows of number 10 are 21 metres to the proposed first floor dormer front windows of the application site. Designing Walsall SPD appendix D specifies 24 metres separation between habitable windows, it states that to the front this requirement will be enforced less robustly. On balance, considering the small shortfall reflecting the existing situation, it is considered acceptable and unlikely to impact amenity in this instance.

Whilst the existing space between the roofs of number 4 Charlemont Gardens and the application property will be reduced as a result of the change from hipped to gable roof, a 2.8 metre space will remain between the two gable walls and no side facing windows are proposed. In addition, number 4 is positioned higher than the application site limiting any potential impact plus number 4's only side facing window serves a utility room, it is considered overall, the proposal would not impact on number 4's amenity in this instance.

The replacement of the West facing balcony, close to the boundary with number 4, to a juliet balcony, is considered also helps to protect the amenity and privacy of the occupiers of number 4.

Overall the proposal, is considered acceptable and protects the amenity and privacy of neighbours.

### **Protected Species- Bats**

The Council's ecologist has no objection to the application, subject to planning conditions being attached to any permission granted.

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

Officers have negotiated an amended scheme removing the balcony to the North West of the site and a bat survey from the applicant's agent has been deemed acceptable and no further changes have been requested.

### **Recommendation**

Grant permission subject to conditions.

### **Reason/Conditions**

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

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

2: The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Application Form deposited 25<sup>th</sup> June 2014;
- Location Plan DWG number SK1 deposited 25<sup>th</sup> June 2014;
- Block Plan DWG number SK2 deposited 25<sup>th</sup> June 2014;
- Existing Plan DWG number 01, deposited 25<sup>th</sup> June 2014;
- Amended Proposed Plans, Elevations & Section DWG number 02B deposited 11<sup>th</sup> August 2014;
- Bat & Bird Survey deposited 4<sup>th</sup> September 2014

Reason: For the avoidance of doubt and in the interests of proper planning.

3: The walls and roof of the extension shall comprise facing materials that match in size, texture and colour as those that are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no additional windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

5a: Contractors undertaking demolition works shall be made aware that bats may be present and undertake demolition works in accordance with the method of working set out in S Christopher Smith's bat report on pages 13-15.

5b: If no bats or evidence of bats are found during these operations, the approved works can continue.

If bats or evidence of bats are found during these operations:

1. bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
2. no further destructive works shall be carried out to the building until the need for Natural England licence has been established.
3. within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
4. work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued

Reason: to conserve local bat populations.